

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 17, 2018

Members Present

Lynn Perkins, Chairman
Stephen Coppolo, Secretary

Members Absent

Heather Evans
Randall Kelley
Michelle Navarro

Alternates Present

Donald Burgess
Evan Rathburn
Crystal Morin

Alternates Absent

Craig Corbett

Code Enforcement

Robert Mackey

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag and informed public of fire and handicap exits. He noted that this and all Zoning Board meetings are videotaped.

The Board introduced themselves for the record.

It was noted for the record that Mr. Burgess, Mr. Rathburn and Mrs. Morin would sit for the following case:

18-110 Paul and Dawn Lescovitz

The Applicant is requesting a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to install a 14' x 20' shed less than 35' from the front lot line and less than 15' from the side lot lines at 16 Collette's Grove Road, PID 20010, Zoned LDR

Paul and Dawn Lescovitz, owners, were present and Mrs. Lescovitz read the application criteria for the record.

Board Questions

Mr. Perkins noted that all abutters had been notified as a copy of the abutter list had not been put in the members files for review but was in the original file.

Mr. Burgess asked if the 18' setback was where the mailboxes were located. Mr. Lescovitz said that the mailboxes were in front and the property starts at the trees.

Mr. Burgess said that the pavement was not the lot line and that it appears there is more property on the other side so why not place the shed there. Mr. Lescovitz said that the other side is where the underground gas tank and lines are located.

Mr. Burgess said that the plan submitted did not show where the well and septic were located if they could be explained. Mr. Lescovitz described his property layout for the record.

Mr. Coppolo said that he shared Mr. Burgess's thoughts as it does appear there are other places the proposed shed could be located so as does not appear the proposed placement is the best location due to a traffic perspective. Mr. Lescovitz said the yield sign on Sanborn Road can still be seen Collettes sign is located near the mailboxes and that the traffic visibility would not be an issue.

Mr. Burgess said that the mailboxes on the corner are in front of the property, so any visibility matters would be with them. Mrs. Lescovitz said that the placement would possibly help slow traffic in the area.

Mrs. Morin asked if the 19' and 13' was from the lot lines and mailboxes. Mrs. Lescovitz described the property and said that after placement of the shed they would also be installing a fence.

Mr. Coppolo said that his preference would to be to place the shed between the house and Sanborn Road. Mrs. Lescovitz said that they could not place the shed there due to the underground propane tank and lines.

Mr. Perkins asked if the septic system field was flat. Mr. Burgess said that when he performed a site visit it appeared that the septic system field was flat and not a raised system as he did not see it.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the installation of a 14' x 20' shed less than the required setback distances to the front and side lot lines.
- A previous variance was issued to these owners in January 2017 to allow the installation of a manufactured home on the property.

- The property is located in Collette's Grove, a lakeshore community abutting Big Island Pond. As such, many of the lots do not meet current regulations with regard to area and frontage requirements nor building setbacks.
- If approved, a building permit must be obtained by the applicants.
- There are pictures of the property in the file for review by the Board.

Mr. Perkins asked if the 35' setback was on Collette's Grove and not Sanborn. Mr. Mackey said that was correct due to the lot configuration and that the house faces Collette's Grove and also addressed on Collette's Grove. He said that the 18' near mailboxes is the side lot line where they still need to maintain a 15' setback.

Mr. Coppolo said that a fence was not considered a structure and could go in setbacks but wished to know if there was a height restriction. Mr. Mackey said that there was no verbiage on fences in the Town's ordinance but there is some verbiage in an RSA that states 5' could be considered as a spite fence. He said there is no height restriction but if it impedes site line it would be addressed by Public Works.

Mrs. Morin asked if the DPW plowed the area. Mrs. Lescovitz said the Town plows Collette's but not Sanborn.

Mr. Lescovitz said that the Town did not plow the lanes and that they also pile the snow by the mailboxes.

There was some discussion with regard to the layout of the property and possible relocation of the shed.

Mr. Lescovitz said he was not familiar with building on a leach field was an option. Mr. Mackey said that he would not recommend building on a leach field and that they would also wish to stay out of any sloped area. He said that any area beyond that would be safe to build however, if the septic were to ever fail they would need access to repair so may need to move shed in order to do so.

Mr. Coppolo said that he has a hard time seeing unnecessary hardship as it could possibly fit onto the property and maintain the setback requirements without a variance. Mrs. Lescovitz said that there was not one property in Collette's Grove that meets the setbacks.

Mr. Perkins said that they may wish to move more into property as 6' to the road seems to be to close. Mr. Lescovitz said that he gave himself a buffer as measured in front of the trees and is 10' from the boundary line. He described the property layout for the record.

There was some discussion with regard to having the property surveyed to find true lot lines.

Favor

No one spoke in favor to the request.

Opposed

No one spoke in opposition of the request.

Mr. Burgess motioned to go into deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mr. Coppolo, Mr. Perkins.

Deliberative Session

Mr. Perkins the standard condition of being subject to all permits and inspections be made and also a second condition of the shed to be 30' from the 18' boundary and said structure should be balanced between Collette's Grove and Sanborn Road setbacks.

Mr. Coppolo said that currently setbacks require 35' and 15' distances but applicant is unable to obtain those distances. He said that it should be stated in decision that the shed be no closer than 30' in from the 18' boundary line and to be equally balanced between other setbacks.

Mr. Burgess suggested that they stipulate that it be no closer than 13' and 19' from the lot lines.

There was some discussion with regard to property layout.

Mr. Mackey said that they typically do not put footages in the agenda description to allow the Board to make adjustment.

Mr. Rathburn motioned to come out of deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mr. Coppolo, Mr. Perkins.

Mr. Coppolo motioned on case #18-110 Paul and Dawn Lescovitz to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to install a 14' x 20' shed less than 35' from the front lot line and less than 15' from the side lot lines at 16 Collette's Grove Road, PID 20010, Zoned LDR presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Shed to be 30' in from 18' long boundary and equidistant from boundaries along Collette's Grove Road and Sanborn Road.**

Seconded by Mr. Burgess.

Vote:

Mr. Coppolo: Yes.
Mr. Burgess: Yes.
Mr. Rathburn: Yes.
Mrs. Morin: Yes.
Mr. Perkins: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Approval of Minutes

Mr. Perkins motioned to approve the minutes of April 19, 2018 as written.

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mr. Coppolo, Mr. Perkins.

Other Business

Mr. Perkins said that the Board will review the summer schedule at the next meeting due to the absence of some of the members.

Adjourn

Mrs. Morin motioned to adjourn.

Seconded by Mr. Rathburn

Vote: Unanimous.

Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mr. Coppolo, Mr. Perkins.

Adjourn at 8:05 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes June 7, 2018

Mr. Burgess motioned to approve the minutes of May 17, 2018 as amended.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mr. Corbett, Mrs. Morin, Mr. Rathburn, Mr. Burgess, Mrs. Navarro, Mr. Kelley,
Mr. Coppolo, Mrs. Evans, Mr. Perkins.