

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
June 21, 2018

Members Present

Lynn Perkins, Chairman
Heather Evans, Vice Chairman
Stephen Coppolo, Secretary
Randall Kelley @ 7:09 pm
Michelle Navarro

Members Absent

Alternates Present

Evan Rathburn
Crystal Morin

Alternates Absent

Donald Burgess
Craig Corbett

Code Enforcement

Robert Mackey

Mr. Perkins called the meeting to order at 7:01 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 Mrs. Morin would sit for the following case due to Mr. Kelley not being present.

18-116 Kristen Wagner & Gordon Fellows

The applicant is requesting a variance to the terms of Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow a 70' x 200' indoor horse riding arena to be constructed 20 feet from the front property line where 35 feet is required at 7 South Range Road, PID 02146, Zoned LMDR

Attorney Frank Cimler, Cimler Law, PLLC, said he was present along with the applicant, and their engineer, Eric Mitchell, Mitchell & Associates to provide the Board with testimony for his client's request.

Eric Mitchell, Mitchell & Associates, said he was representing the applicant. Mr. Mitchell read the application criteria for the record.

Kristen Wagner, owner, said that she was seeking to breed and train horses for her own personal venue. She said that she was not looking to operate a commercial riding operation and was more for breeding and training purposes.

Board Questions

Mr. Perkins said that he understands the why developing and what doing but asked why not build 180' so not need a variance. Ms. Wagner said that a 180' structure would be less expensive but the reason for building a 200' structure is that it is regulation size and to teach certain movements need to teach in the same size area as they would compete in.

Mrs. Evans asked what the plans were with regard to snow removal. Ms. Wagner said that the roof will have snow rails and that is one of the reasons for which way the construction direction is proposed. She said that the right side will have normal snow fall.

Mr. Perkins asked if the 200' length of the building would have snow fall. Ms. Wagner said yes and that the roof would have snow rails.

Mr. Coppolo said that he has been to Pennsylvania where there are huge arenas that have seating for spectators and if this would be similar. Ms. Wagner said no. She said that the barn would consist of 8 stalls and indoor riding arena. Ms. Wagner said her interest is in breeding and training and that the size of the arena is based on regulations of competition. She said that she may possibly board but not in a position for lessons or bringing people to her home as this was for her own private use.

Mr. Coppolo asked what the existing barn would be utilized for and where would someone park if boarded their horse. Ms. Wagner said that the existing barn would be used for hay and tractor storage and not for the horses themselves. She said that if she did extend to boarding that her existing driveway could support 1 or 2 extra cars.

Mr. Coppolo asked if the topography of the property could be explained. Mr. Mitchell explained the property layout for the record.

Mrs. Morin asked where the entrance to the proposed barn would be located. Ms. Wagner explained plan of design of the proposed barn for the record.

Mrs. Evans asked if there was any consideration of an outdoor arena verses indoor and if the proposed indoor would be heated. Ms. Wagner said that she has spent a lot of time riding outdoors and learned the hard way of what uneven surfaces of frozen ground does to horses. She said that the proposed barn is designed to be post and beam with a metal roof and siding, so no heat is being proposed.

Mr. Perkins asked what type of horses were going to be kept in the barn. Ms. Wagner said dressage horses and explained that it was sort of a dressy ballet training. Attorney Cimler said that he would like to have the 9 page memorandum outlining his clients wishes considered for the record. Attorney Cimler reviewed it for the record.

Mr. Coppolo said that unnecessary hardship states have to consider as reasonable use of what the applicant is requesting. Attorney Cimler said that the application is like a mosaic and important to eliminate that the use is allowed that the request is for the front setback requirement.

Mr. Mitchell said that the hardship is with the land as the building is proposed to be to close to the road was best so less disturbance to the wetlands. He said if the building were to be moved back more fill would be required.

Mr. Perkins asked if what was the encroachment distance to the wetlands. Mr. Mackey said that he believed that the proposed plan was outside of the prime wetlands so could potentially fill up to but not into edge of wetland. He said that there was a minimum of a 30' setback for any buildings.

Mr. Mitchell said that the red line on the plan denotes the wetland setback.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicants are requesting a variance to allow the construction of a 70' x 200' indoor horse riding arena to be constructed less than 35 feet from the front property line.
- The property consists of 16.16 acres with an existing single family dwelling with an on-site well and septic system.
- In addition to the application citing the 5 criteria for a variance, please note that there is also a memorandum of law submitted by the applicant's attorney.
- The property is located in the Low Medium Density Residential Zoning District which allows for the keeping of livestock, including horses.
- If approved, appropriate permits and inspections will be required.
- There are pictures of the property in the file for review by the Board.

Mr. Coppolo asked if there would be a Planning Board requirement or architect designs required. Mr. Mackey said no Planning Board is required for residential use and that the structure would be required to be built according to appropriate codes for snow loads and that architectural designs come in to play for commercial use.

Favor

No one spoke in favor of the request.

Opposed

Sally & Ken Pucunis, 18 Craven Terrace, said that their lot is where the applicant wetlands run off to. Mrs. Pucunis said that if the building stays where it is proposed felt that they would be okay but if it comes more to the back they could have problems as their well had problems with coliform from the pond on the property. Mrs. Pucunis said that she was concerned with where the manure would be located or if they would be removing it from the property. She said that they have a letter dated March 31, 1980 with regard to their water supply. Mr. Pucunis said that he was concerned if there would be any blasting as their well only yields a half gallon per minute and he does not want to have any more problems with his well due to possible bacteria contamination or chance of no water due to the proposed construction or manure storage.

James McDonagh, 25 Miltimore, described where located with regard to the applicant's property. He said that his home was a small one story ranch and he was opposed to the size of the structure as it will over crowd his home. He said that he is also concerned with manure odors and where would storage be or would there be removal and how frequent. Mr. McDonagh said that he also disagrees with the Attorney stating that there would be value added as he feels that the size of this structure would not add any monetary value to his resale value. He said that the applicant states it is for personal use but later what prevents it turning into full boarding and business use. Mr. McDonagh said that a compromise is available and would appreciate consideration of this structure be located on another portion of the property.

Mr. Perkins said that the height of building and odors would fall under the Code Enforcement purview and that the request is for the structure to be located close to the front lot line. He said that if they relocate the building they could build as it is an approved use in the area. Mr. McDonagh said he was also concerned with possible well contamination and feels such a large structure would be an eyesore on the street.

Mr. Coppolo said that the structure is being proposed to be 34' off lot line where they could be 15'. Mr. McDonagh said that he understands that as he spoke with the office but would like some consideration as the way this is proposed it would put his home in a shadow.

Choon Park, 14 South Range Road, said that he has been at his property for 40 years and has a concern with manure odors. He said that his property is flat and during the spring his property gets wet so he was concerned that such a large building on the property would create more water on his property. Mr. Park said that he was also concerned that there would be more traffic on the road as it was very narrow. He said he was not opposed but concerned with property value, odors and water drainage as he has water drainage issues now when it rains.

Joseph Santos, 10 South Range Road, said he has also been on his property for 40 years and does not discourage people from utilizing their property but the road is a dead end street which when 2 cars come up on each other have to pull way off to the side in order to pass each other. He said that the previous owners had a pool and had a party where their guests had parked along the road creating a hazard. He said that as the road is now it is difficult for a fire truck to get access. Mr. Santos said he would like to have a stipulation of no off street parking as the applicant has stated they may offer boarding. He said that during the winter months the Town plow either drives up and backs out or backs up and plows the snow out during storms. He said if people come in with horse trailers there is no where to turn around so concern property access. Mr. Santos said that there is no frontage for the property and it is a water shed property. He said that the existing home takes up a good portion of the front area and driveway would not fit additional vehicles with trailers. Mr. Santos said that he also was concerned with future use being commercial and where seeking to make regulation size will need a parking area. He said that the property had also been previously subdivided for 3 house lots so he believes there are other ways to achieve the requested use without placing there. He said he would like a stipulation of off street parking only.

Mr. Perkins said that if this request is denied the applicant could still go to the building department and obtain a permit to build as they would only need to relocate it to meet the setbacks and it would not require a variance. Mr. Santos said that he was not seeking a denial but a stipulation on parking restriction as looking at it from a practical stand point with parking being a problem.

Mr. Coppolo asked Mr. Mackey if the residential subdivision never occurred. Mr. Mackey said that was correct.

Rebuttal

Mr. Mitchell said that the concern with regard to the waste stand point is outlined in the Town's Zoning Ordinance Section 165-158 and reviewed for the Board. He said that it is anticipated that compliance to all zoning regulations will be made. Mr. Mitchell said the concern with parking in the street would fall under the Town to enforce as is a narrow street. He said that the applicants are seeking to improve their property and yes that they could relocate the structure further back but that would require fill to be brought in and result in additional costs.

There was some discussion with regard to water runoff and manure management.

Mr. Coppolo asked if a reasonable request to create a new parking area for horse trailer. Ms. Wagner said that she owns 1 trailer and did not anticipate having people with trailers at her home on a daily basis. She said that the best feeling of finding this property was to keeping land open and architectural.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Deliberative Session

Mr. Perkins asked if the structure was proposed to be 30' in height. Mr. Mackey said that he had not seen plans on elevations but possibly due to the size of the structure.

Mrs. Evans said that it was a permitted use and only speaking to the front setback difference of 15'.

Mr. Perkins said that the Board needed to consider the 5 criteria was met as the property has a lot of acreage. He said that he questioned the average of the front setback and if criteria was met or question unreasonable spirit is to keep clear and control density.

Mr. Coppolo said that due to the unusual conditions of the property it appears to be hemmed in. He said that the applicant could apply to Concord for a wetland permit or bring in a lot of fill and building envelope becomes more expensive if having to bring in fill.

There was some discussion with regards to the elevations of the property and building location.

Mrs. Evans said the applicant stated having possibly 8 dressage horses so did not feel there would be a huge impact on manure.

Mr. Coppolo said the request is 20' from South Range Road and how would moving back an additional 15' help with anything due to the size of the proposed structure. He said that the size of the building is massive but there was no zoning restriction not allowing it. Mr. Coppolo said that he would have liked a little more thought on plan of building but it is outside the Board's purview. He said maybe a condition of no parking on street could be made.

Mr. Perkins reviewed the conditions for the record. He said that he was unsure if the Board could put a parking restriction on the road.

Mrs. Evans said she felt it was a reasonable request.

Mrs. Morin said that horse transport is a paid service do would not anticipate them being on property for any length of time.

Mrs. Morin motioned to come out of deliberative session.

Seconded by Mrs. Navarro.

Vote: Unanimous.

Mrs. Morin, Mrs. Navarro, Mr. Coppolo, Mrs. Evans, Mr. Perkins.

Mr. Coppolo motioned on case #18-116 - Kristen Wagner & Gordon Fellows to Grant a variance to the terms of Article VI, Section 165-47.B.4 of the Town of Derry Zoning Ordinance to allow a 70' x 200' indoor horse riding arena to be constructed 20 feet from the front property line where 35 feet is required at 7 South Range Road, PID 02146, Zoned LMDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**

Seconded by Mrs. Evans.

Vote:

Mrs. Evans: Yes.

Mr. Coppolo: Yes.

Mrs. Navarro: 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.

18-117 Roberta Robie

Appeal of An Administrative Decision of the Code Enforcement Director that the business located on the property (Triangle Portable Services, Inc.) has not expanded and is in compliance with the conditions of the variance granted in 1984 for its operation at 29 Chester Road, PID 44012, Zoned MDR

Mr. Perkins asked the Board if they have had the opportunity to review the letter submitted by Mrs. Robie. They all indicated that they had reviewed the information.

Roberta Robie, Chester Road, said that she was present this evening to prove to the Board that Triangle has expanded its business. Mrs. Robie read her letter for the record.

Mr. Perkins said that this was an Administrative Appeal by Mrs. Robie who has received a decision from the Code Enforcement Officer indicating that he has not found evidence

of expansion. Mr. Perkins explained the process for the Board and their role in upholding the Code Enforcement Officers decision or Mrs. Robie's findings.

Mrs. Robie reviewed information she had submitted to the Board. She reflected on letters in the files stating that they were vague in their information as there was no mention of the number of tankers. She said that she has provided the Board with documentation that in 1983 there were 3 tankers and a letter dated October 20, 1983 from their Attorney stating 3 tankers and a statement signed by Clarence Foley on October 17, 1983 stating 3 tankers. Mrs. Chase's letter from June 7, 2017 on pages 2 and 3 states that there are less portables and that the business believes in quality and have improved their equipment and not expanded their business. Mrs. Robie said that the letter does not reveal the number of tankers that the business has at the present time. She said she has provided the Board with information that she received from the State indicating that they have 6 tankers licensed with the state. Mrs. Robie read a portion of a letter dated from herself to the Code Enforcement Officer dated May 30, 2018 for the record. She said that she feels that there has been substantial expansion of the business and that the information she has submitted to the Board this evening shows said expansion.

Board Questions

Mr. Perkins said that the variance was granted in 1984 and it was noted that the business had been established for some time before coming to the Board. Mrs. Robie said that there are many things in the record that are not verified.

Mrs. Robie said that she feels that the Code Enforcement Office has not fully reviewed the property file. She reviewed the conditions of the variance granted on June 21, 1984 stating that a stipulation of not to expand in size or storage area. She said that refers to size and conditions as 1 verses 1 not 3 verses 6, so that is clearly an expansion as the ZBA was clear on conditions of no expansion of business or storage area.

Mr. Perkins asked if it was the concern of what was happening in 1983 on the property to what is happening today. Mrs. Robie said yes as the ZBA was clear on its intent of no expansion.

There was some discussion with regard to the items being kept on the property.

Mr. Perkins asked if it was the contention of the number of vehicles verses the number of outhouses on the property. Mrs. Robie said yes as the photo taken by Mr. Mackey does not show the property covered with trailers and tankers.

Mr. Coppolo noted the vagueness of the former zoning decision especially the term "the business". He asked how the records of the vehicles were obtained. Mrs. Robie said that she called the State and received copies of them as they are public information.

Mr. Coppolo said that Mrs. Robie's contention is to the number of vehicles being 6 ow verses 3 in 1984, and the applicants position is not unreasonable as it potentially represents a 100 percent increase in the expansion of the business. He said that it was not

the sole measure of assessing an expansion as suggesting there are multiple ways to assess an expansion. Mr. Coppolo reviewed the 1984 variance conditions for the record which are vague. He said he finds 6 tankers verses 3 appears to be an expansion .

Mr. Kelley said that there are currently 57 units on the property according to letter from owner.

Mr. Perkins asked if Attorney Hollis would like to provide his testimony to the information heard so far. Attorney Hollis said the appeal is to the Code Enforcement Officer and that he felt that he should defend his decision first and then he would provide his clients testimony.

Code Enforcement

Mr. Mackey supplied the following information for the record:

- The applicant is appealing my decision (see copy of letter in your packet dated May 21, 2018) that I do not believe that the business in question is not in compliance with the conditions of the variance granted in 1984 for its operation.
- There is a packet of information in your file including the original minutes of the ZBA hearing, notice of decision and other documents that I believe are relevant to the status of the business at the time the variance was granted. More details regarding the history of the property will be presented at the hearing.
- Essentially, the applicant, Mrs. Robie, believes that an increase in the number of vehicles is an expansion of the business and, therefore, in violation of the original variance.
- After hearing testimony and reviewing the records, the Board will need to determine if the business is in violation of the conditions of the original variance.
- There are pictures of the property in the file for review by the Board.

Mr. Mackey said that he has provided the Board with some history of how the business came to be in 1984. He said that Mrs. Robie had originally came to him last year with regard to the expansion of the business. Mr. Mackey said that he has spoken to the Foley's and had a few meetings with them and also Mrs. Robie on a number of occasions. He said that he has reviewed the file and pulled out everything that he felt was relevant for the Board to review from the original variance file from 1984. Mr. Mackey said that the variance at the time stipulates 200 units which has never been an issue. The issue is the number of vehicles at the time it was 3 tankers and a nonfunctioning truck and a few pickups. He said that today they have flatbed trailers to transport the portable toilets and yes, the types of vehicles have changed from pickups and trailers to flatbeds and tankers. In speaking with the owners their contention is that the number of vehicles has increased but the total number of portable toilets has not increased on the property. They have more tankers to service the units and customers more efficiently. He said with keeping that in mind in reviewing the overall business as a whole he came to the conclusion that it was not an expansion of the business. Mr. Mackey said that as Mr. Coppolo pointed out the conditions of the variance are vague as it does not specify the number of vehicles.

Mr. Coppolo asked if there was any documentation of the volume of sewage either transported or processed on a daily basis. Mr. Mackey said no that information was not available.

Attorney Morgan Hollis, Gottesman & Hollis, P.E., Goffstown, said that he was representing the owners of Triangle Portable Services, Inc. who are also present this evening. Attorney Hollis said that this is a family owned business that was started some 44 years ago and is currently operating on 4 generations now Foley and Chase. This business has operated in the same location and size since prior to 1983 and was granted a variance in 1984. Attorney Hollis said that Mr. Mackey has made a good case on how he evaluated the business. He said that anyone can parcel anything out such as the number of tank trucks, number of employees, etc. However, Mrs. Robie has chosen the tankers as that is the one area of where she has some room.

Mr. Coppolo asked how that would be considered an unreasonable assessment. Attorney Hollis said it was unreasonable as Mrs. Robie is not a stranger as she has been opposed to his clients since day one and the record is clear. Attorney Hollis said that Mrs. Robie's basis for appeal is not coming from a credible point of view as it is of a biased point of view. As Mrs. Robie is not unbiased. Mr. Mackey has evaluated the business and made the determination that there was no expansion of his client's business based on his review of the Town's records. He reviewed the restrictions of the variance granted in 1984. Attorney Hollis said the record does not exactly notably limit the number of vehicles. He reviewed the conditions imposed in the 1984 variance and it does not notably limit the number of trucks.

Mr. Coppolo asked why is Mrs. Robie's concern of the number of trucks is unreasonable and what does the 6 trucks represent today to the business as 3 trucks in 1983. Attorney Hollis said the failure is in part of the credibility of the witness that is making a complaint and it is his job to point out the points. He said the Court should understand that she has been in opposition from the beginning. Attorney Hollis said that minutes from October 6, 1983 states that Mrs. Robie's stated that she had applied for a tire business in 1967 and the Foley's complained. Therefore, the ZBA placed several restrictions on the exception. He said that he was just trying to point out that this is Mrs. Robie and not coming from someone across the street or down the hall so just pointing out that there is background here that the Board must weigh when listening to the testimony and compliance.

Attorney Hollis said that the issue is that they have gone from 3 tankers to 6 tankers and does this constitute an expansion. He said no as there is a logical explanation and an important issue. There are four causes to this conclusion which are efficiency, technology, political correctness and change of how we all live and operate in society. In 1983 there were portable toilets that majority were wooden and there weren't too many and a fairly new business in this state and very few competitors and for his clients and as a result their business was take a toilet and put them out there and when and if there was time and when they fill up go and pick up, clean them and then go drop off at a local facility. However, today there are only 2 sites that take waste. One is in Lawrence MA and other is in Pembroke NH which is 27 miles away so need more trucks on the road to provide service. Attorney Hollis said that when a porta-potty is in a field event today and

it gets dirty they have to stop what they are doing and go and attend to that facility and get it changed out as it has to be done so the need for extra trucks and not an expansion but an adaptation to what society is today. Unable to operate and be competitive with the same number of 3 trucks even though they have few toilets out there and onsite as they must service them as they are a quality business and they are not all out there at the same time. They always need to have a spare because if one truck breaks down they need another one to get out and pickup while repairs are being made to the one that is being repaired. These trucks are on schedules and are going further distances and as a result you have wear and tear on the trucks.

Mr. Coppolo asked whether Attorney Hollis's argument is that there is no "expansion" of the business because the industry as a whole was intensified. Attorney Hollis said that was correct and cited Mr. Mackey's findings. Attorney Hollis said that in NH Law there are no specific cases regulating conditions of expansion of variances. He said however there is that clause for pre-existing, non-conforming uses. In general, it states you cannot expand non-conforming use and the court's ruling consistently look to determine substantial change. Attorney Hollis said that there are 3 criteria which are as follows:

1. Does new use reflect the nature and purpose of the old use.
2. Is the new use merely a different manner of utilizing the same use or different in nature or character.
3. Does new use have substantial impact to the neighborhood.

Attorney Hollis said that the tanker trucks are a relevant component to the said business so feel that was the reason the number of vehicles were not restricted. He said that he feels if the client changed to truck repair then yes but if only added more employees then no as it is the same business use. His clients are still doing the same business as in 1984 with portable toilets and septic cleanouts and no expansion of business has been made. Attorney Hollis said that he feels that Mr. Mackey did not err in his decision.

Board Questions

Mr. Coppolo asked how many cubic gallons were processed in 1983 and now today. Attorney Hollis said that he did not have that number. He said that volumes might have changed depending on usage but do not feel that constitutes an expansion of use.

Mr. Coppolo said that if tankers today are holding more than they were 40 years ago that suggests expansion.

Mr. Kelley asked if the trucks on the road were hustling and not parked. Attorney Hollis said yes as if a truck is parked its not making money. If a truck is parked on the property it may have some waste in it but generally they are emptied and not stored onsite. He said that his client has 6 tankers of which 4 are on the road daily.

Carol Chase, owner, said she was present at the first zoning Board meeting and at the time they had 4 trucks and one wasn't on the road all the time and there were more toilets on the site. She said they were making more trips and working longer hours and traveled a ways as do not just service Derry and Londonderry. Mrs. Chase said that all the trucks that are there have the back tanks are from the original old trucks that she did have as have changed the cabs and chassis and have them transferred to the new truck and there is only one truck there that has a new tank on it. She said that she has all the registrations from the State for years. She said that there is the same amount of drivers they leave the yard in the morning and come back in the evening. The dump sites used to close at 6:00 pm and used to be open on Saturdays but now most close by 3. So the runs need to be split up more so the guys are servicing less units so they can meet the 3 o'clock dump. The guys leave the yard some of the trucks that come back in they all hold 700 gallons. The trucks all have a 400 gallon capacity on the side so they can wash down the units and fill them up the proper chemicals so the capacity of each the trucks those trucks would be 700 gallons. She said that some of the trucks could come back with 250 gallons as they have to travel to where ever to service the amount of units in their time frame or others could come in with 500 gallons. Mrs. Chase said that it does not make any since to have them all running to the same dump sites so many miles each way so usually have one truck assigned to take the smaller trucks dump onto it saving some time and man hours and they all get into dump at the same time. She said Manchester used to have old manholes where the old Bradley's area where used to be able to dump into but today you have all the sanitation regulations where you have to maintain certain rules. Mrs. Chase said that this is the reason that have and extra truck in the yard actually have 2 and this is due to the 2002 freight liner got into an accident in Londonderry and was totaled so was set back for 9 months because the trucks are specially designed and special ordered. She said in the interim they purchased a 2006 and transferred the body off the old truck onto this truck so started the order on another truck to make sure this doesn't happen again as it takes a year to obtain one of those trucks. She said currently have 3 trucks in the yard with over 400 thousand miles one them and with one over 659 thousand miles that are not on the road these are if an emergency happens. If you have big storm and have water outage and if electricity goes people do not have off pumps can't use their toilets so they call us so need to have the guys get out to these people and have to have them serviced. She said holding tanks used to be 100 gallons but today they are 60 gallons a handicap is 35 gallons which means they need to be serviced more often so one truck is doing nothing but servicing. Mrs. Chase said that she takes pride in keeping her equipment very well conditioned and well cleaned as do not like to see them dirty.

Mr. Coppola asked to clarify for the record that there was still the same and same number of employees. Mrs. Chase said yes as they have the same number of people in the office and 6 guys in the field. She said that she would love to retire and have son, grandson and daughters working in the business and to hopefully take over. She said the business has not changed any and the family is shrinking and do not want to get any bigger and rather take the inventory that have and specify to make it a top notch quality service.

Mr. Perkins asked how many sites are available to take waste to since 1983. Mrs. Chase said less as used to be able to dump in Derry but now unable to and that there are only 2 sites available now to allow dumping.

Favor

Arthur Learnard, 23 Chester Road, said that he owns the property abutting all the parcels and is a direct abutter to the Chase's. Mr. Learnard said that he has mixed feelings and he and Mrs. Robie had legitimate reasons for rebuttal at the hearing in 1980's. He said that he did not wish to see more business activity in the area. The Chase's have been busy, and their business is their lively hood along with the bus depot that has expanded their use, but it is not what is being brought up here tonight. He said that he supports his neighbor Mrs. Robie as the business has changed over the years.

Mr. Perkins asked if there were any legit concerns from the 1983 doings from today's activity of 6 trucks now verses 3 then. Mr. Learnard said that he has seen 6 trucks noted on the property and that the original variance should have been clearer in their conditions.

Opposed

Jeff White, 26 Chester Road, said he has resided across the street for 17 years and does not know what the violation is based on. He said that the tankers are part of the business and that his neighbors are clean and polite and have no issues with them. He said that he has however had issues with the bus company next door to them.

Mr. Perkins asked if Attorney Hollis had any other components not repetitive to add. Attorney Hollis said no that they have heard the story from his client.

Mr. Kelley motioned to continue the meeting for an additional 10 minutes.

Seconded by Mr. Coppolo.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evan, Mr. Perkins

Mr. Perkins informed Mrs. Robie if she wished to rebut the Board has extended the meeting another 10 minutes or if she wished she could request to continue to the next meeting that will be held on July 19, 2018.

Mrs. Robie said that she wished to be continued to the next meeting as she had a number of issues to address. She said that she would also like to take exception to the statement of the attorney regarding her credibility. She said that she has presented the Board with factual documentation to prove her case and that their Attorney has presented nothing.

Mr. Kelley motioned to continue case 18-118 to the next available meeting.

Mr. Mackey said that he would not be present for the July 19th meeting.

There was some discussion with regard to Mr. Mackey's unavailability for the continuation. It was noted for the record that Mr. Mackey will have Mr. Wentworth present in his absence.

Mr. Coppolo motioned to continue case 18-118 to the July 19, 2018.

Seconded by Mr. Kelley.

Vote: Unanimous.

Mrs. Navarro, Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

Approval of Minutes

Mr. Perkins motioned to approve the minutes of June 7, 2018 as amended.

Vote: Unanimous.

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

Adjourn

Mr. Coppolo motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 10:15 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes August 16, 2018

Mr. Kelley motioned to approve the minutes of June 21, 2018 as amended.

Seconded by Mrs. Evans.

Vote: Approved

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

No: Mr. Coppolo – Opposed to page 12 being a full page of testimony by one person as feel setting bad precedence.