

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**August 15, 2019**

**Members Present**

Lynn Perkins, Chairman  
Heather Evans, Vice Chair  
Stephen Coppolo, Secretary  
Michelle Navarro

**Members Absent**

Randall Kelley

**Alternates Present**

Donald Burgess  
Craig Corbett  
Crystal Morin

**Alternates Absent**

Allan Virr

**Code Enforcement**

Robert Mackey

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

The Board members introduced themselves and Mr. Perkins said that Mr. Mackey was present representing Code Enforcement.

It was noted for the record that Mrs. Morin would sit for the following case:

**19-123          Sean LeBlanc**  
**Mammoth Properties**

**The applicant is requesting a variance to the terms of Article VI, Section 165-34.B.7 & 165-49.B.1.b of the Town of Derry Zoning Ordinance to allow an existing commercial space on the first floor to be converted to a residential living unit at 60 West Broadway, Parcel ID 26146, Zoned OBD**

Alicia LeBlanc, wife of applicant, said she was here representing Sean as he could not be here tonight.

Mr. Perkins asked if she was on the deed to the property. Mrs. LeBlanc said she was not.

Mr. Coppolo asked if she was part of the LLC. Mrs. LeBlanc said she was not part of the LLC. She said that her husband had to leave town on an emergency so was unable to be here tonight.

Mr. Perkins asked if a letter to represent was available where Sean was not available tonight. Mrs. LeBlanc said no and was unaware she needed anything as only knew that Sean had a meeting tonight but unfortunately, he is unable to attend.

Mr. Burgess said that she could come back at a later date.

Mr. Mackey said that if no interest in the LLC or letter of authorization the Board may wish to postpone case as may open legal matters.

Mr. Perkins said that instead of jeopardizing case he would entertain a motion to continue to the next meeting. Mrs. LeBlanc said Thank you as that would be helpful.

**Mr. Coppolo motioned to postpone case # 19-123 Sean LeBlanc, Mammoth Properties to September 5, 2019.**

**Seconded by Mrs. Evans.**

**Vote: Unanimous.**

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

It was noted for the record that Mrs. Morin would sit for the following case.

**19-123            Joseph Hicks/Hicks Builders, LLC  
Owner: Todd Rovinelli & Erika Lee Reinikainen**

**The applicant is requesting a variance to the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the construction of a 26' x 28' addition less than 15' to the side lot lines and less than 35' from the front lot line at 70 Beaver Lake Ave, Parcel ID 51082, Zoned MDR**

Joseph Hicks, applicant and Hicks Builders LLC, said he was present this evening representing the owners and a letter of authorization was in the file. Mr. Hicks reviewed the criteria and letter of explanation for the record.

### **Board Questions**

Mr. Coppolo asked what the size of the lot requirement was. Mr. Mackey said that MDR is a 1 acre requirement.

Mr. Coppolo said that the lot predates zoning if the other lots were similar in size. Mr. Hicks said yes.

Mr. Coppolo asked if the addition was attached for vehicles. Mr. Hickes said yes and that there also would be a utility room inside.

Mr. Corbett asked how far from the lot lines was the proposed addition. Mr. Hicks said that he submitted a plan indicating distances to lot lines.

Mr. Mackey reviewed the plan for the record.

Mr. Burgess asked if the driveway was not actually located on the street. Mr. Mackey said that it was located on the old Simard property which had been a beach at one time so the driveway was not directly on the North Shore Road but a very long driveway off the roadway.

Mrs. Evans asked if the shed was to be removed. Mr. Hicks described the proposal for the record.

Mrs. Morin asked if the addition would be taller than the existing structure. Mr. Hicks said no that it would actually be shorter by 4 to 5 feet.

Mr. Coppolo asked if the property was on a community well. Mr. Hicks said no that it was a drilled well that will be located inside the garage with a manhole cover over it.

Mr. Burgess asked what was the office area in the design. Mr. Hicks said that it was for a home office not a business use.

Mr. Coppolo asked what was the square footage now and when finished. Mr. Hicks said that the numbers were on the plans submitted to the Board.

Mrs. Morin said it was 728 square feet.

Mr. Burgess asked if a bathroom would be located in the new portion. Mr. Hicks said not but will be adding a laundry room area.

### **Favor**

No one spoke in favor of the request.

### **Opposed**

No one spoke in opposition of the request.

## **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the construction of a 28' x 26' addition to the existing home which will include a garage on the lower level and a laundry/office and recreation room on the 2<sup>nd</sup> floor. Relief has been requested from the side and front setback requirements.
- The property is located on Beaver Lake in an area of small lots and pre-existing, non-conforming structures.
- If approved, appropriate permits and inspections will be required to be obtained from the Building Office.
- There are pictures in the file for review by the Board.

Mrs. Navarro motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

## **Deliberative Session**

Mr. Perkins said that he felt it was an exchange to clean up the property and assist with fire safety. He noted that the height of the proposed structure would not be more than the existing and that he understood the concerns of the lot size being taken into consideration.

Mr. Coppolo said that the shed was right near the lot line so neighbor might like the removal and he felt that the proposed plan would enhance the neighborhood.

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

Mrs. Morin said she also agrees it was a reasonable request.

Mrs. Navarro said that she felt the request was a reasonable one.

Mrs. Evans motioned come out of deliberative session.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

**Mr. Coppolo motioned to Grant a variance to the terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the construction of a 26' x 28' addition less than 15' to the side lot lines and less than 35' from the front lot line at 70 Beaver Lake Ave, Parcel ID 51082, Zoned MDR 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.**

It was noted that Mr. Corbett would sit for the following cases.

**19-124            Meisner Brem Corporation  
                     Owner: John Lanzafame & Brian Bell**

**The applicant is requesting a variance to the terms of Article VI, Section 165-45.B.1.a.i of the Town of Derry Zoning Ordinance to subdivide the property into two lots with one having a lot area of 14,113 square feet where 15,000 is required at 66 Fordway, Parcel ID 24003, Zoned MHDR**

Robert Balquist, Meisner Brem Corporation, said he was here representing owners who are also present. Mr. Balquist read the application criteria for the record. He explained that he has been before the TRC committee in June and was informed by Mark L'Heureux that Fordway had recently been reconstructed so it was unlikely that they would grant approval for a sewer tie in and that there was no sewer mains on Pinehurst hence the reason for a septic system.

**Board Questions**

Mr. Coppolo asked if new black top was the reason for not allowing sewer connection. Mr. Balquist said no that there were also other improvements below surface so was more than just pavement.

Mrs. Morin asked if road was redone due to flooding. Mr. Balquist said no as the Town made other improvements to water and sewer mains in the area. He said that there have been 2 lots on Pinehurst that have new homes one in 2018 which has access to water but has its own septic system. Mr. Balquist said that the lot has a DES approved septic system and if granted the proposed subdivision will be further reviewed by the Planning Board. He said that the proposed lot is only 800 square feet shy for lot size requirement.

Mr. Coppolo asked why not bring thru existing lot. Mr. Balquist said that was shot down by engineering as originally proposed to pump to a manhole and flow by gravity.

Mr. Coppolo asked if lot was able to hook up to Town water and sewer it would only require 10,000 square feet. Mr. Balquist said that was correct and the proposal is for 24,480 square feet which is just shy of lot size requirement for zone.

Mrs. Evans asked if both driveways would be on Fordway. Mr. Balquist said no that the proposed lot would be on Pinehurst.

Mr. Perkins asked if there would be an easement for water. Mr. Balquist said not that a private water tie was allowed without an easement.

Mr. Burgess asked if proposing to have 2 substandard lots. Mr. Balquist said no, that the existing lot can be 10,000 square feet as has access to town water and sewer and proposed lot requires 15,000 square feet and only have just over 14,000.

Mr. Perkins asked why was lot proposed with a dog leg. Mr. Balquist said they tried to make the lot area to be as conforming as possible.

Mr. Coppolo asked why not take 367 square feet off the other area. Mr. Balquist said that the existing lot needed 100' of frontage and setback of 15' off garage and the lots were not parallel so the attempt was to meet as much as possible and not require more variances.

Mr. Corbett asked if other lot would have no interest on Fordway. Mr. Balquist said no that the driveway would be on Pinehurst.

### **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the property, which contains an existing single family home, to be subdivided into two lots.
- The existing home, which is serviced by Town water and sewer, will be left with a 10,000 (+) square foot conforming lot. The new lot which will have a private sewage disposal system, will contain 14,113 square feet where 15,000 square feet is required. Adequate frontage is provided for both lots with the new lot to have frontage on Pinehurst Ave. The property is located in the Medium High Density Residential (MHDR) zoning district.

- The recent paving of Fordway prohibits the connection to Town sewer to the new lot.
- If approved, Planning Board subdivision approval will be required.
- There are pictures in the file for review by the Board.

Mr. Corbett asked why the TRC was negative to sewer connection. Mr. Mackey said it was due to the infrastructure under Fordway as was not as simple as cutting and patching the roadway as there was much more involved.

Mr. Perkins said that Town's typically put moratoriums on new roads to help avoid bonding requirements of which are sometimes 3 to 5 years sometimes 10 years.

### **Favor**

Richard Tripp, 44 Windham Road, said that he has experience in road openings and that the Town is not against but very costly to open road. He said that the VFW was looking to open the road to put in a sprinkler system and was told it would be \$25,000 to open the road as Town requires 50' on either side for openings.

### **Opposed**

No one spoke in opposition of the request.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

### **Deliberative Session**

Mr. Perkins said that the proposal hits all cues on development regulations and proposed lot is slightly under by approximately 887 square feet.

Mr. Coppolo said that the lot was possibly accessible to Town sewer in 5 years or more whenever access was available and it was a timing issue as sewer is right there but not available due to road improvements.

Mrs. Navarro said that she felt that the applicant has done everything to satisfy Town requirements.

Mr. Perkins said that other lots on Pinehurst appear to be similar to scope of neighborhood of size.

Mr. Coppolo asked if the septic system requires to be in a setback. Mr. Mackey said yes it was 10' to side as a rule.

Mr. Corbett said he did not see any issues with the proposal.

Mrs. Evans said that she appreciated clarifications of the plan and also did not find any issues with the proposal.

Mr. Perkins reviewed the conditions for the record.

Mrs. Navarro motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

**Mr. Coppolo motioned on case #19-124 Meisner Brem Corporation, Owner: John Lanzafame & Brian Bell to Grant a variance to the terms of Article VI, Section 165-45.B.1.a.i of the Town of Derry Zoning Ordinance to subdivide the property into two lots with one having a lot area of 14,113 square feet where 15,000 is required at 66 Fordway, Parcel ID 24003, Zoned MHDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**

**Seconded by Mrs. Evans.**

**Vote:**

**Mrs. Navarro: Yes.**

**Mr. Coppolo: Yes.**

**Mrs. Evans: Yes.**

**Mr. Corbett: 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.**

Mrs. Evans said that she wished to recuse herself from the following case.

Mr. Perkins asked if Mr. Corbett and Mrs. Morin if they were present for hearing on June 20, 2019 and familiar with case that was presented that evening.

Mr. Corbett and Mrs. Morin said they were both present and familiar with the case that had been presented that evening.

Mr. Perkins noted for the record that Mr. Burgess, Mrs. Navarro, Mr. Corbett and Mrs. Morin would review the information provided by the applicant in regard to requesting a rehearing.

**19-119            Andrew Lane  
                     OBO: Luke Lane**

**Re-Hearing Request on case #19-119 of Variance denied on June 20, 2019 to the terms of Article VI, Section 165-45.A of the Town of Derry Zoning Ordinance to allow the owner to permit commercial parking in the rear yard of the property at 5 Aiken Street, PID 26041-001, Zoned MHDR**

Mr. Perkins said that this is a rehearing to consider a granting of a rehearing of case 19-119 for a request to allow rear parking on 5 Aiken Street that is somehow jointly owned in some fashion to the property o West Broadway. He said that he wished to caution members to address the case and consider if the applicant has brought forward any new information which was not considered in the original hearing.

Mr. Perkins said that he felt that the case was well vetted and was confusing but sorted out being back to back properties. He said in reviewing the information submitted he did not see anything new presented that had not been discussed at the June 20<sup>th</sup> hearing.

Mrs. Navarro said that she also agreed that the Board had went through the case with a fine tooth comb that evening. She said that she also did not find any new information presented.

Mr. Corbett said that he also did not see any change that had not been brought forward tonight that had not already been discussed just asking again for the same request.

Mr. Burgess said the Board went through the 5 criteria and found it was not allowed of what the person was requesting. Also, the Derry Town Council and Planning Board decided to not make Aiken Street commercial so do not see why the Board would change what the Town is doing.

Mrs. Morin said she agrees with everything that has been said.

**Mrs. Navarro motioned to Grant Re-Hearing Request on case #19-119 Andrew Lane, OBO: Luke Lane of Variance denied on June 20, 2019 to the terms of Article VI, Section 165-45.A of the Town of Derry Zoning Ordinance to allow the owner to permit commercial parking in the rear yard of the property at 5 Aiken Street, PID 26041-001, Zoned MHDR**

**Seconded by Mr. Burgess.**

**Vote:**

- Mrs. Navarro:** No. Do not believe any new information to rehear this case.
- Mrs. Morin:** No. Do not feel any new information that had not been reviewed by the Board.
- Mr. Corbett:** No. Believe the Board followed all points and nothing new has been presented.
- Mr. Burgess:** No. Do not believe the Board made any errors in law. Feel had a full hearing and went over the 5 criteria.
- Mr. Perkins:** No. Found hardship conflict was not sustained in original hearing and not found in the information presented this evening.

**The request was Denied by a vote of 0-5-0. Recourse would be to appeal to Superior Court.**

**Approval of Minutes**

Mr. Perkins motioned to approve the minutes of July 11, 2019 as written.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

**Adjourn:**

Mrs. Navarro motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 8:12 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

**APPROVAL OF MINUTES September 5, 2019**

Mr. Coppolo motioned to approve the minutes of August 15, 2019 as amended.

Seconded by Mrs. Evans.

Vote: Unanimous.

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