

**TOWN OF DERRY**  
**ZONING BOARD OF ADJUSTMENT MINUTES**  
**May 21, 2020**

**Members Present**

Lynn Perkins, Chairman  
Craig Corbett – Vice Chair - via Remote  
Heather Evans, Secretary – via Remote  
Crystal Morin  
Allan Virr

**Members Absent**

**Alternates Present**

Donald Burgess

**Alternates Absent**

**Code Enforcement**

Robert Mackey, Code Enforcement Director

Mr. Perkins called the meeting to order at 7:00 p.m. with the salute to the flag. Mr. Perkins stated that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 this public body is authorized to meet electronically. He said that there was no physical location to observe and listen to this meeting. As such this meeting is being held remotely and providing public access to the meeting by telephone with additional access possibilities by video utilizing the ZOOM app for the electronic meeting. To participate in this meeting through dialing 323-909-140 or by clicking on the website address: [derrycam.org/TuneIn](http://derrycam.org/TuneIn) the phone numbers are 646-558-865 or 312-626-6799 meeting ID: 323-909-140 or if anybody has a problem please call 603-845-5585 or email at: [ginnryrioux@derrynh.org](mailto:ginnryrioux@derrynh.org). In the event that the public is unable to access the meeting, the meeting will be adjourned and rescheduled otherwise the meeting will end at 10:00 PM. Mr. Perkins said that all votes taken are taken during this meeting shall be done by roll call vote.

Mr. Perkins said that the start of the meeting will be taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during the meeting, which is required by the right-to-Know law.

The Board members introduced themselves.

Mr. Perkins said the first order of business was the election of officers that had been postponed from the previous meeting.

### **Position of Chairman**

Mrs. Evans nominated Mr. Perkins for the position of Chair.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans

### **Position of Vice Chair**

Mrs. Evans nominated Mr. Corbett for the position of Vice Chair.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Perkins

Mr. Perkins extended a Thank you to Mrs. Evans for her past service as Vice Chair.

### **Position of Secretary**

Mr. Perkins nominated Mrs. Evans for the position of Secretary.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mr. Corbett, Mr. Perkins

Mr. Perkins provided the information to the public on how to access the case for the record.

**20-118            Patricia M. Panciocco, Esq.  
Panciocco Law, LLC  
Owner: Barbara A. Albright**

**The applicant is requesting a variance to the terms of Article VI, Section 165-48.B.2&3 of the Town of Derry Zoning Ordinance to allow the construction of a single family home on the property which does not have frontage on a Town approved street and which will be accessed over a 16 foot wide right-of-way at 97 Damren Road PID 13023, Zoned LDR**

Attorney Patricia Panciocco, Panciocco Law, LLC, said she was representing Barbara Albright. Attorney Panciocco said that after the prior meeting she had taken some

pictures of the area and also was able to obtain the original 1972 State driveway permit for the Board's review. Attorney Panciocco explained the proposal and reviewed the criteria and letter of explanation for the record. She described the proposed plan also for the record. Attorney Panciocco said that she had spoke with the State DOT and was told that the area could support 3 single family homes. She expressed that her client could meet the Town of Derry driveway requirements and the property would have an ample turn around for emergency vehicles. Attorney Panciocco said that she also has spoken with the Town of Derry dispatch service and was told that they service handle Chester and confirmed service properties in the area and will service this home when built.

### **Board Questions**

Mr. Perkins asked if the proposed home was located in the shaded area on the map. Attorney Panciocco said no that was the home of the Gerry's.

Mr. Perkins asked if the survey access shows when structure was built. Attorney Panciocco said that the home was built in the early 1970's.

Mr. Burgess said that there is an existing 16' right-of-way but the Town requires 14' gravel with 2' of shoulder on either side. Attorney Panciocco reviewed the driveway requirements and said that they do not speak of gravel just a clear passage.

Mr. Perkins asked Mr. Mackey if Attorney Panciocco's interpretation was correct. Mr. Mackey said that the intent is 14' of gravel with 2' clear shoulder on either side.

Mr. Perkins asked if not 2' on each side would there be any issue in obtaining. Attorney Panciocco reviewed the requirements for the record for the record and said that she believes all they need was to trim trees.

Mr. Perkins asked where did the right-of-way branch off for access Ms. Albright's property. Attorney Panciocco explained the map for the record and photos submitted. She said that currently the wood road will be cleared and graveled.

Mr. Virr said that the wood road ran for a considerable distance and wanted to know who rules does it follow Chester or Derry. Mr. Mackey said that he has had a conversation with the inspector of Chester and their specifications are similar to Derry's. He said that the applicant will be coordinating with 3 agencies.

Mr. Virr asked when speaking with dispatch did that include services for Fire and Police. Attorney Panciocco said yes, that could potentially have both fire and police department at the same time depending on nature of call. She said that she believes was told that both Towns work together frequently.

Mr. Virr asked what the width of the outlet onto Haverhill Road was. Attorney Panciocco said she did not measure it but easily could see 2 vehicles.

Mr. Virr asked how many feet from woods road is the 200 foot frontage met. Attorney Panciocco said she believes the depth is approximately 300 – 500 feet.

Mr. Perkins said that there was one copy of the DOT driveway permit that was available for review. He said that he had driven down the access area but did not go past the posted signs and felt that 2 vehicles could easily pass each other.

Mr. Virr said that he reviewed the driveway permit and that it may need to be updated as it was issued in 1972. Attorney Panciocco said that she spoke with Brian DeFosses who located the permit and said that it was issued shortly after the state had started issuing permits. She said if the Board grants the request her client will apply for a permit and have it updated.

### **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to construct a single family home on the property which does not have frontage on a town approved street.
- This is a landlocked parcel consisting of 42+ acres and, per the applicant, is accessed by a 16 foot wide right-of-way. This right-of-way is located off Route 121 (Haverhill Road) in Chester.
- If approved, a State driveway permit would be required and the driveway would need to be constructed per Town of Derry specifications with approval of the Derry Fire Prevention Office. The applicant would also need to check with the Town of Chester for any approvals that may be required.
- The new home would need to have a state approved septic design and private well.
- There are pictures of the access area (on Route 121) in the file for review by the Board.

Mr. Perkins said that the driveway permit was issued to the Gerry's and that Brian DeFosses commented that it was wide enough for 3 homes and asked how was that number generated. Attorney Panciocco said that the DOT has a rule that no more than 3 homes from a curb cut could be built on a single entry and additional homes would require subdivision approval.

Mr. Corbett asked how would the area be maintained. Attorney Panciocco said that she assumed it would be shared equally between the 2 properties.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and will answer your call.

## **Favor**

No one spoke in favor of the request.

Mr. Perkins informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and will answer your call.

## **Opposed**

Richard Tripp, Derry resident, said that he felt that the request supersedes 1.a.b.c & e of the RSA and should not be granted.

Mr. Perkins asked if that the RSA speaks of access from State road. Mr. Tripp said that he felt that the Board may not want to get far into the process as it may not get state level approval.

Mr. Perkins said that testimony provided stated that permits would be put in place.

Mr. Mackey said that the Class VI roadway has provisions in ordinance and reason that the applicant is here.

Kathy & Robert Gerry, 668 Haverhill Road, said that they hired an attorney and that the 4 acre lot going to build a home and have obtained a permit in 2013.

Mr. Perkins said that he believes that the building permit may have expired and needs to be reapplied for and as stated by Attorney Panciocco that right-of-way approved for 3 homes.

Attorney Andrew Sullivan, said he was representing the Gerry's of 668 Haverhill Road, Chester. He explained the 2 parcels that were owned by the Gerry's for the record. Attorney Sullivan said that the deed explains the purpose of the woods road and that it did not convey purposes of utilities or other natures just a travel passage. He said that the 16' area is owned by the Gerry's and feel that they have the right to keep it 16' and as such the applicant could not meet the Town standards. He said that this area was not a road but a driveway to his client's property. Attorney Sullivan reviewed RSA's for the record pertaining to his client's property all of which he felt speak to a road not a right-of-way access to an existing street of which does not exist. Attorney Sullivan said as to the hardship factor the applicant has access to timber but not for building purposes. Property has value as 42 acres and could buy access from adjoining property. The overlay map did not show any other lots that access via a right-of-way. Attorney Sullivan said if the variance were to be granted it would go against the spirit and intent of the ordinance as it would be against the character of the neighborhood. As for the DOT 3 lot restriction that pertains to safety. He also felt that it would be inconsistent with the character of the neighborhood. Attorney Sullivan said that the justice prongs no necessity is there as the property can be timbered and public gain the maintenance of roadway has been by the Gerry's and there is no power access, value the property has reasonable use for timber.

Mr. Perkins asked if it was reasonable to assume that the Gerry's are against this request. Attorney Sullivan said yes, his clients deny Ms. Albright access to clear trees to gain the 16' required access and that his client has maintained the right-of-way for 50 years and only give right to timber property not build.

There was some discussion with regard to deeded right-of-way usage and access.

Diane Polewarczyk, Chester, said that she currently owns property directly abutting the applicant's property and is opposed to the granting of the request. She said that the driveway access is small and to actually turn into the road would be grossly an understatement.

Mr. Perkins said that the area is not a road but a driveway as stated by the Attorney. The access requires a permit for a driveway by the State. Ms. Polewarczyk said that she was a former medic and feel that share emergency services would be unfair.

Mr. Perkins said that common dispatch was managed by Derry. Ms. Polewarczyk said that the plan ahead of time as safety concern.

### **Rebuttal**

Attorney Panciocco said that she wished to address the points as follows:

1. Her client purchased property with access over 16' right-of-way and the Gerry's also purchased with same right-of-way.
2. RSA 674:41 – Mr. Mackey clarified but wish to address a bit further. Attorney Panciocco reviewed the RSA for record. She said reason here as there is no frontage as required by code of which the RSA does not apply.
3. Concern of not fit in area – this is about use of driveway access.
4. Granting relief to benefit public – this is a modest use of the 42 acre parcel.
5. 16' right-of-way not safe – there are currently residential driveways that exist with long and windy access of only 12'. This is a 16' right-of-way gravel surface and the rest will be brought up to Town specifications.
6. The suggestion of unsafe – the area entrance is flat and even access to the right-of- way.
7. Driveway regulations – Statute subject to Planning Board authority that adopts regulations.
8. Utilities – civil matter and there are 3 cases that parties were granted in supreme court. Utilities could also be underground.
9. 42 acre parcel abuts Town forest and very little wetlands and the hardship is has no frontage on a town approved road.
10. Character – no change as only seeking a single family structure just like abutters have.
11. RSA 674:41 does not have a place in this request and does not apply.

Mr. Burgess said that Attorney Sullivan stated other property owns the right-of-way and improvements. Attorney Panciocco said that her client has a deeded right to access her property.

Mr. Perkins said that there are areas of civil matter disputes and not of the Board's purview.

Mr. Perkins asked if Attorney Sullivan wished to rebut as policy and procedures allow. Attorney Sullivan said that RSA 674:41.3 pertains to access and the lot has no frontage and they are not talking of driveway speaking to no frontage and for that reason the request should be denied.

Attorney Panciocco said that RSA 674:41 does speak to frontage and asked how many people go down a road and measure frontage. Her client is seeking a variance to access a 42 acre parcel with no frontage on a town approved road but an existing right-of-way. She said other matters are of civil nature and not part of the Board's purview.

Mr. Virr motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins.

### **Deliberative Session**

Mrs. Evans said that the representation by both parties represented well and a lot of information to review.

Mr. Virr said that he heard the Gerry's own the 4 acre lot with a permit to build a home that has expired. Testimony given that 3 homes could be built on a single access and if a 4<sup>th</sup> would require review of Planning Board. Mr. Virr said that an abutter had concerns of safety coming out of right-of way onto route 121 as traffic has increased over the years.

Mr. Perkins said that Attorney Panciocco stated that DOT has limit of 3 houses onto a State road from access of which would be possibly 6 vehicles per day for 3 house limits.

Mr. Corbett said that he understands Mr. Virr's concerns and he also has concern of utility easement verses access easement.

Mr. Perkins said utility and access area two different items. Utility easement can follow different path access is 800' long as points brought up by Mr. Burgess. He said that this was not purview of the Board to get into civil matters. Attorney Panciocco brought forward case law to speak of utility issue. Mr. Perkins said the matter before the Board is frontage. The applicant brought forward to have access and use in reasonable way. The Gerry's have a similar situation but unacceptable to sharing right-of-way usage.

Mrs. Evans said that the issue was a frontage matter and felt the request was reasonable due to the acreage and presentation by Attorney Panciocco addressed points.

Mrs. Morin said that a number of people live off Route 121 and that did not feel a single family home would make a huge impact in traffic.

Mr. Perkins reviewed conditions for the record and asked if needed Planning Board review and would the Town of Chester also be involved.

Mr. Mackey said that the various departments along with the Town of Chester will be working together if approved and that Planning Board is not necessary to build one home. The driveway regulations are outlined by the Planning Board but the staff would work out and discuss what would be required.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins.

**Mrs. Morin motioned to Grant case #20-118 Patricia M. Panciocco, Esq., Panciocco Law, LLC, Owner: Barbara A. Albright to Grant a variance to the terms of Article VI, Section 165-48.B.2&3 of the Town of Derry Zoning Ordinance to allow the construction of a single family home on the property which does not have frontage on a Town approved street and which will be accessed over a 16 foot wide right-of-way at 97 Damren Road PID 13023, Zoned LDR as presented with the following conditions:**

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Waiver of Municipal Liability & Responsibility must be recorded with the deed prior to obtaining a building permit.**

Seconded by Mrs. Evans.

**Vote:**

<b>Mr. Corbett:</b>	<b>Yes.</b>
<b>Mr. Virr:</b>	<b>Yes.</b>
<b>Mrs. Evans:</b>	<b>Yes.</b>
<b>Mrs. Morin:</b>	<b>Yes.</b>
<b>Mr. Perkins:</b>	<b>Yes.</b>

**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.**



Mr. Perkins said that due to the time the Board needed to do some housekeeping before proceeding and asked for a motion to table cases 20-122 & 20-123.

Mr. Perkins asked case #20-123 Stephen & Shannon Vadney if they wished to be tabled to the next meeting. Mr. Hatch, said he was representing the applicant said he wished to be tabled.

Mrs. Morin motioned to table case #20-123 to the June 7, 2020 meeting.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

Mr. Perkins asked case #20-122 Promised Land Survey if they wished to be tabled to the next meeting. Mr. Peloquin said he was representing the applicant said he wished to be tabled.

Mr. Virr motioned to table case #20-122 to the June 7, 2020 meeting.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

Mr. Perkins provided the information to the public on how to access the case for the record.

## **20-119            Matthew Hagopian**

**The applicant is requesting a variance to the terms of Article VI, Section 165-34.B.7 and Section 165-49.B.1.a & b of the Town of Derry Zoning Ordinance to allow the conversion of the first floor of the building into 2 residential living units at 82 West Broadway, PID 26044, Zoned OBD**

Matthew Hagopian, owner, reviewed the required criteria for the record. He explained the area and said that he felt the hardship was the building looked residential and that there were currently 12 parking spaces which was not ideal for commercial tenant spacing. The previous owners had converted the first floor for their own business but it was still set up as if it were still apartments.

## **Board Questions**

Mr. Perkins asked if this property was the former Pater Real Estate. Mr. Hagopian said yes.

Mr. Perkins asked if the purchase intent could be explained. Mr. Hagopian said that his intent was to rent out first floor with commercial tenant and have had 6 showings since November and have been told that the layout is not ideal. He said that he has been reasonable with rental agreements but have had no success in obtaining a commercial tenant. He reviewed the floor layout for the record.

Mr. Perkins asked what types of businesses have been interviewed. Mr. Hagopian said he has had a hair salon, tattoo parlor, massage therapist and a non-profit organization.

Mr. Virr asked when purchased performed a due diligence were aware of commercial use. Mr. Hagopian said yes and he had obtained a commercial loan for the property.

Mrs. Morin said she recalled the prior owner stating they had a struggle with parking.

Mr. Hagopian said that there were currently 3 units in the building, 2 on the second floor, 1 on the 3<sup>rd</sup> floor. His plans were to mirror the layout of the 2<sup>nd</sup> floor on the first floor level.

Mr. Perkins asked if accountant or attorney office utilization considered. Mr. Hagopian said that he had hoped for such a tenant but past several months have not had any client interest. Have posted online with no response.

Mr. Corbett asked what the number of parking spaces were allocated. Mr. Hagopian described the parking for the record. He said that the parking layout was not designed for high traffic.

Mr. Corbett asked how active in seeking clients. Mr. Hagopian said that for 7 months he has posted availability and has been unsuccessful to find tenant due to the area and layout.

Mr. Perkins asked what the layout of the 2<sup>nd</sup> floor was. Mr. Hagopian said that he did not provide a layout of the 2<sup>nd</sup> floor. He described the layout and said that the first floor and said that the 1<sup>st</sup> floor previous layout was 2 apartments of which the former owner converted for own use and really no changes were made.

### **Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to allow the first floor of the building, currently used as commercial office space, to be converted back to two residential units. There are currently two residential units located on the second floor.
- The permitted uses in the Office Business District (OBD) where this property is located were recently amended and now permit multi-family use in the district subject to the same conditions it is allowed in the Traditional Business Overlay District (TBOD).

- Per those requirements, residential use is not permitted below the second floor and the units must contain a minimum of 800 square feet each. Therefore, the applicant is requesting a variance to these requirements.
- If approve the building/living units must comply with appropriate life safety and building regulations for multi-family use.
- There are pictures in the file for the Board's review.

Mr. Perkins asked if the minimum for apartment square footage was 800 as recall a case for a studio with less than requirement. Mr. Mackey said yes, the square footage is 800 and the case in reference was for a one bedroom studio apartment.

Mr. Burgess said that it appears that the square footages for the proposed apartments were approximately 520 square feet for one and 278 for the other so neither are 800 square feet.

There was some discussion with regard to traffic in the area at various times.

Mr. Perkins asked if the zoning up the road to the center was there any stipulation for studio and second floor only. Mr. Mackey reviewed the overlay district for the record and said that no restriction to studios just no residential below 2<sup>nd</sup> floor.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and will answer your call.

### **Favor**

John Janigan, said he supports the applicant and is his father-in-law and also a landlord in Derry and also a Real Estate agent and since the virus has occurred more and more difficult to rent the property as commercial. As the applicant pointed out the prior used to be a residential home and good candidate to go back to that. Also tough for traffic to get in and out is tough to have as a commercial space.

Karen Helbick, 55.5 West Broadway, said she was a direct abutter and a resident for 60 year resident and was friends with a former tenant that rented the 1<sup>st</sup> floor studio and feel that it would have no effect to turn the building back to residential use. West bound is small commercial but the east side is not what seen this side of Fordway.

Mr. Perkins informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and will answer your call.

### **Opposed**

No one spoke in opposition of the request.

Mrs. Evans asked how long the prior owner operate their business. Mr. Hagopian said he believed it was approximately 20 years.

Mrs. Evans asked if the zoning was different in the 1980's. Mr. Perkins said yes.

Mr. Hagopian said that prior to conversion was a legal 5 unit and after conversion unaware of any Town requirements.

Mr. Corbett motioned to go into deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

### **Deliberative Session**

Mr. Perkins said that the Town Council have been trying to achieve walking traffic to support inner town businesses. The point brought up by Mr. Janigin has made a valid point of where times change and this might be an area of substantial justice and any harm to community if approved. Mr. Perkins said that the direction was seeking to get away from a bedroom community to have higher impact on Town services and did not see where a studio would have a high impact to this area.

Mrs. Evans said she agrees with Mr. Perkins and that given the circumstances lately of the COVID situation of the need of residential versus commercial unit.

Mr. Virr said that he has some objection on the basis that Mr. Hagopian just purchased in November and then 6 months later seeking to convert and into two non-conforming units in size difficult. If we continue to nibble away the commercial property that does not for fill the wishes of the Town governors.

Mrs. Morin said she agrees with both Mr. Perkins and Mr. Virr. She said that the size of the units and what the Town is looking for of studio size.

Mr. Perkins said that the office business district created the area fell into the area knowing the intent.

Mrs. Morin said she recalled the prior abutter also stating they had a hard time in renting and they are a hundred percent commercial.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett said he was concerned of why have 2 non-conforming apartments is there an opportunity just to have one where a minimal of 800 square feet. Now looking at 2 non-conforming units.

There was some discussion with regard to purchase time and the use being sought.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

Mr. Virr, Mrs. Morin, Mrs. Evans, Mr. Corbett, Mr. Perkins

**Mrs. Morin motioned on case #20-119 Matthew Hagopian to Grant a variance to the terms of Article VI, Section 165-34.B.7 and Section 165-49.B.1.a & b of the Town of Derry Zoning Ordinance to allow the conversion of the first floor of the building into 2 residential living units at 82 West Broadway, PID 26044, Zoned OBD as presented with the following conditions:**

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

Seconded by Mrs. Evans.

**Vote:**

**Mrs. Morin: Yes.**

**Mr. Virr: No. Do not feel that the request would be in the spirit of the ordinance and not in the general interest of the public. Purchase was in November 2019 and was fully aware that the ordinance does not permit residences on the first floor. The governing body of the Town encourages business uses on Broadway. It was admitted that he owns other investment real estate and did his due diligence prior to the purchase. Justification for reverting the first floor of the building would not decrease traffic in fact it might actually increase the traffic. Further, two of the proposed dwelling units violate the size requirement, thus granting this request would increase the non-conformity of the property.**

**Mr. Corbett: No. Do not feel hardship has been shown. Feel the first floor currently has a reasonable use and do not see why we need to move away from that to create two non-conforming apartments in its place.**

**Mrs. Evans: Yes.**

**Mr. Perkins: No. Do not see the hardship as feel discussion point of creating 2 non-conforming units does not set well and do not see the hardship. No substantial justice is served to do this either**

**The application was Denied by a vote of 2-3-0. 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.**

Mr. Perkins provided the information to the public on how to access the case for the record. He said that the meeting ends at 10:00 PM and asked the applicant if they wished to continue or be tabled to the next meeting.

It was noted that Mrs. Evans would step down and Mr. Burgess would sit for the following case.

Mr. Perkins asked if Mr. Melikian was online if he could press star 9 so they could ask to table to next meeting. Mr. Melikian called in and agreed to be tabled.

Mr. Virr motioned to table case #20-121 to the June 6, 2020 meeting.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

It was noted for the record that Mrs. Evans would step down and Mr. Burgess would sit for the following case.

**20-120          Steven Cronin**

**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 allow the construction of a 10 foot by 20 foot shed less than 15 feet from the side property line at 32L Juniper Road, PID 12063-010L, Zoned LDR**

Steven Cronin, owner, reviewed the required criteria for the record.

**Board Questions**

Mr. Perkins said it appears reason for request is due to limited options for the location of this shed. Mr. Cronin said yes. He said if required to maintain the 15' from lot it would be impeding into the outer edge of the leach field and cause possible water damage to the new shed with run off from hill.

**Code Enforcement**

Mr. Mackey supplied the following information for the record:

- The applicant is requesting a variance to locate a 10 foot by 20 foot shed 7 feet from the side property line.

- There is currently an existing shed on the property, also located 7 feet from the side property line which is proposed to be removed if the variance is granted.
- There are pictures in the file that show the location of the slope of the septic system that the applicant has represented as a hardship.
- If approved, a building permit will be required.

### **Board Questions**

Mr. Virr if the structure was being contracted out and why the proposed size was needed. Mr. Cronin said that he was having a company build the shed and the size was to store his tractor, lawn mower, camping items and various tools, etc.

Mr. Virr asked how the existing shed would be removed. Mr. Cronin said he would be taking it apart himself and taking to dump.

Mr. Corbett asked what size was the existing shed. Mr. Cronin said it was 8' x 10' and seeking to have a 10' x 20'.

Mr. Corbett asked why closer to the lot line and not move to the 15' setback. Mr. Cronin said the existing shed was 10' wide and keeping in the same footprint of 7' from lot line and if move to meet setback it would be on the edge of the hill.

Mr. Burgess asked how high was the hill. Mr. Cronin said if he stood on the flat portion it was approximately a 6 foot grade.

Mr. Virr said he viewed property and the leach field is a raised system and slope goes to where the shed is located so not much room to relocate.

Mr. Cronin said it was tough to see the grade from the road.

Mr. Perkins informed the public that now would be the time to call in favor of the proposed request. He said if wish to speak press star 9 and will answer your call.

### **Favor**

No one spoke in favor of the request.

Mr. Perkins informed the public that now would be the time to call in opposition of the proposed request. He said if wish to speak press star 9 and will answer your call.

### **Opposed**

No one spoke in opposition of the request.

Mrs. Morin motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mr. Perkins

### **Deliberative Session**

Mr. Perkins said he felt the request to be reasonable and application appears to be reasonable. Mr. Virr and Mr. Corbett have both verified through the discussion that there is not room to relocate the shed.

Mr. Corbett said that even if he were to keep the same size he would still be within the setback and he did not see any problems with granting the request.

Mr. Perkins reviewed the condition for the record.

Mr. Virr motioned to come out of deliberative session.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mr. Perkins

**Mrs. Morin motioned on case #20-120, Steven Cronin to Grant a variance to the terms of Article VI, Section 165-48.B.4 of the Town of Derry Zoning Ordinance to allow the construction of a 10 foot by 20 foot shed less than 15 feet from the side property line at 32L Juniper Road, PID 12063-010L, Zoned LDR as presented with the following conditions:**

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

**Seconded by Mr. Burgess.**

**Vote:**

**Mr. Burgess: Yes.**

**Mr. Virr: Yes.**

**Mrs. Morin: 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.**

**Approval of Minutes**

Mrs. Evans motioned to approve the minutes of May 7, 2020 as written.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

**Adjourn**

Mr. Virr motioned to adjourn.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins

Adjourn at 9:58 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

**Approval of Minutes June 18, 2020**

Mr. Corbett motioned to approve the minutes of May 21, 2020 as amended.

Seconded by Mrs. Morin.

Vote: Unanimous.

Mr. Burgess, Mr. Virr, Mrs. Morin, Mr. Corbett, Mrs. Evans, Mr. Perkins.