

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
June 18, 2020

Members Present

Lynn Perkins, Chairman
Craig Corbett – Vice Chair
Heather Evans, Secretary
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 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. 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.

The Board members introduced themselves.

Mr. Perkins informed the public that this meeting was to review rehearing requests for 3 prior cases. He said that this meeting does not take public input but you will be able to hear the Board discuss the information provided and a decision will be made as to grant or deny the rehearing request.

ReHearing Request of case #20-111 of a Variance Granted to Edward N. Herbert Associates, Inc., Owner: Joseph McCarron/ Deborah Van Etten to the terms of Article VI, Section 165-46.C.2 of the Town of Derry Zoning Ordinance to allow the construction of a single family dwelling on a property which does not have frontage on a Town approved street at 13 Field Road, PID 56001, Zoned MDR

Mr. Perkins said that the case has been called and the Board can deliberate or call a vote on the information presented to the Board.

Mr. Corbett said that the water setback request has no standing as was beyond the specified appeal period. He said as for the frontage issue he did not see any new evidence provided that had not been discussed at the previous meeting.

Mr. Virr said that he has reviewed the information provided by Mr. Cahoon and has not seen any new evidence that would warrant a rehearing. He said the Board has made no error in law.

Mrs. Evans said she agreed with Mr. Corbett and Mr. Virr and also did not find any new evidence presented that would warrant a rehearing of the case.

Mrs. Morin said she also concurred with Mr. Corbett and Mr. Virr.

Mr. Perkins said that the case was a 2 prong and the first part of the variance was granted on March 5th so any questions for water setbacks would have no standing at this time. Mr. Perkins said that the driveway and access was discussed at length and he also did not see any new information presented.

Mr. Burgess said that he had sat on the case. He said that there was considerable discussion on the case and the voting members were not new members to the Board. Mr. Burgess said that he reviewed the information submitted and that he felt all areas had been discussed and that no new evidence had been provided that would warrant a rehearing.

Mr. Perkins said that he had not been present for the first hearing and was present for the rehearing of the denial on the second prong of the request. He said that he has also reviewed the information submitted and felt that all areas in Mr. Cahoon's request that had not been discussed and did not see any information that would warrant a rehearing.

Mrs. Evans motioned motion to Grant ReHearing Request to Barry Cohoon of Variance case #20-111 granted to Edward N. Herbert Associates, Inc., Owner: Joseph McCarron/ Deborah Van Etten, 13 Field Road on May 7, 2020. Seconded by Mr. Corbett.

Vote:

Mrs. Evans: No. As stated previously covered all criteria during original case and see no new evidence presented.

Mr. Burgess: No. Board did not make any error in law. No new evidence presented.

Mrs. Morin: No. For the same reason as stated by Mrs. Evans case was covered.

Mr. Corbett: No. No new evidence presented that would warrant a rehearing.

Mr. Perkins: No. No new evidence presented. No error of law was made as all points were covered.

The Rehearing Request was Denied 0-5-0. Recourse would be to appeal to Superior Court.

**20-126 Jeffrey & Lana Higgins, Alfred Vega, Carmen Hinostroza,
Steve & Margaret Stuart & Tullio & Madeline DeCollibus**

ReHearing Request of case #20-116 of a special exception Granted to Bridget Doyle as provided in Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to operate a part-time, single chair hairstyling business at the residence at 5 Ballard View Circle PID 07001, Zoned LDR

Mr. Perkins said that this is a rehearing request from the abutters of case #20-116 Bridge Doyle and has been called and the Board can deliberate or call a vote on the information presented to the Board.

Mr. Burgess recalls that one of the applicants had a problem with artisan. When he looked up hair stylist, it was an established professional which is covered under 165-46A as a recognized profession and is also licensed by the state. Mr. Burgess said that he reviewed the information submitted and that he felt all areas had been discussed and that no new evidence had been provided that would warrant a rehearing.

Mr. Corbett said that he understood where it was under the Town's definition involves a craft and feel cosmetology falls under falls under craft which is a skilled trade. He said requires training and licensing by the State

Mrs. Evans said she agrees that a craft is a skilled trade and that licensing was adequately discussed and did not see any new evidence that would warrant a rehearing.

Mrs. Morin said she agrees with the Board that the case was covered well and all points had been addressed.

Mr. Perkins said he believes the criteria and what is written in the ordinance falls in the area related in the area of a trade and is a common application that is seen throughout the community. Reminder to the abutters in their appeal this Board does not rubber stamp everything that comes through. The Board was accused of rushing to a decision of which we did not. The Board was accused of calling the meeting earlier than eleven o'clock of which our meetings never go past ten unless we motion to extend them. The trade aspect certainly falls in the criteria that the Board has expressed and concur on that

point. This is a common application and not an unusual point that Code Enforcement brings forward to the Board to carefully weigh out and consider all the information which is fair and equitable not only to the applicant but to the neighborhood and surrounding folks as well. As case law demands the Board carefully vetted everything all information brought before as applicable as supported by case law.

Mrs. Morin motioned to Grant ReHearing Request to Jeffrey & Lana Higgins, Alfred Vega, Carmen Hinostroza, Steve & Margaret Stuart and Tullio & Madeline DeCollibus of case #20-116 of a special exception Granted to Bridget Doyle, 5 Ballard View Circle on May 7, 2020.

Seconded by Mrs. Evans.

Vote:

Mrs. Morin: No. Feel Board was thorough.

Mrs. Evans: No. Feel Mr. Perkins summary was very well put and do not see any new evidence presented.

Mr. Corbett: No. As stated in discussion did not see any new evidence presented that would warrant a rehearing. Feel the Board vetted all information presented during the two nights of testimony.

Mr. Burgess: No. Believe it falls under Section 165:48 is a recognized profession of a hairstylist, barber or cosmetologist.

Mr. Perkins: No. No error of law was made as all points were covered.

The Rehearing Request was Denied 0-5-0. Recourse would be to appeal to Superior Court.

20-127 Matthew Hagopian

Rehearing Request of case #20-119 of a Variance Denied to 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

Mr. Perkins said this rehearing request is from the applicant and has been called and the Board can deliberate or call a vote on the information presented to the Board.

Mrs. Evans said that the case was very well vetted and through. Originally voted yes and do not see any information that was not covered during the hearing.

Mrs. Morin said that the case was very through and does not warrant a rehearing.

Mr. Virr said that the case was covered very thoroughly and no misinterpretation or err in law was made.

Mr. Corbett said that the size of the apartments was discussed. He said he reviewed the information submitted and did not see any new information that would warrant rehearing the case.

Mr. Perkins said the chair also agrees with what the other Board members have heard everything and reviewed carefully. He said he also did not see any new evidence shown to warrant a rehearing of the case.

Mrs. Evans motioned to Grant Rehearing Request to Matthew Hagopian of case #20-119 of Variance Denied at 82 West Broadway on May 21, 2020.

Seconded by Mrs. Morin.

Vote:

Mr. Corbett: No. No new evidence presented that had not been discussed.

Mr. Virr: No. Believe case had been thoroughly covered at prior hearing.

Mrs. Evans: No. Do not see any new evidence.

Mrs. Morin: No. Reviewed submission and all areas were discussed and feel there was no new evidence presented.

Mr. Perkins: No. Points brought forward were reviewed and no new evidence was presented.

The Rehearing Request was Denied 0-5-0. Recourse would be to appeal to Superior Court.

Approval of Minutes

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, Mrs. Evans, Mr. Corbett, Mr. Perkins

Mrs. Evans motioned to approve the minutes of June 4, 2020 as amended.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 7:26 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes July 16, 2020

Mrs. Evans motioned to approve the minutes of June 18, 2020 as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

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