

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
January 7, 2021

Members Present

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

Members Absent

Alternates Present

Donald Burgess

Alternates Absent

Gaspar Obimba

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 now physically and also electronically. As such this meeting is being held and will also be 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, you can be present or by 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 stated that in keeping with the mask mandate it has been reviewed that if all parties can maintain 6' distances then do not require to wear, however, if more comfortable to wearing then also have that option.

The Board members introduced themselves.

The applicant is requesting a variance to terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the construction of a 25 foot by 35 foot attached garage with less than the required property line setbacks and add a second story to the existing home at 68 Beaver Lake Ave, PID 51081, Zoned MDR

Jeffrey Moulton, Moulton Engineering, said he was here tonight with Kendrick Beckwith to present their case to the Board. Mr. Moulton reviewed the required criteria for the record and explained the information submitted to the Board and reason for the variance request.

Board Questions

Mr. Virr asked if the drywell was going to handle the runoff where was the gray water going. Mr. Moulton said that the property was connected to Town sewer.

Mr. Virr asked if the proposal was for 2 floors. Mr. Moulton said yes that the existing house would be adding a second floor and the proposed garage would have living space over.

Mr. Virr asked if there would be any additional living space in the attic area. Mr. Moulton said no.

Mr. Burgess asked if lot 51084 was a building lot. Mr. Moulton said he was unsure but believes the lot is 2.5 acres and notification was sent to the State.

Mr. Burgess asked why so close to the setbacks. Mr. Moulton said it was to accommodate the proposed garage and also due to the location of the well.

Mr. Corbett asked what would the 2nd floor over the garage be utilized for. Mr. Beckwith said it would be for storage and possibly a future workshop/play area.

Mrs. Evans asked what was the 17' right-of-way on the deed. Mr. Moulton said it was for the driveway and described for the record.

Mrs. Morin asked if the 3' right-of-way for snow removal who would be monitoring. Mr. Moulton said it would be located in front of the empty lot and applicant would maintain.

Mr. Virr asked if the lot access was from the larger lot if there were any maintenance agreements formed. Mr. Moulton said it was described in the deed.

Mr. Virr said that he would like to request a waiver of municipal liability in motion.

There was some discussion with footprint of existing structures and proposed structures.

Code Enforcement

Mr. Mackey provided information with regard to the property for the record.

- The applicant is requesting approval to construct an attached, 25' x 35' garage to the existing dwelling and also construct a second story to the home.
- A variance is being requested as the proposed setbacks (3 feet, 5 feet and 13 feet) do not comply with the current setback requirements.
- The property does not have direct frontage on Beaver Lake Ave and is accessed by a common driveway that also serves two other homes.
- The property is serviced by Municipal sewer.
- As this is waterfront property, a State of N.H. Shoreland Permit will also be required.
- If approved, a flood elevation certificate will be required as per FEMA regulations, this work would be considered a substantial improvement.
- There are pictures of the property in the file for review by the Board.

Mr. Moulton informed the Board that they have received the Shoreland Permit in December.

Mr. Virr asked if this was intended to be the primary residence. Mr. Beckwith said yes.

Mr. Corbett 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 favor 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.

Mr. Perkins said that 084 lot appears to slope and asked if any flooding occurred. Mr. Moulton said that 51084 goes around the lot and does have a low area that in the spring does hold water so may need to build a retaining wall.

Mr. Beckwith said that the lot is two and a half feet above flood level and have an elevation certificate.

Mr. Perkins asked if right-of-way to driveway and access to 084 was the same. Mr. Moulton said yes and described area for the record.

Mr. Burgess asked if the access was utilized by the one driveway. Mr. Moulton said yes.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Corbett.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins said that Mr. Virr brought up a good point with the question of building garage and subject is going up is the focus of the Board.

Mr. Corbett said that normally would be concerned with the question of height of the proposed structure but here is not a question due to the location.

Mr. Perkins said that he did not feel that the request was unreasonable.

Mr. Corbett said that he also did not see any issues with fire access.

Mr. Perkins reviewed the conditions for the record.

Mr. Corbett motioned come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Mrs. Evans motioned on case #20-151 Jeffrey Moulton, Owner: Kendrick & Lisa Beckwith to Grant a variance to terms of Article VI, Section 165-46.C.4 of the Town of Derry Zoning Ordinance to allow the construction of a 25 foot by 35 foot attached garage with less than the required property line setbacks and add a second story to the existing home at 68 Beaver Lake Ave, PID 51081, Zoned MDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to obtaining DES State Shoreland permit.**

**3. Subject to recording of Municipal Liability and Responsibility
with the Rockingham County Registry of Deeds.**

Seconded by Mrs. Morin.

Vote:

**Mrs. Evans: Yes.
Mr. Corbett: Yes.
Mrs. Morin: Yes.
Mr. Virr: Yes.
Mr. Perkins: Yes.**

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

Approval of Minutes

Mr. Virr motioned to approve the minutes of December 3, 2020 as written.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn

Mr. Corbett motioned to adjourn.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Adjourn at 7:38 pm

Minutes transcribed from notes & tape:

Ginny Rioux

Recording Clerk

Approval of Minutes February 4, 2021

Mr. Corbett motioned to approve the minutes of January 7, 2021 as written.

Seconded by Mrs. Morin.

Vote: Unanimous.

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