

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
April 20, 2017

Members Present

Lynn Perkins, Chairman
Heather Evans, Secretary
Stephen Coppolo
Randall Kelley

Members Absent

Joseph Carnevale

Alternates Present

Donald Burgess

Alternates Absent

Code Enforcement

Robert Mackey

Mr. Perkins called the meeting to order at 7:02 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 introduced themselves for the record.

Mr. Perkins said that due to the absence of one of the Board's full members tonight's election of officers would be postponed to the next regular scheduled meeting. He wished however to read a motion to amend the Zoning Board's Policy and Procedures regarding the appointment of officers. Mr. Perkins said that this would be the first of two readings and would entertain a motion.

Mrs. Evans motioned to modify the Town of Derry Zoning Board of Adjustment's Policy and Procedures to modify the policy for appointment of officers for the Zoning Board of Adjustment, for one year only, for the year starting in 2017. This modification would require a majority vote, by primary or full members. When only a Quorum of Primary members are in attendance instead of requiring all primary or full members being present. Mrs. Evans said this concludes the First of 2 readings of this motion and calls for a second.

Seconded by Mr. Coppolo.

Mr. Kelley asked if this changes the members to a 1 year term. Mr. Perkins said no, that it was to modify the wording of election of officers so the Board could move forward with its election in the event of not having all full members present.

Vote: Unanimous.

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

It was noted for the record that Mr. Burgess would sit for the following case.

17-107 Town of Derry Town Council

Rehearing of case #17-104 - Robert Allen, By his attorneys Beaumont & Campbell, PA - Variance to the terms of Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to construct a self-storage facility consisting of 138 units in four (4) buildings with an office structure for an on-site manager at the property. Parcel ID 17002, 343 Island Pond Road Zoned LDR.

Mr. Perkins said that case 17-107 is a re-hearing that was continued from April 6, 2017 and the Board closed at the deliberative session portion and he would like a motion to go into deliberative session.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Deliberative Session

Mr. Coppolo asked if it would be appropriate to include some conditions.

Mr. Burgess said that he recalled the Board had made conditions on the previous meeting of suggesting hours being 7am-7pm and the reduction of lighting.

Mr. Perkins said that he would like a moment of clarity. He said that a motion is always structured in the affirmative and the vote is as if a new case and it is favorable to make conditions.

Mr. Coppolo said that he recalls that the business hours were not opposed by the owner and in interest of avoiding any confusion about what the conditions were from the previous hearing on this case, the Board should restate those conditions in the current motion, rather than just referring back to the last motion.

There was some discussion with the wording of recommending verses requiring.

Mrs. Evans reviewed the conditions as follows from the previous meeting:

1. Subject to obtaining all State & Town permits and inspections.
2. Subject to Planning Board approval.
3. Recommend 12 hour daily operation limitation and lighting to be reduced on site.

Mr. Perkins said the Board needs to deliberate case before it constructs a motion.

Mr. Kelley said that he did not believe the applicants request was in the best interest to the neighborhood due to the already heavy traffic flow in the area. He also felt that it was not in the spirit and intent of the ordinance as pre-existing entities were not a reason to merit variance. Mr. Kelley said that there was no hardship shown and it was contrary to the interest of the public.

Mr. Perkins said that he had two areas of concern being hardship and diminish of property values. He said that Attorney Serge addressed this area as stating that the applicant has a self-imposed hardship and suggested that there were better uses for the lot suggesting that there was a possibility of subdividing into 2 smaller lots. Mr. Perkins said that was an admirable thought but the stigma of the property would still need to be revealed by a realtor. He said supreme court does have rulings on allowances in such matters. The applicant has expressed the costs incurred in cleaning up the property.

Mrs. Evans said that she had a problem with applicant not providing any reports from DES that was infringed on the owner.

Mr. Burgess said that he could see the owner having several areas of concern with selling the property as they stated no one would want to have a million dollar home or purchase one on a lot listed as a possible contaminated site as no one would buy. He said that the property originally was commercial and that next door has a working garage that is not your standard home business for the area, felt that the garage would probably diminish property values more than what the applicant is looking for. He said that he recalled an abutter speaking against, as would increase traffic and that he felt that the traffic would not be a factor as he has gone by Ashleigh Drive and other sites with storage facilities and has not seen a large amount of traffic going to them. Mr. Burgess said that he felt that the proposed use would do nothing to change the character of the neighborhood with the commercial use located next door and the fact that the property used to be commercially used and only not now due to the cleanup required by the State DES.

Mr. Kelley said that he disagrees on the stigma use as yes there used to be debris on the property but have since been cleaned up and if the property was contaminated then the State DES would have test wells on the site. He felt the intent of the zoning was to be a residential area and just because it was formally a commercial garage and under the grandfather clause but Mr. Mackey stated that use was gone after one year of not being active. Mr. Kelley said that by granting would be reversing the intent of the ordinance and that he feels that the property was a good buildable lot for a home.

Mr. Coppolo said that he understands the comments made by Mr. Burgess and Mr. Kelley and that he was wrapped up on the pre-existing conditions of the property. He said that Attorney Serge did not speak to the prior use of the property and he felt that the prior use was relevant of the history of the commercial use. Mr. Coppolo said this is not a question of there being a prior nonconforming use existing on the property, and this applicant seeking to continue that same established use (for example a pig farm remaining a pig farm under a new owner). The prior commercial use (truck repair) had lapsed and this was a different use, commercial storage. He stated the question was whether the history of the prior heavy commercial uses which were publicly known on this property created a stigma, which could satisfy "owing to the special circumstances of the property" test of establishing unnecessary hardship. In other words, did actual physical evidence of pollution such as soil samples have to be produced, or was a history and stigma of prior pollution sufficient to establish "special circumstances" to this parcel? He also disagreed with Attorney Serge's contention of needing written assessment of a realtor or other real estate professional on record to establish that variance would not harm the value of neighboring properties. He noted that if that were the case, every variance case where someone wanted to build a shed close to the lot line would require a real estate valuation, which was unworkable. He said that he was leaning in favor due to the unnecessary hardship of the property. Mr. Coppolo said that he heard testimony that the applicant originally started out to help a friend and then purchased the property of which is now in the red due to the cleanup of the property and feels that the owner has done something very admirable and was seeking relief in order to obtain some sort of return of investment on the property.

Mrs. Evans said that she originally voted because of the substantial change to the neighborhood and is still leaning towards that given that the permitted use would be in an Industrial IV zone area like Wal-Mart was located. She said she felt it was a significant change considering the prior uses even though it was abandoned, it was more semi-permanent with cars coming in and out but this proposal is for 4 very large structures. Mrs. Evans said she understands the points made by the other Board members but also need to consider the area by Wal-Mart where this type of use was allowed verses the wooded area and layout of this property. She said she felt it was a substantial change given impact it will create.

Mr. Perkins said that he would have liked to have seen something stating it would not diminish property values but applicant stated unable to obtain a CMA because there were no other comps available for this application. But he also agrees that the application is a unique situation where you probably can't find a such data. . Attorney Serge expressed concern that this application would open the door to more commercial development in this zone, but that a gas station or a McDonalds would likely not have been approved. Attorney Serge expressed concern about this request being invasive due only to its size but the use is less intense than what was there and that is my consideration. Mr. Perkins said that he has reflected on years of going by the property in his past 15 years and thought to himself of who would want to live next to that other use but people did purchase homes and paid fair market value with that there in the past so feel that they would again purchase with the proposed use next door. He said that as for the criteria of spirit and intent of the ordinance he feels it is to curb residential growth and that Councilor Chirichiello had stated it was no longer of concern to the schools but that Mr.

Perkins was on the school board and knows that it is not a concern, but Mr. Perkins contends it is.

Mr. Coppolo said that the proposal was an attractive design in the drawings and greenery would mask what would be located behind it and that the buildings were not steel buildings painted bright red so thoughtfulness with design was evidence.

Mr. Burgess asked that most places have a sign and that it was not discussed during the meeting and asked if that would be something that needs to be addressed.

Mr. Mackey said that the proposed sign would need to be shown on the site plan when submitted to the Planning Board and a permit would be required from his office.

Mr. Kelley said he wanted to comment to Mr. Coppolo's statement of pig farm that if someone had a pig farm and it was vacated for a year it would no longer be a pig farm as stated by Mr. Mackey if something is vacated for a year the use is lost. He said that he could understand if it was the same owner would still have but this is not the same owner or the same type of use. He said that Mr. Allen had also stated that he originally was going to build a home on the property. Mr. Kelley said that he understands the course of action but he did not feel the use is in the spirit and intent of the ordinance.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mrs. Evans.

Vote: Unanimous.

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

Mrs. Evans motioned to Grant the Town of Derry Town Council a Rehearing Request of case #17-104 Robert Allen By his attorneys Beaumont & Campbell, PA - Variance to the terms of Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to construct a self-storage facility consisting of 138 units in four (4) buildings with an office structure for an on-site manager at the property at 343 Island Pond Road, Parcel ID 17002, Zoned LDR.

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**
- 3. Recommend 12 hour daily operation limitation and lighting to be reduced on site.**

Seconded by: Mr. Coppolo.

Mr. Burgess asked for point of order and said that they were not rehearing the case but it was a new case so if vote on this would be with Attorney Serge.

Mr. Perkins said that this was a continuation of the original case so need to vote reasons.

Mr. Burgess said the motion made is from the previous meeting not what is before the Board this evening.

Mr. Perkins said that he would need a motion to withdraw the motion.

Mrs. Evans said she withdrew her motion.

Seconded by Mr. Coppolo.

Mrs. Evans motioned on case #17-107 Robert Allen, by his attorneys Beaumont & Campbell, PA The applicant is requesting variance to the terms of Article VI, Section 165-48.A of the Town of Derry Zoning Ordinance to construct a self-storage facility consisting of 138 units in four (4) buildings with an office structure for an on-site manager at the property at 343 Island Pond Road, Parcel ID 17002, Zoned LDR as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Subject to Planning Board approval.**
- 3. Recommend 12 hour daily operation limitation and lighting to be reduced on site.**

Seconded by Mr. Burgess.

Vote:

Mrs. Evans: No. Feel contrary to public interest and contrary to the neighborhood.

Mr. Coppolo: Yes.

Mr. Kelley: No. Feel contrary to the spirit and intent of the ordinance as property is located in the LDR zone. Do not feel it fits the criteria of the ordinance.

Mr. Burgess: Yes.

Mr. Perkins: Yes.

The application was Granted by a vote of 3-2-0. Anyone aggrieved by a decision of the Board the recourse would be to appeal to Superior Court.

The Board took a brief recess and reconvened at 8:02pm

It was noted for the record that Mr. Burgess would sit on the following cases.

**17-108 Pasquale J. Perfetto, Jr. & Christina C. Perfetto
(Tabled from April 6, 2017)**

The applicant is requesting a variance to the terms of Article VI, Section 165-47B.4 of the Town of Derry Zoning Ordinance to allow the installation of a 24' x 12' above ground pool and a 16' x 10' deck less than 15 feet to the property line at 10 Lawrence Road, Parcel ID 03116-001, Zoned LMDR

Mr. Coppolo said that he would like to note for the Board and applicant that he was the administrator to the property located at 13 Lawrence Road and the property sold in October. He said that he previously sat on their case prior and it was not a problem.

Mr. Burgess noted for the record that the owner of 13 Lawrence Road was also his nephew.

There was no objection from the Board or applicant to have Mr. Coppolo or Mr. Burgess sit for the case.

Pasquale Perfetto, owner, read his application and letter of explanation for the record.

Board Questions

Mr. Coppolo asked if there has been any correspondence from the radio with regard to the proposal. Mr. Perfetto said that he has not heard any feedback with the garage or this proposal.

Mr. Kelley asked where the property encroachment was to the radio tower. Mr. Perfetto said that it was in the buffer easement.

Mr. Burgess asked why the pool couldn't be placed closer to the home. Mr. Perfetto said that it was due to the slope from the barn and ledge impact on the property.

Mr. Perkins asked what was the distance of the pool to the house was it 10' or 16'. Mr. Perfetto said it was 16'.

Mr. Coppolo asked what was the height difference from the garage to the bottom of the pool. Mr. Perfetto said it was approximately 1 foot higher.

Code Enforcement

Mr. Mackey reviewed the following information for the record:

- The applicants are seeking approval to install an above ground pool and deck less than 15' from the property line.
- Town appraisal records indicate the existing home was constructed 1830.
The property is located in the Low Medium Density Residential Zoning District

- (LMDR) which requires a 15' minimum setback to the side and rear property lines.
- There is a wetland on the property and the new construction will meet the required 75' wetland setback.
 - If approved, the applicant must obtain a building permit from the Code Enforcement Office prior to commencing work.
 - There are pictures of the property in the file for review by the Board.

Favor

No one spoke in favor to the request.

Opposed

No one spoke in opposition to the request

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Deliberative Session

Mr. Perkins said the standard condition of being subject to obtaining all State and Town permits and inspections should be made.

Mr. Coppolo asked if the condition of State and Town permits should include a building permit from Mr. Mackey's office.

Mr. Mackey said yes as that it is a requirement for permits for pools and decks.

Mr. Burgess motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Mrs. Evans motioned on case #17-108 Pasquale J. Perfetto, Jr. & Christina C. Perfetto to Grant a variance to the terms of Article VI, Section 165-47B.4 of the Town of Derry Zoning Ordinance to allow the installation of a 24' x 12' above ground pool and a 16' x 10' deck less than 15 feet to the property line at 10 Lawrence Road, Parcel ID 03116-001, Zoned LMDR as presented with the following conditions:

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

Seconded by Mr. Kelley.

Vote:

Mrs. Evans:	Yes.
Mr. Coppolo:	Yes.
Mr. Kelley:	Yes.
Mr. Burgess:	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.

17-109 Dean McComish, Jr.

The applicant is requesting a variance to the terms of Article VI, Section 165-46C.4 and Article III, Section 165-25.e of the Town of Derry Zoning Ordinance to construct a 28' x 26' addition for a garage and a 728 square foot accessory apartment which will be located 9.7 feet from the side property line where 15 feet is required at 46 Kendall Pond Road, Parcel ID 02028-025, Zoned MDR

Dean McComish, Jr., Owner, read his request criteria for the record. He said that he was seeking to construct an accessory dwelling over a garage where there is an 8' drop of to the rear of the home.

Board Questions

Mr. Perkins asked if the 28' was the face and the 26' was the back. Mr. McComish said yes.

Mr. Coppolo asked if the driveway was a gravel area or paved and if it was existing or proposed. Mr. McComish said it was an existing driveway and there was pavement on the left side and crushed stone on the right. He said he would like to do a new driveway at a later time.

Mr. Perkins asked why was the structure so wide. Mr. McComish said it was to make the house the same size upstairs so as to create 3' wide doorways and 13' x 13' bedroom.

There was some discussion with regard to size and layout of accessory.

Code Enforcement

Mr. Mackey reviewed the following information for the record:

- The applicant is requesting a variance to construct a 26' x 28' addition within 9.7' of the side property line.
- The addition will consist of a garage on the first level and an accessory apartment on the 2nd level.
- Currently, the maximum allowed square footage for an accessory apartment specified in the zoning ordinance is 600 sq. ft. Due to recent State Law requirements, the Planning Board has proposed increasing the maximum allowed square footage to 800 sq. ft. This change has been posted legally and scheduled for public hearing. Therefore, there is no longer a need for a variance to Article III, Section 165-25e.
- 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 said that the accessory use was formally limited to 600 square feet and that the State law now says minimum is 750 or larger. Mr. Mackey said that was correct but the Town set a limit of 800 square feet as the Town felt it was appropriate number and that it is unable to be less than 750 square feet.

Mr. Burgess said that the Chair eluded to 2 businesses being operated from the property. Mr. McComish said his mother was working from home and not running a business.

There was some discussion with regard to office use.

Mr. Perkins asked if the septic system could accommodate the extra space. Mr. McComish said no that the septic company said that the change in occupants so the system would need to be changed.

Mr. Mackey said that the septic systems are not based on number of occupants but the number of bedrooms. The applicant will need to view the size of the septic and may need to implement a new design to be submitted to the State to accommodate the number of bedrooms.

There was some discussion with regard to septic system size and what constitutes a bedroom.

Mr. Coppolo said the 5th criteria is unnecessary hardship and the Chair pointed out that the proposal could shrink down to 21' and make longer in rear so not to impact setback. He asked why the applicant could not do what the Chair suggested. Mr. McComish said it would require more drilling and excavation due to the slope.

Mr. Kelley asked what was the grade. Mr. McComish said the 26' side is about 8' off the ground and 4' per foot from there so would be a lot more fill and drilling required.

Favor

No one spoke in favor to the request.

Opposed

John McQueeney, 44 Kendall Pond Road, said that if allowed to be 5' from the lot line will he be driving his equipment along that side of the garage as that is how he currently gets in and out of his property now.

Mr. McComish said that the equipment would be parked in the garage.

Mr. Coppolo motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

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

Deliberative Session

Mr. Coppolo said he was not worried about the applicant duplexing the structure as the dwelling will have a door access to the main structure. He said that the applicant also explained why he was unable to design differently due to the landscape of the property.

Mr. Kelley said he wished setback could go back further.

Mr. Burgess said that he had no issues.

Mrs. Evans said that she agreed with Mr. Coppolo.

Mr. Perkins said that a condition of being subject to obtaining all State and local permit and inspections should be made.

Mr. Coppolo asked if Derry also required the interior door to the main structure.

Mr. Mackey said yes and it is also a State condition.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Mrs. Evans motioned on case #17-109 Dean McComish, Jr. to Grant a variance to the terms of Article VI, Section 165-46C.4 and Article III, Section 165-25.e of the Town of Derry Zoning Ordinance to construct a 28' x 26' addition for a garage and a 728 square foot accessory apartment which will be located 9.7 feet from the side property line where 15 feet is required at 46 Kendall Pond Road, Parcel ID 02028-025, Zoned MDR as presented:

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

Seconded by Mr. Kelley.

Vote:

Mr. Coppolo: Yes.

Mr. Kelley: Yes.

Mr. Burgess: Yes.

Mrs. Evans: Yes.

Mr. Perkins: No. Do not agree with hardship as could have been a softer design.

The application was Granted by a vote of 4-1-0. 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 the next case is broken down into 2 parts and the Board needs to determine if the applicant has provided new evidence to warrant a new hearing as the owner has come before the Board before with a variance request for a message board which was previously denied.

Mr. Mackey said that in 2014 another sign company submitted a request for an electronic message center. He said that this is a reapplication of another proposal and that the Board needs to see if the material changes show new evidence in its application to be heard. Mr. Mackey said that the applicants are here and prepared to speak to reasons for the new request.

Mr. Perkins asked if Mr. Coppolo and Mr. Burgess were present for the previous case.

Mr. Coppolo said he was present as an alternate at the time.

Mr. Burgess said he was present and sat on the original case.

Mr. Mackey said that the Board should have 2 separate packets of information. The first packet outlines the reasons as to why they feel the request would warrant a new hearing. The second packet is the five criteria and the applicant has also attached copies of the original case and minutes of the meeting for the Board.

Mr. Perkins asked if the differences could be outlined as recall the blinking digital change of wait time frame. He said that he could see the advantages of showing emergency room wait times but wanted to know what makes this sign different. Mr. March said that the belief is that the emergency services are just for dealing with heart attacks or motor vehicle accidents where a larger portion is for more convenient care services.

Mr. Coppolo said that is this use was to try to get business here and not to the Convenient Care in Windham. Mr. March said yes, somewhat as wait times are important when looking for care.

Mr. Perkins asked if the proposed sign was going to show more than emergency room wait times. Mr. March said yes that the proposed sign would also display information on health and wellness programs offered at Parkland Medical Center.

Mr. Burgess said that he recalled the previous case and also lives in Derry and that he would go to the ER as it is close and would not want to drive to Manchester. He said that most convenient med care centers close at 8 or 9 pm and he did not feel that someone would drive another half hour out of Town for services.

Mr. Perkins asked if the information provided by the applicant is different and if the Board wished to hear the case.

Mr. Burgess said that he did not see any difference.

Mr. Coppolo said that he would like to hear more information of why the need for an electronic sign. He said that he thought the Hospital was an important benefit to the Town.

Mr. Kelley said that he felt it was a different case.

Mrs. Evans said that she also sees a lot of different material and would like to hear the case.

Mr. Coppolo motioned to hear case 17-110 based on new evidence being provided.

Seconded by Mr. Kelley.

Vote: 4-1-0

Yes: Mr. Kelley, Mr. Coppolo, Mrs. Evans, Mr. Perkins

No: Mr. Burgess – Do not see any new information.

17-110 NH Signs

Owner: HCA Health Services of N.H., Inc.

The applicant is requesting a variance to the terms of Article XII, Section 165-101.11 of the Town of Derry Zoning Ordinance to allow the installation of an electronic message center sign at the property at 1 Parkland Drive PID 05043-001, Zoned OMB

Peter March, NH Signs said he was representing Parkland Medical Center, said that the previous request in 2014 was to show emergency room wait times. He explained that the proposed sign was to show provider care services and more to the public. Mr. March reviewed the previous case denied by the Board in 2014 and addressed the five criteria for the record. Mr. March said that he did not live in Derry so he did not know the services that Parkland Hospital provides. He said that he felt that a hospital needs to be able to communicate its elements of services to the public.

Bob Messer, Dectronics, said that the display is an actual google earth view showing ambient lighting in foot candles in the darkest of night. He described the photos for the record.

Board Questions

Mr. Coppolo asked if the 75% on the white house indicated no measurable difference and as bright as the existing sign. Mr. Messier said that was correct.

Mr. Perkins asked if it would have time changes being the time change would be to 10 second to 1 minute intervals as it would change to Oncology for 10 seconds then to prenatal etc. Mr. March said that was correct.

Mr. Burgess said that the previous request was an 8 second change. Mr. Mackey said not change 1 per 5 seconds with no flashing and no scrolling.

Mr. Coppolo asked how will the ER wait times factor into the information. Mr. March said that the display will show ER wait time then oncology then back to ER wait time then to another service etc.

Mr. Coppolo said that since the original presentation in 2014 we now have 2 gas stations that have lit electronic signs. Mr. March said yes the gas stations have electronic signs.

Mr. Kelley said that he had recently attended a meeting at Southern NH Planning and felt the sign would be useful to assist the Senior Citizens up to date with what the hospital has to offer.

Mr. Burgess asked if one line could stay and others allowed to change. Mr. March said that the sign could be made that way.

Code Enforcement

Mr. Mackey reviewed the following information for the record:

- The applicant is requesting approval to install an electronic message center sign at the main entrance to Parkland Hospital.
- A previous request dating back to June 2014 to install an LED message center sign at the property was denied by the Board.
- Therefore, the applicant has provided 2 separate packets of information for the Board. One of the packets contains the new variance application and the other packet contains information relating to the previous variance request including the minutes of that meeting. The applicant must first establish that circumstances have changed sufficiently to warrant acceptance of a reapplication (see attached). The applicant intends to speak to this matter in the first part of their presentation.
- Currently, Electronic Message Center Signs are allowed in the General Commercial (GC), General Commercial IV (GC IV), and Industrial IV (IND IV), zoning districts.
- There are pictures of the property in the file for review by the Board.

Favor

Mr. Virr, 20 Ballard Road, said that he remembers the prior case when he was on the Board at the time and had initially voted no but feel that the changes made to the proposed sign would be very beneficial to the community.

Opposed

No one spoke in opposition to the request.

Mrs. Evans motioned to go into deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Deliberative Session

Mr. Coppolo asked if there was a way to request that the sign be as presented with the stonework. He also asked if the proposal required Planning Board approval.

Mr. Kelley agreed that the stonework was very classy. He said that he felt that the ER wait times are for more non-essential matters that if you were having a heart attack that would not be a factor in a wait time.

Mrs. Evans said she would like to see a condition to state that the sign be as presented during the meeting.

Mr. Burgess said that during the original presentation requesting for emergency wait time did not make any sense as to why one would need to know the wait times for an emergency situation. He said that the proposed sign showing services makes more sense and agrees that the design of the stonework should also be made as a condition.

Mr. Perkins reviewed the conditions as follows:

1. Subject to obtaining all State and Town permits and inspections.
2. Non-electronic aesthetic aspects of the sign to be as presented.

Mrs. Evans motioned to come out of deliberative session.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Mrs. Evans motioned on case #17-110 NH Signs, Owner: HCA Health Services of N.H., Inc. to Grant a variance to the terms of Article XII, Section 165-101.11 of the Town of Derry Zoning Ordinance to allow the installation of an electronic message center sign at the property at 1 Parkland Drive PID 05043-001, Zoned OMB as presented with the following conditions:

- 1. Subject to obtaining all State & Town permits and inspections.**
- 2. Non-electronic aesthetic aspects of the sign to be as presented.**

Seconded by Mr. Burgess.

Vote:

Mr. Coppolo: Yes.
Mr. Kelley: Yes.
Mrs. Evans: Yes.

Mr. Burgess: 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. Perkins motioned to approve the minutes April 6, 2017 as amended.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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

Correspondence

Mr. Perkins read a note submitted by an anonymous person regarding a cell tower on By-Pass 28.

Mr. Coppolo noted that even if the Board had not approved the request for the tower that it would still have been approved due to Federal law.

Other Business

Mr. Mackey noted that the Board had received an email regarding sign up for the Annual Spring Training conference and reminded the Board that the deadline to sign up is April 21, 2017.

Mr. Burgess and Mr. Kelley asked if they could be signed up.

Adjourn

Mr. Burgess motioned to adjourn.

Seconded by Mr. Kelley.

Vote: Unanimous.

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

Adjourn at 9:55 pm

Minutes transcribed from tape:

Ginny Rioux
Recording Clerk

Approval of Minutes May 18, 2017

Mr. Perkins motioned to approve the minutes of April 20, 2017 as amended.

Seconded by Mr. Coppolo.

Vote: Unanimous.

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