

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
June 5, 2008

Members Present

Allan Virr, Chairman
Christopher Lunetta, Vice Chairman
Albert Dimmock
George Chaloux

Alternates Present

Michael Fairbanks
David Thompson
Ernest Osborn
James Webb

Staff Present

Robert Mackey, Code Enforcement Director

Members Absent

Cecile Cormier

Alternates Absent

Dana Theokas

Mr. Virr called the meeting to order at 7:37 p.m. and informed the Board that this meeting was to clear up some old business with regard to the Halcyon Club.

It was noted for the record that Mr. Dimmock would step down and that Mr. Thompson and Mr. Fairbanks would sit for the following:

OTHER BUSINESS

Halcyon Club Buffer

Discussion with Attorney Brenda Keith to review the Supreme Court decision in PPG v. Town of Derry, Docket No. 2007-0715.

Mr. Lunetta motioned to instruct the Code Enforcement Officer to take action by acknowledging the Supreme Court findings that the Zoning Board of Adjustment will act accordingly to instruct the Code Enforcement Officer to abide by the Courts decision to enforce the buffer requirement as outlined in the Land Development Regulations, Section 170-64.

Seconded by Mr. Chaloux.

Vote:

Mr. Fairbanks: Yes.
Mr. Thompson: Yes.
Mr. Lunetta: Yes.
Mr. Chaloux: Yes.
Mr. Virr: Yes.

The motion was carried by a vote of 5-0-0.

Mr. Mackey said that the Code Enforcement Office will abide by the Board's decision. He said that the Office has already sent a letter to the Halcyon Club stating that they need to install a buffer and also to supply the department with a plan of what they are proposing to install. The office has already met with a representative who is working on drawing out a plan and has discussed their willingness to proceed with this matter.

Mr. Thompson asked if the time frame of the buffer installation meets with the Courts rulings. Mr. Mackey said that the Halcyon Club was given a 30 day compliance from the Code Enforcement Office and as part of what they are going to do is to install a fence along the property line with some buffer material.

Mr. Thompson asked if a copy of the plan could be submitted to the Board. Mr. Mackey said that it could if the Board wishes to have one submitted.

Mr. Virr asked how high the proposed fence would be. Mr. Mackey said that it would be at least 6' high solid stockade fence.

Mr. Virr asked if the fence was required to be a minimum of 10' off the property line. Mr. Mackey said that was correct.

Mr. Lunetta asked if a variance could be allowed from the 10' setback. Mr. Mackey said that the Zoning Ordinance references the Land Development Regulations which in turn determines the buffer setback requirements and that an applicant could in turn possibly request a variance to setbacks.

Mr. Virr said that any further matters would be a Planning Board decision and not under our jurisdiction.

It was noted that Mr. Dimmock would resume his position on the Board and that Mr. Webb would also sit for the following:

Approval of Minutes

Mr. Dimmock motioned to approve the minutes of April 17, 2008 and May 15, 2008 as amended.

Seconded by Mr. Chaloux.

Vote: Unanimous.

Mr. Webb, Mr. Chaloux, Mr. Dimmock, Mr. Lunetta, Mr. Virr

Correspondence

State of NH Rockingham Superior Court notifying matter of Riverbank.
NH Local Government Center – Knowing the Territory 2008 Edition.

Adjourn

Motion to adjourn by Mr. Dimmock.

Seconded by Mr. Lunetta.

Vote: Unanimous.

Mr. Thompson, Mr. Webb, Mr. Dimmock, Mr. Lunetta, Mr. Virr

Adjourn at 7:59 pm

Minutes noted by:

Ginny Rioux

Recording Clerk