

TOWN OF DERRY  
ZONING BOARD OF ADJUSTMENT MINUTES  
October 2, 2008

**Members Present**

Allan Virr, Chairman  
Christopher Lunetta, Vice Chairman  
Cecile Cormier, Secretary  
Albert Dimmock  
George Chaloux

**Alternates Present**

Michael Fairbanks  
David Thompson  
Ernest Osborn  
James Webb

**Staff Present**

Fred Kelley, Assistant Building Inspector

**Members Absent**

**Alternates Absent**

Dana Theokas

Mr. Virr called the meeting to order at 7:01 p.m. with the salute to the flag, and notice of fire and handicap exits. He explained meeting procedures and introduced the Board members.

**08-123          John J. Petrelis, Jr.**

**Variance to terms of Article VI, Section 165-46C4, to build 24'X24' garage within 25' of the front lot line (35' required) at residence on 9 Derryfield Rd., tax map 21017. MDR DISTRICT.**

John Petrelis, owner, said that Tom Herily, Boardwalk North would be representing him tonight.

Mr. Herily read the application for the Board.

Mr. Virr asked how large was the triangle parcel of land was in question to the proposed garage and the owners land. Mr. Herily showed the Board where the parcel was located and where the proposed garage would be located on the property for the Board.

Mr. Thompson asked if the existing driveway would be eliminated. Mr. Petrelis said that they would be leaving it.

Ms. Cormier asked why the proposed garage could not be connected to the home. Mr. Petrelis said that there were two bedrooms located on that side of the home with windows for emergency egress if needed.

Mr. Thompson asked if there was an entrance to the home where the existing driveway was located. Mr. Petrelis said yes that there was a doorway entrance to a family room but there was not a garage under the home.

### **Favor**

No abutters were present.

### **Code Enforcement**

Mr. Kelley said that the applicant's request is for a variance to allow the construction of a detached 24' x 24' two car garage within 25' feet of the front property line. (35' required). The original home was constructed in 1971 and an inground pool was added in 1992. The lot has substantially curved frontage due to the sharp turn of Derryfield Road in this location. This area is a mix of single and two-family dwellings. If approved, the applicant would need to obtain a driveway permit and approval from the Public Works Department prior to constructing a new driveway on to Derryfield Road. As this request involves an area variance the Boccia hardship analysis applies:

- i. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.
- ii. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

There are pictures in the file for the Board's review.

Mr. Lunetta asked if there were any safety concerns with the proposed new driveway. Mr. Kelley said that he did not believe there were any safety concerns that he was aware of but Public Works would be reviewing the proposed plan for the new driveway with regard to site distances, etc. He said that approximately 60% of the home was frontage which makes it unique as there really was not a side of the home that that didn't involve frontage.

Ms. Cormier asked if there had been any discussion with Public Works with regard to the proposed driveway. Mr. Kelley said that he did not believe that there has been any discussion as of yet but it will be reviewed by David Blanchard from the Public Works Office and he will be in contact with the owner if there needs to be any changes.

Mr. Dimmock asked if the site distances would need to go before the Highway Safety Committee. Mr. Kelley said that he did not believe that the proposal would need to go before the Highway Safety Committee.

Mr. Chaloux asked if there would be any questions with relation to the hydrant located at the front of the property. Mr. Kelley said that the proposed new driveway would be located approximately 30 to 40 feet away which would be more than it is currently located now.

## Opposed

No abutters were present.

## Deliberative Session

Mr. Virr said that he believed that the proposal was a straight and forward request and believed that it would be a benefit to the neighborhood. He reviewed the conditions for the Board.

**Ms. Cormier motioned on case #08-123, John J. Petrelis, Jr., to Grant a Variance to terms of Article VI, Section 165-46C4, to build 24'X24' garage within 25' of the front lot line (35' required) at residence on 9 Derryfield Rd., tax map 21017, MDR DISTRICT, as presented with the following conditions:**

- 1. Construction to be completed within 2 years or variance shall be void.**
- 2. Subject to obtaining all Town and State permits and inspections.**

Seconded by Mr. Lunetta.

## Vote:

**Mr. Dimmock: Yes.**  
**Mr. Chaloux: Yes.**  
**Mr. Lunetta: Yes.**  
**Ms. Cormier: Yes.**  
**Mr. Virr: 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

Ms. Cormier motioned to approve the minutes of September 4, 2008 as amended.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Thompson, Mr. Webb, Mr. Osborn, Mr. Chaloux, Mr. Dimmock, Ms. Cormier, Mr. Lunetta, Mr. Virr

**Other Business**

33<sup>rd</sup> Annual Municipal Law Lecture Series.  
Planning Board invitation – October 14, 2008

**Adjourn**

Motion to adjourn by Ms. Cormier.

Seconded by Mr. Lunetta.

Vote: Unanimous.

Mr. Thompson, Mr. Webb, Mr. Osborn, Mr. Fairbanks, Mr. Chaloux, Mr. Dimmock, Ms. Cormier, Mr. Lunetta, Mr. Virr

Adjourn at 7:25 pm

Minutes noted by:

Ginny Rioux

Recording Clerk

**Approval of Minutes November 16, 2008**

Ms. Cormier motioned to approve the minutes of October 2, 2008 as written.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Thompson, Mr. Webb, Mr. Osborn, Mr. Fairbanks, Mr. Chaloux, Ms. Cormier, Mr. Lunetta, Mr. Virr