

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
October 15, 2009

Members Present

Allan Virr, Chairman
David Thompson, Vice Chairman
Cecile Cormier, Secretary
Albert Dimmock
James Webb

Members Absent

Alternates Present

Ernest Osborn
John DeBonis

Alternates Absent

Michael Fairbanks

Staff Present

Robert Mackey, Code Enforcement Director

Mr. Virr called the meeting to order at 7:04 p.m. with the salute to the flag, and notice of fire and handicap exits.

It was noted for the record that Mr. Dimmock would step down from the following case and Mr. Osborn would sit.

09-118 John Agri

Variance to terms of Article VI, Section 165-47B.1, to allow a two (2) lot subdivision which will result in the creation of a 1.03 acre lot where the Zoning Ordinance requires a 2 acre minimum, 6 Frost Road, parcel ID 03096-002. LMDR DISTRICT

Vern Dingman, V.W. Dingman & Sons, said that he was representing the applicant. Mr. Dingman asked if he could present the Board with a letter requesting a continuance to the November meeting. Mr. Dingman said that Mr. Mackey had contacted him with regard to a letter in the 1979 Planning Board file that raised some questions. He said that he wished to have the case continued so he could do some research at the Department of Environmental Service.

Mr. Virr asked when he would like the meeting to be rescheduled. Mr. Dingman said that he would like to request that the meeting be continued to November 19th as he also has some

scheduling conflicts and this would hopefully also give him ample time to review the information at the Environmental Services office.

Ms. Cormier motioned to continue case #09-118, John Agri to the November 19, 2009 meeting.

Seconded by Mr. Thompson

Vote: Unanimous.

Mr. Osborn, Mr. Webb, Ms. Cormier, Mr. Thompson, Mr. Virr

#08-119 Martin R. & Carol F. Milbury

Requests variance to the terms of Article VI, Section 165-46C.4 to construct a 28' x 30' attached garage, less than 15 feet from the side property line.

Martin Milbury, owner, said that they would like to build a garage on their property that would be too close to the side lot line.

Mr. Virr asked if they had their application and if so could they read it for the Board. Mr. Milbury said that he did have the application and reviewed the information for the Board.

Carol Milbury, owner, said that she had spoken to both abutters and they have stated that they have no objection to them building a garage. She said that she had a letter from one of her abutters Douglas & Lyrae Bowser and believed that the other had already submitted a letter in favor of their proposal. She presented the Board with the letter.

Mr. Thompson said that there was only one letter in the file from Mark & Carla Crombie in favor of the proposal.

Ms. Cormier read the letter from Mark & Carla Crombie into the record for the Board.

Mr. Virr asked how close was the proposed garage to the side lot line. Mr. Milbury said that one corner would be 14' which is the front portion of the garage and the rear portion would be approximately 8' feet.

Mr. Virr asked if it was due to the configuration of the property. Mr. Milbury said yes it was due to the location of the home and the lot line angle.

Ms. Cormier asked if there was a reason that they couldn't bring the garage forward. Mr. Milbury said that for appearance purposes and that there was currently a sun porch located to the rear and also the roof angle. Also, setting it back was structurally less expensive.

Mr. Virr said that the design was very nice looking and that if moved forward may not look as pleasing.

Mr. Osborn asked if the home currently had a garage. Mr. Milbury said no that the home was currently 25' x 35' home with no garage.

Mr. Thompson asked if there was an entrance door from the garage into the home. Mr. Milbury said yes.

Mr. Thompson asked if the doorway on the outside could be made shorter and bring the garage door over more. Mr. Milbury said that the door on the side was for access to and from the garage and even if they removed the side door they would still require a variance to build the proposed garage as they would still be too close to the lot line.

Mr. Virr asked how far the 8' foot section would be to the neighbor. Mr. Milbury said that there was approximately 130 – 140' feet before the neighbor's home.

Ms. Cormier asked how wide was the proposed door. Mr. Milbury said that the door was a standard 32" door as plans call for a 3' foot opening.

Mr. Webb asked if the driveway was hot top. Mr. Milbury said no that the driveway was currently 240' feet long and is gravel. He said that they may pave a portion of the driveway in front of the garage only at a later date.

Mr. Dimmock said that he felt that the variance should be granted due to the fact that they had approved a similar situation on Cemetery Road that the garage was also 8' feet from the lot line. He also said that the applicant has no abutters present in opposition and feels that it was a reasonable use of the property.

Code Enforcement

Ms. Cormier read Mr. Mackey's Staff Report for the Board.

The applicant's request is to construct a 28' x 30' garage to be attached to the right side of the dwelling. It will be located 8' feet from the lot line at its closest point. If approved, the driveway will need to be relocated around the existing septic system and a new, state approved design must be prepared. As an area variance is being requested, the Boccia hardship standards will apply. If approved, building and electrical permits will be required. There are pictures in the file for the Board's review.

Favor

No abutters were present

Opposed

No abutters were present.

Ms. Cormier said motioned to go into deliberative session.

Seconded by Mr. Thompson.

Deliberative Session

Mr. Virr said that the application appeared to be straight forward.

Ms. Cormier said that even though the applicant's proposal looks similar to other cases that the Board has heard previously they still have to go through the process.

Mr. Webb said that the talk of removing the side door would be a hardship as cars would bang the doors on the side walls.

Mr. Virr said that egress doors were required to have a 3' foot entrance.

Mr. Dimmock said that granting would be allowing the right for reasonable use of the property as there were no abutters objecting. In fact, the applicant submitted two letters in favor of the proposal. Feel the same as Mr. Webb stated that the side door is a necessity.

Mr. Thompson said that if he didn't question if the door could be removed he would be a remiss in duties if it hadn't been asked.

Mr. Thompson motioned on case ##08-119, Martin R. & Carol F. Milbury, to Grant Request for a variance to the terms of Article VI, Section 165-46C.4 to construct a 28' x 30' attached garage, less than 15 feet from the side property line as presented with the following conditions:

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

Seconded by Ms. Cormier.

Vote:

Mr. Webb:	Yes. Believe it meets all the criteria.
Ms. Cormier:	Yes. Believe all criteria have been met.
Mr. Thompson:	Yes. Meets the Boccia requirements.
Mr. Dimmock:	Yes. Feel it is a reasonable use of the property.
Mr. Virr:	Yes. Feel that what Ms. Cormier & Mr. Dimmock have stated to be true.

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.

Correspondence

68th Annual Conference November 18 – 20, 2009.

Approval of Minutes

Mr. Thompson motioned to approve the minutes of August 20, 2009 as written.

Seconded by Mr. Dimmock.

Ms. Cormier abstained as was not present.

Vote: Unanimous.

Mr. DeBonis, Mr. Osborn, Mr. Webb, Mr. Dimmock, Mr. Thompson, Mr. Virr

Mr. Thompson motioned to approve the minutes of September 17, 2009 as written.

Seconded by Mr. Webb.

Vote: Unanimous.

Mr. DeBonis, Mr. Osborn, Mr. Webb, Mr. Dimmock, Ms. Cormier, Mr. Thompson, Mr. Virr

Adjourn

Motion to adjourn by Ms. Cormier.

Seconded by Mr. Osborn.

Vote: Unanimous.

Mr. DeBonis, Mr. Osborn, Mr. Webb, Mr. Dimmock, Ms. Cormier, Mr. Thompson, Mr. Virr

Adjourn at 7:40 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

APPROVAL OF MINUTES November 19, 2009

Ms. Cormier motioned to Approve the minutes of October 15, 2009 as amended.

Seconded by Mr. Osborn

Vote: Unanimous.

Mr. DeBonis, Mr. Osborn, Mr. Webb, Mr. Dimmock, Ms. Cormier, Mr. Virr