

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 6, 2010

Members Present

Allan Virr, Chairman
David Thompson, Vice Chairman
James Webb
Ernest Osborn

Members Absent

Cecile Cormier

Alternates Present

Michael Fairbanks
Stephen Popp

Alternates Absent

John DeBonis

Staff Present

Robert Mackey, Code Enforcement Director

Mr. Virr called the meeting to order at 7:02 p.m. with the salute to the flag, and notice of fire and handicap exits.

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

10-106 Dale A. & Trista D. M. Kort

Variance to the terms of Article VI, Section 165-47B.4, to construct a 10' x 12' shed within five feet of the rear property line where 15 feet is required at 1 Stoneleigh Drive, Parcel ID 06083-001. LMDR District.

Dale & Trista Kort, owners were present. Dale Kort presented the Board with more pictures of the property and explained that they had looked at several areas of the property to place the proposed shed and the most reasonable location was to the left side of the property as the rear portion has a pond in the area. Mr. Kort read the application for the Board and gave the Board a letter in favor from his neighbor.

Code Enforcement

Mr. Mackey said that the applicant is requesting to install a 10' x 12' shed five (5) feet from the rear property line. Due to the unique shape of the lot and the wetlands located on the property, there is a small building window in which structures/buildings can be located even though the lot is over two acres. If approved, a building permit will be required. There are pictures in the file for the Boards review.

Mr. Fairbanks asked why the shed could not be moved forward 10' closer. Mr. Kort said that one of the pictures that he submitted shows the driveway and if they relocated closer the shed would be on the driveway.

Mr. Popp asked why the shed could not be located more towards the road. Mr. Kort said that they felt that this location was more presentable as if they located it closer towards the road it would stick out more and not be cosmetically pleasing to the neighborhood.

Mr. Thompson stated that the covenants of the property state that they must maintain the lot to be beautiful and not to infringe on the neighborhood.

Mr. Fairbanks said that he felt that the shed could be moved forward and still be cosmetically pleasing.

Mr. Osborn asked if the shed would be similar to the design of the home. Mr. Kort said yes.

Mr. Virr asked if the backyard of the property held the septic system and propane tank. Mr. Kort said yes and that the rear yard also slopes down at a very steep grade so it would not be flat enough to locate a shed in the rear portion of the property.

Mr. Virr asked if the location of the proposed shed could be described in relation to the pictures submitted. Mr. Kort explained the location to the Board.

There was some discussion with regard to the design and location of the shed.

Favor

No abutters were present.

Opposed

No abutters were present.

Mr. Webb read a letter for the record from Michael & Michelle Cianca, 60 Warner Hill Road in favor of the proposal.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Popp, Mr. Osborn, Mr. Webb, Mr. Thompson, Mr. Virr.

Deliberative Session

Mr. Thompson said that he did not see a problem with the proposal.

Mr. Osborn said that the property does have a small building area and portions of that are restricted due to the location of the septic and utilities.

Mr. Virr said that he felt the hardship is in the restrictions of the lot and the wetland setbacks.

Mr. Osborn said that he would prefer the shed to be located in the proposed location as if there were any possible minor leaks they could be easier controlled than in the rear portion of the property.

Mr. Webb said that he did not see a problem with the proposal especially where the direct neighbor in favor of the proposal.

Mr. Popp said that he agreed with Mr. Webb and also that the property has a lot of restrictions due to the wetland buffers and slope of the property.

Mr. Virr motioned on case #10-106, Dale A. & Trista D. M. Kort to Grant a Variance to the terms of Article VI, Section 165-47B.4, to construct a 10' x 12' shed within five feet of the rear property line where 15 feet is required at 1 Stoneleigh Drive, Parcel ID 06083-001, LMDR District as presented with the following conditions:

- 1. Subject to obtaining all necessary permits.**

Seconded by Mr. Thompson.

Vote:

Mr. Webb: Yes.

Mr. Thompson: Yes.

Mr. Osborn: Yes. Believe that the property has unusual circumstances.

Mr. Virr: Yes. Hardship has been met.

Mr. Popp: 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.

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

10-107 Michael Laurenza, Sr.

Variance to the terms of Article VI, Section 165-46C.4, to install an above ground swimming pool within 9 feet of the rear lot line where 15 feet is required at 6R Philip Road, Parcel ID 25013-037R. MDR District

Michael Laurenza, Sr., owner, read his application for the Board. Mr. Laurenza explained that the property was limited to work with due to the size of the lot and that there were also 2 large trees on the lot line that would be of considerable cost to remove. He said that he has 3 children that the installation of a pool would help him with entertaining his children at home verses spending money on outside activities. He said that he looked into smaller pools but they would not be feasible to a family of his size. He said that he has tried to locate the pool in such a fashion that it would have the least impact on the neighbors and that the proposed location was the most suitable.

Mr. Thompson asked how the pool would be installed to ensure the safety of the neighborhood. Mr. Laurenza said that there is currently a 6' high stockade fence in the area and that the pool will also have a self locking ladder.

Mr. Virr asked if the property was a condex consisting of 2 living units. Mr. Laurenza said yes and that he has spoken to all his neighbors with regard to his proposal and said that no one appeared to have any concerns with him installing a pool on his property. He said that the rear portion abuts a cul-de-sac which has approximately 60-80 yards away from any neighbor on that side.

Mr. Webb asked if there were any covenants. Mr. Laurenza said that he did not know of any.

Mr. Osborn asked if he had checked with all the abutters on the list. Mr. Laurenza said that he checked them all.

Code Enforcement

Mr. Mackey said that the applicant is requesting to install an above ground swimming pool within nine (9) feet of the rear property line. The small size of the lot limits the available options for locating the pool. The rear of the property backs up to a narrow strip of abutting property at the Gayle Drive cul-de-sac. If approved, a building permit and electrical permit will be required. There are pictures in the file for the Boards review.

Mr. Webb said that the deed indicates that the property has an association and rules that state that they not encroach on an easement and if granted a variance then it would be encroaching on the neighbors.

Mr. Thompson said that the request was not being located in an easement area.

There was some discussion with regard to easements.

Mr. Virr asked if there was a functioning homeowners association. Mr. Laurenza said that there was no association and believes that was when the development first was established as Quail Hill.

Mr. Fairbanks said that there were other properties in the area that had sheds and pools on their lots.

Favor

No abutters were present.

Opposed

No abutters were present.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Fairbanks, Mr. Osborn, Mr. Webb, Mr. Thompson, Mr. Virr

Deliberative Session

Mr. Virr said that the conditions should be that the applicant obtains all necessary permits and inspections.

Mr. Osborn said that he did not see any problems with the proposal.

Mr. Fairbanks said that he felt that the applicant has done everything possible to try to position the pool on the property and that it would be expensive to cut down the deck and trees.

Mr. Thompson motioned on case #10-107, Michael Laurenza, Sr. to Grant a Variance to the terms of Article VI, Section 165-46C.4, to install an above ground swimming pool within 9 feet of the rear lot line where 15 feet is required at 6R Philip Road, Parcel ID 25013-037R. MDR District, as presented with the following conditions:

- 1. Subject to obtaining all necessary permits and inspections.**

Seconded by Mr. Osborn.

Vote:

Mr. Fairbanks: Yes. Feel that the applicant meets the requirements and hardship has been established.

Mr. Osborn: Yes.

Mr. Thompson: Yes.

Mr. Webb: Yes. Believe there is no other location to place the pool.

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.

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

10-108 Zachary LeBlanc

Owner: Anita G. Nadeau & Theresa & Norman LeBlanc

Special Exception as provided in Article VI, Section 165-45D, to operate an automobile sales business (Office Only) from the residence at 18 Pleasant Street, Parcel ID 27112, 18 Pleasant Street. MHDR District.

Zachary LeBlanc, applicant, read his application for the Board.

Mr. Virr asked if a sign was required by the State. Mr. LeBlanc said yes.

Mr. LeBlanc reviewed his letter of explanation for the Board describing his request.

Mr. Thompson asked if the Town of Londonderry was okay with the parking of vehicles on the property. Mr. LeBlanc said that the Town of Londonderry said that they did not have a problem and that there could be up to 5 vehicles on the property.

Mr. Thompson asked if there would be no customers to the property Mr. LeBlanc said that there could be but that they were performing most of their sales on-line so did not feel that there would be any customers coming to the home.

Mr. Thompson said that the request was just for an office. Mr. LeBlanc said that was correct.

Mr. Thompson asked if there would be a small sign placed in the window to satisfy the State requirements. Mr. LeBlanc said yes.

There was some discussion with regard to sign size and location requirements.

Mr. Popp asked if he owned the property. Mr. LeBlanc said no that his parents did and that there was a letter in the file giving him permission to operate the business at the home.

Mr. Virr said that the letter in the file was unsigned at this time and that the applicant would need to have a signed copy brought into the Code Enforcement Office for the file.

Mr. Fairbanks said that a signed letter by all owners should be on file. Mr. LeBlanc said that he would get that done and submit it to the Code Enforcement Office.

Favor

No abutters were present.

Opposed.

No abutters were present.

Code Enforcement

Mr. Mackey said that the applicant is requesting a special exception for an automobile sales business (office only). Proposal is for an office only with no storage of business vehicles or vehicles for sale being displayed on the property. If approved, I would request that the Board stipulate this as a condition. There are pictures in the file for the Boards review.

Mr. Thompson asked if there would be dealer plates. Mr. LeBlanc said no.

Mr. Thompson asked if the vehicles would be purchased at auction and how would they be transported. Mr. LeBlanc said that they would be purchased at auction and then registered to be able to test drive them.

Mr. Thompson asked if a stipulation could be made that no vehicles would be located on the property for sale. Mr. LeBlanc said that would be okay.

Mr. Webb asked if there would be any reconditioning or service work done to the vehicles on the property. Mr. LeBlanc said no that they would bring them somewhere else to be detailed or serviced.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Popp, Mr. Osborn, Mr. Webb, Mr. Thompson, Mr. Virr

Deliberative Session

Mr. Virr said that the Board has seen a lot of these requests over the last few years.

Mr. Thompson said that he had no problem with the request but would like the motion to be made that it was just to him and if abandoned that the exception becomes void.

Mr. Virr said that the request was for the applicant not any other party so did not see the necessity to make it part of the motion.

Mr. Thompson asked if he could ask the applicant how long the State process would take.

Mr. LeBlanc said that the State process could take up to 6 to 8 months so would like a bit more time so he could get his business up and running.

Mr. Thompson said he would like the motion to read that if the applicant stopped doing this business for a period of more than 1 year the exception would become void.

Mr. Virr reviewed the conditions for the Board.

Mr. Osborn motioned on case #10-108, Zachary LeBlanc, Owner: Anita G. Nadeau & Theresa & Norman LeBlanc to Grant a Special Exception as provided in Article VI, Section 165-45D, to operate an automobile sales business (Office Only) from the residence at 18 Pleasant Street, Parcel ID 27112, 18 Pleasant Street. MHDR District as presented with the following conditions:

- 1. Sign permitted subject to obtaining necessary permit.**
- 2. No outside storage of vehicles for sale or repair.**
- 3. No customers to the property.**
- 4. Signed letter from property owners must be in case file.**
- 5. If business is abandoned for more than 1 year the Special Exception shall be void.**

Seconded by Mr. Thompson.

Vote:

Mr. Webb: Yes.
Mr. Popp: Yes.
Mr. Osborn: Yes.
Mr. Thompson: 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.

Correspondence

2010 LGC - Local Officials Workshop – June 5 & 12, 2010

Approval of Minutes

The minutes of April 1, 2010 and April 15, 2010 were tabled until May 20, 2010 meeting.

Adjourn

Motion to adjourn by Mr. Virr.

Seconded by Mr. Thompson.

Vote: Unanimous.

Mr. Popp, Mr. Fairbanks, Mr. Osborn, Mr. Webb, Mr. Thompson, Mr. Virr.

Adjourn at 8:00 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

Approval of Minutes June 3, 2010

Mr. Osborn motioned to approve the May 6, 2010 minutes as amended.

Seconded by Mr. Webb.

Minutes Approved by a vote of 6-0-1

Yes. Mr. Popp, Mr. DeBonis, Mr. Fairbanks, Mr. Webb, Mr. Osborn, Mr. Virr

Abstain. Ms. Cormier.