

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
May 20, 2010

Members Present

Allan Virr, Chairman
James Webb
Ernest Osborn

Members Absent

David Thompson
Cecile Cormier

Alternates Present

Michael Fairbanks
John DeBonis
Stephen Popp

Alternates Absent

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. Fairbanks and Mr. Popp would sit for the following case.

10-109 Peter & Julie Vose

Variance to the terms of Article III, Section 165-20a, to construct a 10' 6" x 12' shed, less than 75 feet from a wetland over one acre where 75 feet is required at 2 Stoneleigh Drive, Parcel ID 06083-010, LMDR District.

Peter Vose, owner, read his application for the Board.

Mr. Virr asked if the applicant was building the shed himself. Mr. Vose said yes.

Mr. Fairbanks asked what was the size of the wetland and how close was the shed being placed. Mr. Mackey said that the wetland was over an acre so the 75' setback was required.

Mr. Fairbanks asked which option was the variance being requested for. Mr. Vose said that they would like to have option #1 which was sheet 2 of 4 as it does not have view from the street. He said that he only has two places that the shed could be placed that they would not have to cut down trees.

Mr. Fairbanks asked why the shed could not be moved closer to the home. Mr. Vose said that where the grass ends is adjacent to an underground propane tank.

Mr. Fairbanks asked if the sheet 2 of 4 showing the proposed shed location was set back into the wood line. Mr. Vose said yes which is directly behind the fence.

Mr. Osborn asked if a portion of the fence would be removed for access. Mr. Vose said yes.

There was some discussion with regard to the placement of the shed and similarities to the previous case.

Code Enforcement

Mr. Mackey said that the applicant is requesting to install a 10' 6" x 12' shed less than 75 feet from a wetland greater than 1 acre in size. According to Article III, Section 165-20a, all buildings must be located a minimum of 30 feet from a wetland less than 1 acre and at least 75 feet from a wetland 1 acre or larger. Although the property is over 3 acres in size, the wetland and required setbacks severely limit the building envelope. The location of the septic system also limits the available options for placement of the shed. The topography slopes significantly towards the wetland. If approved, a building permit will be required. There are pictures in the file for the Boards review.

Mr. Virr asked if option number 1 was the preferred location of the shed. Mr. Vose said yes as he was trying to keep aesthetically pleasing to the surrounding area.

Mr. Osborn asked if it was appropriate to say option #1 or have to stipulate location in the motion.

Mr. Fairbanks asked if the option numbered one was the plan that the Board was seeking to vote on.

Favor

No abutters were present.

Opposed

No abutters were present.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Webb.

Vote: Unanimous.

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

Deliberative Session

Mr. Osborn said that he did not see a problem with the request.

Mr. Fairbanks said that the hardship is layout of the land and would like to see the shed pulled forward but understand that in order to get that he would lose use of the yard.

Mr. Osborn said that he has a problem with having combustibles closer to the wetlands but would rather see them outside of the home than inside it.

Mr. Webb said that he felt that he applicant was trying to keep within the covenants of the deed by keeping the shed behind the home and be aesthetically pleasing and not be out of character of the neighborhood.

Mr. Popp said that the property does not offer much for other options for placement giving the slope of the property. Would like to see it moved closer but understand the restrictions with the property layout.

Mr. Virr said that no matter where the shed would be situated on the property it would still not be in compliance

Mr. Osborn said that the shed could be moved forward but the posts would be higher due to the slope of the property.

Mr. Webb motioned on case #10-109, Peter & Julie Vose to Grant a Variance to the terms of Article III, Section 165-20a, to construct a 10' 6" x 12' shed, less than 75 feet from a wetland over one acre where 75 feet is required at 2 Stoneleigh Drive, Parcel ID 06083-010, LMDR District, as presented with the following conditions:

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

Seconded by Mr. Osborn.

Vote:

Mr. Popp: Yes.

Mr. Fairbanks: Yes. Believe the layout of the property presents the hardship.

Mr. Osborn: Yes. Believe that the hardship is due to the wetland setbacks.

Mr. Webb: Yes. Hardship is due to the layout of the property.

Mr. Virr: Yes. Recognize that hardship is in the lot.

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. Osborn motioned to Approve the minutes of April 1, 2010 as amended.
Seconded by Mr. Webb.

Vote: Unanimous.
Mr. Popp, Mr. DeBonis, Mr. Fairbanks, Mr. Osborn, Mr. Webb, Mr. Virr.

Mr. Osborn motioned to Approve the minutes of April 15, 2010 as amended.
Seconded by Mr. Fairbanks.

Vote: Unanimous.
Mr. Popp, Mr. DeBonis, Mr. Fairbanks, Mr. Osborn, Mr. Webb, Mr. Virr.

Adjourn

Motion to adjourn by Mr. DeBonis.

Seconded by Mr. Popp.

Vote: Unanimous.
Mr. Popp, Mr. DeBonis, Mr. Fairbanks, Mr. Osborn, Mr. Webb, Mr. Virr.

Adjourn at 7:36 pm

Minutes transcribed by:
Ginny Rioux
Recording Clerk

Approval of Minutes June 3, 2010

**Mr. Webb motioned to approve the May 20, 2010 minutes as amended.
Seconded by Mr. Osborn.**

**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.**