

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
March 17, 2011

Members Present

Cecile Cormier, Acting Chair
Allan Virr
David Thompson, Vice Chairman
James Webb

Members Absent

Ernest Osborn

Alternates Present

Michael Fairbanks
John DeBonis
Betsy Burtis
Albert Dimmock

Alternates Absent

Stephen Popp

Staff Present

Bob Mackey, Code Enforcement

Mr. Virr said that he and Mr. Webb were going to step down as Chairman and Secretary so Ms. Cormier would sit as Chairperson tonight as this was her last meeting as a Zoning Board member as she was not seeking reappointment.

Mr. Thompson also said that he would step down for this case.

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

Ms. Cormier said that Mr. Fairbanks and Mrs. Burtis would sit for the following case.

11-102 Dean Landry

Applicant requests a variance to the terms of Article VI, Section 165-45.B.1.d to allow a 12' x 16' shed to be placed 5 feet from the side and rear lot lines where 15 feet is required at 2 Pinehurst Ave., Parcel ID 24018-001, zoned MHDR.

Dean Landry, owner said that they wished to build a 12' x 16' shed 5 feet from the lot line as water has come right up to his foundation and he has had 5 plus inches of water in his basement at times during floods and a lot of his belongings are getting damaged so he

felt that the installation of a shed would help them from his possessions from getting damaged.

Ms. Cormier asked how far from Beaver Brook would the shed be located. Mr. Landry said approximately 120 – 125 feet.

Ms. Cormier asked if the pins for the property had been located. Mr. Landry said that he had located 3 of the pins and ran a string along the property line so the shed will be located on his property.

Mr. Landry read his application for the Board and presented the Board with letters from 2 of his neighbors in favor of the shed location.

Ms. Cormier read letters from Carol Glennon, 50 Highland Ave and Stephen Ward, 4 Pinehurst Ave in favor of the proposal for the record.

Mr. Landry explained his property layout and reasons why the location of the proposed shed was the most suitable location for the Board.

Ms. Cormier asked if the shed was existing. Mr. Landry said no that there was a small plastic shed but that would be removed.

Mrs. Burtis asked if there were other out buildings on the property. Mr. Landry said that they currently had a small plastic shed and a 6' x 9' trailer that the other buildings were on the neighbor's property.

Mr. Dimmock said that a shed requires a building permit. Mr. Landry said that they had obtained a permit for the shed and will be removing the plastic shed once the new shed is constructed.

There was some discussion with regard to the size and construction of the proposed shed.

Code Enforcement

Mr. Mackey said that the applicant is requesting a variance to install a shed on his property within 5' of the side and rear property lines. This location is on the highest point of the lot and the furthest location from Beaver Brook which is located approximately 200' away (not a classified Prime Wetland in this area). If approved, a building permit will be required. There are pictures of the property and surrounding area in the file for the Board's review.

Favor

No abutters were present.

Opposed

No abutters were present.

Mrs. Burtis motioned to go into deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mrs. Burtis, Mr. Fairbanks, Mr. Webb, Mr. Virr, Ms. Cormier.

Deliberative Session

Mr. Virr said that the Board has had previous cases in the past and some of the properties if the applicant and if they were required to maintain the 15' setback then the shed would be located in middle of the lawns.

Mr. Fairbanks said that the case does have merit as hardship has been shown.

Mrs. Burtis said that hopefully with the new bridge that was installed that the flooding issues will have been resolved.

Mr. Webb said that the area was especially underwater during the Mother's Day flood as he had been down in the area and saw that it was hit hard so he could see the hardship and did not feel that there was a problem as the direct neighbors were in favor of the proposal.

Ms. Cormier said that she felt that the applicant has met the criteria required for a variance.

Mr. Virr motioned on case #11-102, Dean Landry, to grant a Variance to the terms of Article VI, Section 165-45.B.1.d to allow a 12' x 16' shed to be placed 5 feet from the side and rear lot lines where 15 feet is required at 2 Pinehurst Ave., Parcel ID 24018-001, Zoned MHDR, as presented with the following conditions:

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

Seconded by Mrs. Burtis.

Vote:

- Mr. Webb:** Yes. Believe hardship has been established and meets the criteria.
Mr. Fairbanks: Yes. Feel criteria has been met.
Mr. Virr: Yes. Clear cut as no other place for the shed as hardship exists in the land.
Mrs. Burtis: Yes. Same reasons as stated.
Ms. Cormier: Yes. Believe criteria has been met.

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. Thompson motioned to approve the minutes of February 17, 2011 as amended.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Dimmock, Mrs. Burtis, Mr. DeBonis, Mr. Fairbanks, Mr. Webb, Mr. Virr, Mr. Thompson, Ms. Cormier.

Mr. Thompson motioned to approve the minutes of March 3, 2011 as amended.

Seconded by Mr. Webb.

Vote: Unanimous.

Mr. Dimmock, Mrs. Burtis, Mr. DeBonis, Mr. Fairbanks, Mr. Webb, Mr. Virr, Mr. Thompson, Ms. Cormier.

Correspondence

Ms. Cormier read a letter from an anonymous abutter regarding case #11-101, thanking the Board for voting no for the record.

Mr. Virr said that the letter points out very valid reasons as to why neighbors don't come to meetings.

Mr. Dimmock said that a vote does not always agree with the applicant and that he did not feel that his vote was wrong as a tradesman an allowed use.

Other Business

Mr. Virr said that he would like to wish Ms. Cormier well and thanked her for all her years of service.

Ms. Cormier said that she had spoken to the Town Clerk with regard to all members that they are still on the appointed Boards until Town Council appoints new members to replace them and asked if Mr. Mackey could check into seeing if that was true. Mr. Mackey said that he would check into the matter and let the Board members know.

Adjourn

Motion to adjourn by Mr. Virr.

Seconded by Mr. Dimmock.

Vote: Unanimous.

Mr. Dimmock, Mrs. Burtis, Mr. DeBonis, Mr. Fairbanks, Mr. Webb, Mr. Thompson, Mr. Virr, Ms. Cormier.

Adjourn at 7:38 pm

Minutes transcribed by:
Ginny Rioux
Recording Clerk

Approval of Minutes on May 19, 2011

Mr. Virr motioned to approve the minutes of March 17, 2011 as amended.

Seconded by Mr. Osborn.

Vote: Unanimous.

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