

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
December 6, 2012

Members Present

Albert Dimmock, Acting Chairman
Allan Virr, Acting Vice Chairman
Ernest Osborn, Secretary
Lynn Perkins

Members Absent

Donald Burgess

Alternates Present

Louis Serrecchia
Frank Mazzuchelli
Joseph Carnvale
Teresa Hampton
David Thompson

Code Enforcement

Robert Mackey

Mr. Virr said that he was stepping down as Chair tonight and that Mr. Dimmock would be acting Chair this evening.

Mr. Dimmock called the meeting to order at 7:03 p.m. with the salute to the flag, and notice of fire and handicap exits and that this and all Zoning Board meetings are videotaped.

Mr. Dimmock noted for the record that Mr. Mazzuchelli would sit for the following case in the absence of Mr. Burgess.

#12-123 High Street Derry, LLC

Applicant requests a variance from Article VI, Section 165-45B.2.b of the Town of Derry Zoning Ordinance to allow the expansion of a multi-family building where there exists 142 feet of frontage where the Ordinance requires 150 feet of frontage, 22 High Street, Parcel ID 29093, Zoned MHDR

Attorney Brian Germaine, Attorney of Germaine & Blaska, 23 Birch Street, said that he was representing Craig Fowler, principal of Natural Energy Designs and also the principal 22 High Street Derry, LLC who is the applicant. Attorney Germaine read the

application for the Board. Attorney Germaine said that the applicant is seeking a variance due to frontage requirement that is required by the zoning ordinance of less than 150 feet. The property is located in a multi-family zone where most of the dwellings have insufficient frontage anywhere from 40' to less than 150' for these multifamily dwellings. Attorney Germaine said that the property currently consists of 3 floors of which on the third floor consists of 2 bedrooms so all that would be created would be a bath, living and kitchen area to service those two bedrooms which is essentially taking a 4 bedroom unit and making 3 two bedroom units to with no increase to the number of bedrooms. He said that the application speaks positively to the criteria and most importantly aesthetically there would be numerous changes such as painting, siding, and it will enhance the neighborhood and property values. He said that he felt that the requested variance is minimal.

Board Questions

Mr. Virr asked if there had been any discussion with fire with regards to fire escapes and sprinklers and will the property be retro fitted. Mr. Fowler said that he has spoken with the Fire Department and that they will be performing a walk thru of the property and whatever they request be done would be performed.

Mr. Osborn asked if the property was serviced by Town water and sewer. Mr. Fowler said yes.

Attorney Germaine said that the property meets and exceeds all the requirements and could accommodate 5 units on this lot. He said the property only lacks frontage and that most lots in the surrounding area have insufficient frontage.

Mr. Mazzuchelli asked if there was currently egress through the existing building or would there be exterior egress required for fire. Mr. Fowler said that the front foyer has a fully enclosed egress area but would probably have to add additional egress but would need to discuss with Code Enforcement and Fire Departments.

Code Enforcement

Mr. Mackey said that the property lies in the Medium High Density Residential Zoning District. This zoning district permits single and two family residences as well as multi-family dwellings (3 or more units). The applicant is requesting approval to add an additional living unit to the existing two-family dwelling which will result in the creation of a multi-family building – 3 units which is a permitted use. Town zoning regulations (Article VI, Section 165-45B.2.b) requires 150 feet of frontage for a multi-family lot. The property has 142'(+/-) of frontage and, therefore, a variance is required. If approved, appropriate permits and approvals will be required to be obtained from the Building & Fire Departments. Planning Board approval will also be required. The motion for the Board's vote should include reference to the five criteria for granting a variance and whether the members feel that the criteria have been met. There are pictures in the file for review by the Board.

Favor

No one spoke in favor of the application.

Opposed

No one spoke in opposition of the application.

Board Questions

There were no additional questions from the Board.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Osborn.

Vote: Unanimous.

Mr. Mazzuchelli, Mr. Perkins, Mr. Osborn, Mr. Virr, Mr. Dimmock

Deliberative Session

Mr. Virr said that that he had reviewed the 5 criteria and that it appears that the applicant has met all points needed in order to be granted a variance. Mr. Virr said that he felt that it was a win win situation and that the impact would be in a positive way as it would positively impact the neighborhood with the property being brought back to a more pleasing state and that no public rights would be violated in any way. He said that there was only an 8' difference and that there were other properties in the area with less than the required frontage and he did not feel would be significant for a denial to the applicant's request.

Mr. Osborn said that he agreed as long as it meets all safety regulations and subject to all Town permits and inspections.

Mr. Dimmock said that he has resided on High Street for 30+ years and his home was 115 years old and it only has 100' of frontage. He said that the house in question was currently in a state that was not of good for the neighborhood as it stands currently. He said that he knew of Mr. Fowler's construction ethics and that he felt that he would greatly improve this property.

Mr. Osborn said that he felt that a condition be made that it should be subject to all town permits and inspections.

Mr. Virr said that it should also be subject to construction being completed within 2 years after final Planning Board approval has been obtained or void.

Mr. Osborn motioned to come out of deliberative session.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Mazzuchelli, Mr. Perkins, Mr. Osborn, Mr. Virr, Mr. Dimmock

Mr. Osborn motioned on case ##12-123, High Street Derry, LLC, to Grant a variance from Article VI, Section 165-45B.2.b of the Town of Derry Zoning Ordinance to allow the expansion of a multi-family building where there exists 142 feet of frontage where the Ordinance requires 150 feet of frontage, 22 High Street, Parcel ID 29093, Zoned MHDR, as presented with the following conditions:

- 1. Subject to obtaining all permits and inspections.**
- 2. Subject to Planning Board approval.**
- 3. Construction required to be completed within 2 years after final Planning Board approval.**

Seconded by Mr. Virr.

Vote:

Mr. Perkins: Yes.

Mr. Mazzuchelli: Yes.

Mr. Osborn: Yes.

Mr. Virr: Yes. Feels the 5 criteria have been met.

Mr. Dimmock: 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

Mr. Osborn motioned to approve the minutes of November 1, 2012 as amended.

Seconded by Mr. Serrecchia.

Vote: 4-0-1

Mr. Mazzuchelli, Mr. Perkins, Mr. Osborn, Mr. Dimmock

Abstain: Mr. Virr

Other Business

Mr. Virr said that projects like this can approve some of the old neighborhoods and can spirit the neighbors to possibly enhance their properties also. He said that he would also like to commend Mr. Dimmock for doing a good job as Chair this evening.

Mr. Dimmock said that he would like to welcome David Thompson to being elected to the State House of Representatives. Mr. Thompson said thank you and is looking forward to serving Derry for the next 2 years.

Adjourn

Mr. Osborn motioned to adjourn.

Seconded by Mr. Virr.

Vote: Unanimous.

Mr. Thompson, Ms. Hampton, Mr. Carnvale, Mr. Mazzuchelli, Mr. Serrecchia, Mr. Perkins, Mr. Osborn, Mr. Virr, Mr. Dimmock

Adjourn at 7:30 pm

Minutes transcribed by:
Ginny Rioux
Recording Clerk

Approval of Minutes December 20, 2012

Mr. Virr motioned to approve the minutes of December 6, 2012 as amended.

Seconded by Mr. Osborn.

Vote: 5-0-0

Mr. Mazzuchelli, Mr. Perkins, Mr. Osborn, Mr. Dimmock, Mr. Virr