

TOWN OF DERRY  
ZONING BOARD OF ADJUSTMENT MINUTES  
February 7, 2013

**Members Present**

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

**Members Absent**

**Alternates Present**

Louis Serrecchia  
Joseph Carnvale  
Teresa Hampton

**Alternates Absent**

Frank Mazzuchelli

Mr. Virr called the meeting to order at 7:00 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.

**13-101          Cheryl Holbert**

**Applicant is requesting a Special Exception as provided in Article VI, Section 165-46B of the Town of Derry Zoning Ordinance to allow the operation of a home based baking business at the residence. 20 Berry Road, Parcel ID 02082-003, Zoned MDR.**

Cheryl Holbert, owner, read her application and letter of explanation for the Board.

**Board Questions**

Mr. Virr asked if a sign was being requested. Mrs. Holbert said no.

Mr. Virr asked where the product be sold. Mrs. Holbert said that she has been in touch with Beverly Ferrante for the Derry Farmers Market and would possibly do some farm stands.

Mr. Burgess said that they have a Farmers Market in Manchester also.

Mr. Virr asked if there would be supplies delivered to the home. Mrs. Holbert said that it was possible to have some mail order but only use King Arthur flour. She said that she does not do a lot of volume as her breads take a lot of time and that the flour needs to be fresh at all times.

Mr. Virr asked if she has been baking for a long time. Mrs. Holbert said that she has been baking for 30 plus years and is a part-time teacher at an art center as a weaver. She never thought of baking as a business until someone asked her why she didn't sell her breads so she thought that she would like to try it.

Ms. Hampton asked if here only for approval that the State would also be required to inspect. Mrs. Holbert said that she has spoken to Paul Raiche and has submitted him a list of the ingredients that she will be utilizing for her products. She said that she primarily does French style breads and it was her understanding that if

Mr. Mackey said that the Town was a self-inspecting as opposed to being inspected by the State. The applicant will need to be licensed and inspected by the Town Health Department.

Ms. Hampton said that the Board has had a lot of auto dealers lately and the concerns were with oils and wondered if there would be that same type of concern with the cooking oils.

Mr. Osborn asked if on a septic system. Mrs. Holbert said yes.

### **Code Enforcement**

Mr. Mackey said that the applicant is requesting approval to operate a home based (residential) baking business. The Town of Derry enforces the State Food Code which allows for limited production of food products in a residential kitchen such as baked goods and other non-potentially hazardous food items. If approved, the applicant must obtain a Food License from the Health Department and arrange for a food service inspection. There are pictures in the file for review by the Board.

Mr. Perkins asked what the technical classification would this use be listed under. Mr. Mackey said that it would be listed under craftsman.

Mr. Dimmock said that for the newer members of the Board on the procedures that the Board has had in-home baking businesses before them on several occasions and the allowances are with the Town Health and Code Enforcement Departments.

### **Favor**

No one spoke in favor of the request.

### **Opposed**

No one spoke in opposition of the request.

Mr. Perkins motioned to go into deliberative session.

Seconded by Mr. Burgess.

Vote: Unanimous.

Mr. Burgess, Mr. Perkins, Mr. Osborn, Mr. Dimmock, Mr. Virr

### **Deliberative Session**

Mr. Osborn said that he did not see a problem with the request as have had previous cases before the Board of similar fashion.

Mr. Perkins said that the biggest hurdle is the square footage and it appears that the applicant meets that requirement.

Mr. Burgess said that they are only utilizing 13% and having no retail sales and no sign at this time that he did not see a problem with the proposal. He said that a condition of being subject to obtaining all State and Town permits and inspections be listed.

Mr. Dimmock said that he did not feel that there could be time allowances set on baking hours so no time allowances should be set.

Mr. Dimmock motioned to come out of deliberative session.

Seconded by Mr. Osborn

Vote: Unanimous.

Mr. Burgess, Mr. Perkins, Mr. Osborn, Mr. Dimmock, Mr. Virr

**Mr. Osborn motioned on case #13-101, Cheryl Holbert, to Grant a Special Exception as provided in Article VI, Section 165-46B of the Town of Derry Zoning Ordinance to allow the operation of a home based baking business at the residence. 20 Berry Road, Parcel ID 02082-003, Zoned MDR, as presented with the following conditions:**

- 1. Subject to obtaining all Town and State permits and inspections.**
- 2. Sign is allowed and must not exceed 3 square feet and a permit must be obtained from Code Enforcement Office.**

**Mr. Dimmock asked if a sign is not requested at the time of the meeting would the applicant be required to come back before the Board for approval if they later wish to have a sign.**

**Mr. Mackey said that in theory a sign is allowed according to the rule and must not exceed 3 square feet so they would not be required to come back before the Board but would be subject to obtaining a sign permit from the Code Enforcement Office.**

**Seconded by Mr. Perkins.**

**Vote:**

**Mr. Dimmock: Yes.  
Mr. Osborn: Yes.  
Mr. Burgess: Yes.  
Mr. Perkins: 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**

**Approval of Minutes**

Mr. Virr motioned to approve the minutes of December 20, 2012 as amended.

Seconded by Mr. Dimmock

Vote: Unanimous

Mr. Burgess, Mr. Perkins, Mr. Osborn, Mr. Dimmock, Mr. Virr

**Other Business**

Mr. Mackey said that Stephan Condodemetraky is not moving into the Tinkham Ave property due to not being able to come to an agreement on the lease.

Mr. Osborn asked if the office kept a record of the properties that did not utilize their variances. Mr. Mackey said no.

Mr. Virr asked if the variance stayed with the property. Mr. Mackey said yes but is void if not used after a year of abandonment.

Mr. Virr said that he would like to remind the Board members and alternates that term expirations are coming up at the end of March and if you're one of the ones whose term is ending and you wish to be reappointed to the Board that you must submit a letter of intent to the Town Clerk.

Mr. Dimmock said that as of March 12<sup>th</sup> he was running for Town Council so there will be an opening for a full member on the Board also so if any of the alternates wish to be a full member that they also need to submit a request to the Town Clerk.

**Adjourn**

Mr. Burgess motioned to adjourn.

Seconded by Mr. Dimmock.

Vote: Unanimous.

Ms. Hampton, Mr. Carnvale, Mr. Serrecchia, Mr. Burgess, Mr. Perkins, Mr. Osborn, Mr. Dimmock, Mr. Virr

Adjourn at 7:29 pm

Minutes transcribed by:

Ginny Rioux

Recording Clerk

**Approval of Minutes on March 7, 2013**

**Mr. Osborn motioned to approve the minutes of February 7, 2013 as amended.**

**Seconded by Mr. Burgess.**

**Vote: Unanimous.**

Mr. Perkins, Mr. Burgess, Mr. Osborn, Mr. Dimmock, Mr. Virr