



Town of Plaistow
ZONING BOARD OF ADJUSTMENT
145 Main Street - Plaistow, NH 03865

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
December 6, 2018

The meeting was called to order at 6:31 p.m.

Roll Call: Peter Bealo, *Chair*
Tim Fisher, *Vice Chair, excused*
Dan Lloyd
John Blinn
Jonathan Gifford, *excused*
Gary Ingham, *Alternate*

★G. Ingham was appointed as voting member for this meeting.

Review/Approval of Minutes

September 27, 2018 and October 25, 2018

★D. Lloyd moved, second by G. Ingham, to approve the minutes from the September 27 and October 25, 2018 meetings. There was no discussion on the motion. The vote was 4-0-0 U/A.

#18-22: A request from Joseph R. Merry, Jr for a Special Exception under Article X, all sections, to permit a home occupation, namely an office for an EMS training business. The property is located at 9 Witch Ln, Tax Map 42, Lot 34 in the MDR District. The property owners of record are Matthew R. Merry and Joseph R. Merry.

★G. Ingham moved, second by D. Lloyd to open the Public Hearing on Zoning Board of Adjustment (ZBA) matter #18-22. There was no discussion on the motion. The vote was 4-0-0 U/A.

D. Voss read a request from the applicant, Joseph R. Merry, Jr. to withdraw the application without prejudice.

★D. Lloyd moved, second by J. Blinn, to grant the request from Joseph R. Merry, Jr. to withdraw the application for a Special Exception for a Home Occupation at 9 Witch Lane without prejudice. There was no discussion on the motion. The vote was 4-0-0 U/A.

★P. Bealo moved, second by D. Lloyd to close the Public Hearing of ZBA matter #18-22. There was no discussion on the motion. The vote was 4-0-0 U/A.

#18-23: A request from Kevin Joyce for a Variance from Article V, §220-32E, to allow a barber shop and future barber school, which are not permitted uses. The property is located at 216 Main St, Tax Map 30, Lot 23 in the MDR district. The property owner of record is Mark F. Schena.

★P. Bealo moved, second by D. Lloyd to open the Public Hearing on ZBA matter #18-23. There was no discussion on the motion. The vote was 4-0-0 U/A.

It was noted for the record that a letter had been received from Mark Schena to authorize the application.

Kevin Joyce, Applicant and Kevin Smith, owner of the barber shop across the street (The Barbersmith), were present for the application.

K. Joyce noted the following in support of his application:

- He has a rent-to-own agreement with M. Schena
- They would like to open a barber shop and a barbering school
- The current location across the street is too small and only allows for 2-3 chairs for the barbers and little seating room for customer waiting
- 216 Main Street has been vacant for more than a year
- 216 Main Street is grandfathered as a retail location
- They are not looking to expand the footprint of the building
- They would be renovating and updating the building inside and outside
- They do not anticipate any increase in traffic to the site as they would just be moving their customers across the street
- There is existing retail use on the second floor of the building
- They started exploring the possibility of moving across the street and creating a barber school about eight (8) months ago

K. Smith added that they have started the process with the State and the Barbering Association. They will need to get the location and the curriculum approved before they can open the school and that process takes about two (2) years.

K. James addressed the criteria for the granting of a variance noting the following in support of their application:

- The application is not contrary to the Public Interest because they are not changing the structure or anything else about the site, other to improve the appearance of the property. They would only have 5-8 students at a time and the existing parking is more than adequate for their purposes.
- The Spirit and Intent of the Ordinance is maintained because the proposed use would be less intrusive than the approved retail use. It will be less of a burden on the surrounding area.

- There would be Substantial Justice in granting the variance because it is consistent with the current use in the area. It is a tough location for retail sales. The current business on the second floor is a retail use that does mostly online sales.
- The Values of Surrounding Properties would not be diminished because they will be improving the appearance of the property. The improvements will be a benefit to the neighborhood.
- Denial of the variance would result in an Unnecessary Hardship because there would be no negative impact to the adjacent properties, they are proposing to stay within the existing footprint, they will be adding value to the neighborhood by cleaning up and using the building, and the parking is adequate for their use.

It was noted that should the variance be approved the applicant will still have to make an application to the Planning Board to update the Site Plan for the change of use.

J. Blinn asked if the current location was a one-man barbershop.

K. Smith replied that in the current shop there are two (2) fulltime barbers, himself and another person, and the previous owner of the barbershop still works there part-time.

J. Blinn questioned if the proposed shop would have more chairs.

K. James responded that using the professional standards there would be room for five (5) chairs at the new location, which would occupy the entire first floor. He added at the current location there was no room for customers to wait, but there would be ample space at the proposed location.

K. Smith explained that there are very few accredited barbering schools in the country and only one (1) other in New Hampshire.

K. James added that barbering shouldn't be confused with cosmetology as they have a much more stringent program course. He also noted that the existing barbering school is in Concord and it has been reported that they will soon be retiring and closing the school.

K. Smith offered that it was difficult for him to get help, because most of the students have job offers before they even leave school.

There was additional discussion about the barbering school program. It was noted that there is often a six (6) month or more waiting period for students to enter a program. It was also noted that veterans can qualify for free or reduced tuition under the GI Bill educational program. It was noted that it would be two (2) years before they qualify to offer the veteran's discount. The students do not get paid for services they provide while in school, but do get the credit for the hours and are allowed to keep their any tips. There is a benefit to the community in the reduced costs of services provided by the students.

P. Bealo asked if the Board had any additional questions, there were none. He asked if anyone was speaking in favor or, or opposition to, the application for a variance. There was no one.

P. Bealo noted that there were only four (4) members sitting on the Board at this meeting. He explained how this might impact voting on any application, noting that three (3) votes to the affirmative are required to pass any motion. He offered the applicant the option to continue their Public Hearing to a time where there is a full board of five (5) members.

K. James offered that they would continue with the application at this meeting. He was cautioned that should he not prevail the lack of a full board could not be used as a reason to request a re-hearing. Mr. James affirmed that he would like to move forward with the application.

★D. Lloyd moved, second by G. Ingham to close the Public Hearing on ZBA matter #18-23. There was no discussion on the motion. The vote was 4-0-0 U/A.

P. Bealo explained the deliberations process, noting that while in deliberations the Board cannot consider any additional information. He added that a written decision would be issued within ten (10) days and that no permits could be issued for thirty (30) days to allow for an appeal period under NHRSA's.

DELIBERATIONS

★J. Blinn moved, second by D. Lloyd to open deliberations on ZBA matter #18-23. There was no discussion on the motion. The vote was 3-1-0 (Bealo dissenting).

★P. Bealo moved, second by D. Lloyd to grant the variance request for a barber shop and barber school at 216 Main St.

The following was noted regarding the application:

- The proposal is to relocate an existing barber shop across the street and add a barber school.
- Granting the variance would not take away the possibility of another barber shop opening in the existing location.

J. Blinn offered that it was a good use of the building at 216 Main Street and was good for the residents of the Town.

P. Bealo noted that the discounted services provided by the students would be helpful for the residents.

J. Blinn added particularly for the senior residents.

The Board reviewed the criteria for the granting of a variance with the following findings:

- The variance would not be contrary to the Public Interest because the business is already existing across the street. There should be no significant increase in traffic and it is less of an impact than the shoe store formerly located at this site.
- The Spirit and Intent of the ordinance is preserved because there is no increase in the use of the property, it's just a change in the use of the property (retail vs. personal services). The proposal isn't to bring in a Walmart-type retail use, but a neighborhood-friendly barber shop use.

D. Lloyd offered that it was nice to have something unique and services useful to the community as opposed to additional retail sales. He added that it would be good to have an option for those who would like to learn a trade.

- There is Substantial Justice in granting the variance as there is no gain to the public in denying it.
- The Surrounding Property Values will not be Diminished by the granting of a variance. The property is becoming an eyesore and the applicant testified that they would be improving the property, which should benefit surrounding property values, not diminish them.
- Denial of the variance will result in an Unnecessary Hardship because this is a small lot, already developed as a business use, but not suitable for just any business use. The propose use will preserve the business use, but in a modest manner without damaging the neighborhood. It's a "win-win" for all.

There was no additional discussion on the motion. The vote was 4-0-0 U/A.

Other Business

2019 Deadline and Meeting Schedule

The members were given a draft copy of the proposed 2019 Deadline and Meeting Schedule. It will be voted on at the next meeting.

Rules of Procedure Review and Update

It was suggested that a list of what constitutes a "complete application" be included in the Board's Rules of Procedure. That list would include:

- Completed and Signed Application Form
- Any Plans or Drawings
- Authorization letter if owner is different than applicant
- Abutters list and mailing labels
- Application and Abutter Notification Fees

It was proposed that there be language that no application will be accepted unless this minimum list is included.

There was discussion about requesting all applications be submitted electronically as well as hardcopy. Having the applications electronically allows staff to get them out to the Board efficiently. It was noted that not all applicants will have the ability to submit electronically. Those applications can be assisted by administrative staff on a case-by-case basis.

There was no additional business before the Board and the meeting was adjourned at 7:23 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant