



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

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
July 30, 2020

The meeting was called to order at 6:30PM

The Plaistow Zoning Board of Adjustment, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically, and these reasons shall be reflected in the minutes.

Please note that there is no physical location to observe and listen contemporaneously to the meeting which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order we are confirming that we are:

a) Providing public access to the meeting by telephone:

Members of the public wishing to attend this meeting electronically may call the following conference call number 1 (562) 247-8422 Access Code: 900-532-276

b) Additional public access by video or other electronic means will be available as follows:

We are utilizing the GoToWebinar platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during the meeting through the GoToWebinar platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting by clicking on the following webinar address <http://plaistowaccess.com/zb-remote>

c) Providing public notice of the necessary information for accessing the meeting

Legal notice was sent to all abutters for each application and was published in the Eagle Tribune newspaper, with information on how to access the meeting.

d) Providing a mechanism for the public to alert the public body during the meeting that a member of the public wishes to speak or be recognized during any public comment or public hearing.

The GoToWebinar platform has both a "raise your hand" and Q & A feature that allows attendees to alert that they have a question. Please note that all questions submitted through the Q & A feature must contain your address and will be read into the record.

e) Other access to the meeting: The meeting will also be broadcast on Plaistow Access Cable Channel 17 and will be livestreamed on the town website at www.plaistow.com.

f) In the event that the public is unable to access the meeting via conference call or GoToWebinar, the meeting will be adjourned and be rescheduled at a later time.

Roll Call: Peter Bealo, *Chair – attending remotely, no others present*
Dan Lloyd, *Vice Chair, attending remotely, no others present*
John Blinn, *excused*
Jonathan Gifford, *attending remotely, no others present, departed 7:52pm*
Gary Ingham, *attending remotely, no others present*
Jim Unger, *Alternate, attending remotely, no others present*

Also attending remotely: *Dee Voss, Administrative Assistant, no others present*

★ *Jim Unger was appointed as a voting member for this meeting – 5 voting members.*

PUBLIC HEARINGS:

#20-17: A request from Richard & Sanaz Anthony for an administrative appeal of the June 17, 2020 Planning Board decision on Application 19-06, Milton Real Properties of Massachusetts, LLC. Relating to Article II, Section 220-2, Article V, Section 220-28, Tables 220-32A and 220-32B. The subject properties for Planning Board matter 19-06 are 143 Plaistow Rd, Tax Map 30, Lot 73 and 145A Plaistow Rd, Tax Map 30, Lot 72 in the Commercial 1 District. Milton Real Properties of Massachusetts, LLC.

P. Bealo offered that prior to opening a public hearing on this matter he would like to discuss procedural matters related to this application. He noted that Zoning Official P. Michael (Mike) Dorman issued a Zoning Determination on February 6, 2019 and the Planning Board accepted that related application as complete on March 2, 2019. There was no appeal filed within the twenty-day requirement of the Zoning Board's By-Laws. He also noted that the Planning Board issued an approval for the related project on June 19, 2019, and there was no appeal filed to that decision either. He suggested that appeals at any points in time along the way might have been more timely, but not a year later.

P. Bealo also noted that when the paperwork for this appeal was filed with the ZBA, there should have been a copy filed with the Planning Board per NH RSA 676:5, and that was not done. Therefore, he offered that this application should be considered as untimely and improperly filed.

Other members of the Board agreed with Mr. Bealo's assessment of the procedural issues with the application.

★ *D. Lloyd moved, second by J. Gifford, that the Appeal of the Administrative Decision of the Plaistow Planning Board, filed by Richard and Sanaz Anthony, is both untimely*

and that service to the Planning Board was not made as required by NH RSA 676:5, and therefore denies the Plaistow Zoning Board of Adjustment jurisdiction over the appeal application.

There was no discussion on the motion.

Roll call vote: P. Bealo – yes; D. Lloyd – yes; J. Gifford – yes; G. Ingham – yes; J. Unger – yes. The vote was 5-0-0 U/A.

#20-18: A request from Angela Frisone for a Special Exception under Article X, All Sections to allow a home occupation, namely a one-chair beauty salon. The property is located at 5 Farrington Ave, Tax Map 52, Lot 50 in LDR District. The applicant is the property owner of record.

Angela Frisone, 5 Farrington Ave, was present remotely for the application.

A. Frisone offered the following information related to the application. She noted that she was a nail technician and she would like to have a single-chair home studio to service three (3) clients a week.

The following information was noted regarding the application:

- The business use would occupy +/- 8% of the living space
- The home occupation use will be within the residential dwelling
- The business use qualifies for home occupation under §220-66.A personal services business
- There are no uses that would be noxious or injurious by fumes, dust, odors, noise, hazardous chemicals or electrical fluctuations
- There are no commercial vehicles
- There is ample parking in the residential driveway

J. Gifford asked if there would be a sign.

A. Frisone offered that she would like to have a sign, and the sign will be compliant with the ordinance and she will obtain a permit.

P. Bealo offered that the sign cannot be internally lit.

J. Gifford asked is any chemicals used would be neutralized prior to being dumped into the septic.

A. Frisone offered that she wouldn't have any chemicals that wouldn't be found in an average medicine cabinet, nor in any greater quantity.

J. Unger noted his experience with these waste products as they all can be flammable. He noted that they should not be poured down any drain.

P. Bealo asked if the Board had any questions. There were none. He asked if there was anyone attending remotely speaking in favor of, or in opposition to the application. It was confirmed that there were no “raised hands” showing.

P. Bealo explained the deliberation process, noting that there could not be any additional input once the public hearing is closed. He added that no permits can be issued for thirty (30) days and a written notice of decision will be mailed within 5 business days.

The public hearing was closed.

DELIBERATIONS:

★ G. Ingham moved, second by J. Gifford, to grant the request from Angela Frisone for a Home Occupation, under Article X, all sections to allow a one-chair beauty salon at 5 Farrington Ave, Tax Map 52, Lot 50.

P. Bealo offered that this was a classic application for a home occupation. He added that this was a very light use of the property, with a small footprint, 3-4 customers a week; no outside storage or commercial vehicles.

There was no additional discussion on the motion.

Roll call vote: D. Lloyd – yes; J. Gifford – yes; G. Ingham – yes; J. Unger – yes; P. Bealo yes. The vote was 5-0-0 U/A.

#20-19: A request from Donald L. and Marlene G. Watts for a variance from Article V, §220-321.A to permit an addition to an existing garage to be built eight (8) feet from the side property line, where 25’ is the minimum allowed. The property is located at 24 Harriman Rd, Tax Map 50, Lot 74 in the LDR District. The applicants are the property owners of record.

Donald and Marlene Watts, 24 Harriman Road, were present remotely for the application.

D. Watts explained that he would like to put a 22’-24’ addition on his existing garage. The addition would be to house his show cars and additional storage. The addition would be eight (8) feet from the property line and run nearly parallel to the property line.

P. Bealo asked if the addition would intrude any more than the existing garage. It was confirmed that it would not. He noted that the drawing showed the septic to be located in front and to the right of the house, negating the ability to place a garage on that side.

D. Watts added that it would also mean putting in a driveway across the leach field.

There was discussion about the propose location of the addition including the slopes and proximity to the property line. It was noted that there is a slight slope to the back and

there would be fill needed to level the sight for a garage addition. It was noted that the closest point to the property line would be where the garage would extend from the current garage and would then slight move away from the property line as it extends back. It was noted that the doors on the existing garage would be the access to the addition with the exception of a small door to allow access for his lawn equipment. It was also noted that there would not be a need for an additional driveway.

D. Watts offered that he hadn't made a final decision on whether the addition would be 22' feet or 24' in length, but the width would be the same as the existing garage. There was discussion about setting a maximum size as part of any decision if approved.

P. Bealo read the response to the variance criteria from the Watts application, which noted the following:

- The proposed variance will not be Contrary to the Spirit and Intent of the Ordinance because the proposed new structure is behind the existing garage and only partially exposed to viewing from the street.
- The Spirit and Intent of the Ordinance is preserved because the proposed new structure is behind the existing garage and only partially exposed to viewing from the street, and therefore will not be unsightly.
- There is Substantial Justice in Granting the variance because the proposed new structure is behind the existing structure and only partially exposed to viewing from the street.
- The Values of Surrounding Properties will not be Diminished because the proposed new structure is behind the existing garage and therefore will not be unsightly.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because: the applicant noted that there was no unnecessary hardship.

J. Gifford asked if the new structure would be any taller than the existing one.

D. Watts replied it would not, and the roofline would likely be less steep.

P. Bealo questioned what the applicant would do with the cars if the variance is not granted.

D. Watts offered that one is currently outback under cover and the other was in the existing garage which left his wife's car in the driveway. He added that the cars were put in storage over the winter, which was expensive.

J. Gifford offered that the storage may be a hardship.

P. Bealo asked if there were any more questions for the Board, there were none. He asked if there was anyone speaking in favor of the application. It was confirmed that there were no "raised hands" in the remote audience. P. Bealo asked if there was anyone speaking in opposition to the application.

Athena Athanansatos, 22 Harriman Road, sent in an email in opposition. Ms. Athanansatos noted two (2) concerns:

- Although the proposed new structure may only be partially exposed to viewing from the street it will be fully visible and extremely close to my property line (8 feet) and existing structure. Therefore, it will be unsightly from my property but, more importantly, will have a negative effect on my property value.
- As my property is located downhill from 24 Harriman Road and I am concerned that the disruption of natural grading may cause drainage issues along with possible flooding and erosion for my property.

There was discussion about the slopes between the two properties.

Nicole DiChristofaro, daughter of A. Athanansatos, offered that her mother's property was downslope from the subject property and there was the concern that once the ground is disturbed for construction that there will be an increase in water on her property.

P. Bealo asked if the variance were to be granted with a condition that there be gutters on the building would that make the neighbor more comfortable.

D. Watts offered that water does not currently flow down the grade, but soaks quickly into the ground.

P. Bealo asked if Ms. Athanansatos had seen water running to her property from the Watts' property.

N. DiChristofaro replied that they had not, but the concern was for the potential if the grade was to change. She expressed that they didn't want to have to put in a retaining wall in the future.

P. Bealo offered that if they can divert any water away it shouldn't cause any runoff.

N. DiChristofaro asked if there would be any trees removed.

D. Watts noted that there would be one larger pine tree removed and a couple of smaller trees. He added that they would not be changing the grade, but only leveling it for the new structure. He offered that he'd never seen water running down the slope to his neighbor's property in the twenty (20) years that he has lived there.

There was discussion regarding putting the addition on the front of the building. It was noted that if a new structure were to follow the line of the existing garage, putting it on the front would bring it closer to the property line in the front.

P. Bealo asked if there was anyone else speaking in opposition to the application. It was confirmed that there were no other “raised hands” in the remote audience. The public hearing was closed.

DELIBERATIONS:

★ P. Bealo moved, second by J. Gifford, to grant the request from Donald and Marlene Watts for a variance from Article V, §220-32I.A to allow a 24’ addition to an existing garage to be built within eight (8) feet for the side property line. The subject property is located at 24 Harriman Rd, Tax Map 50, Lot 74, with the following condition:

- ***Gutters will be installed on the new garage with downspouts that are aimed away from the abutting property at 22 Harriman Road.***

Discussion:

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

- The application is not Contrary to the Public Interest because it won’t be any closer to the property line than the existing structure

J. Gifford offered that an additional 24’ feet of garage were quite an extension for the affected neighbor.

- The Spirit and Intent of the Ordinance is preserved because:

P. Bealo offered that he wasn’t clear that the intent of the ordinance is preserved, noting that 24 feet was a strong intrusion.

J. Gifford added that it was doubling the length of the existing garage.

J. Unger, noting the Pictometry picture, offered that neighbor’s view was past the end of the proposed garage addition.

There was discussion about the unusual angle of the abutter’s house as it is situated on the property. The line of sight was noted to be past the proposed structure. It was reiterated that the proposed structure will get farther away from the property line as it extended back. It was suggested that the applicant shouldn’t be penalized for the unique positioning of the neighbor’s house.

- There is Substantial Justice in the granting of the variance because:

J. Gifford offered that the neighbor is part of the general public and they have concerns over the proposed addition.

P. Bealo added that while garages are allowed this was asking for twice over the existing garage.

- The Values of Surrounding Properties will not be diminished because:

P. Bealo offered that there would be a lot more garage for the neighbor to see.

J. Unger reminded that they could build on the front, but he wasn't sure how that would look.

P. Bealo noted that would be a different variance request.

- Literal enforcement of the provisions of the ordinance would result in Unnecessary Hardship because:

P. Bealo noted that a hardship is defined by the uniqueness of the property, having to pay additional storage fees for the cars was not considered as a hardship for the granting of a variance.

D. Lloyd offered that anyone could drive up and down Harriman and other roads and see many Quonset style structures on properties. He noted that he would rather see a permanent garage structure over the Quonset huts, adding that they get ratty looking over time.

P. Bealo added that the variance criteria aren't defined by what the Board would rather have, but what was being applied for.

There was additional discussion about the position of the neighbor's house and what they will be able to see if the variance is granted. It was noted that the applicant had said that a single pine and a couple smaller trees would be the only trees removed.

There was no additional discussion on the motion.

Roll call vote: J. Gifford – no; G. Ingham – yes; J. Unger – yes; P. Bealo – no; D. Lloyd – yes. The vote was 3-2-0 and the motion carried.

#20-16: A request from Nicole Provencher for a variance from Article V, §220-321.A to permit a 10' X 12' storage shed to be placed six (6) feet from the side property line, where 25' is the minimum allowed. The property is located at 33 Forrest St, Tax Map 49, Lot 5 in the LDR District. The property owners of record are Nicole Provencher and Justin Lemieux.

Nicole Provencher, 33 Forrest Street, was present remotely for the application.

She noted that they would like to place a shed, tucked into some trees and shrubs on side of their property.

The Board reviewed pictures of the property provided with the application, noting the location of the septic, a large number of trees and a fire pit. It was also noted that the large parcel next door had a 50-foot strip located next to the subject property. It was suggested that it was to preserve access to the adjacent parcel from Forrest Street.

P. Bealo read the applicant's responses to the criteria for the granting of a variance, which noted the following:

- The proposed variance will not be Contrary to the Public Interest because it will be within our property lines and will not be openly visible to the public from the street

P. Bealo offered that it might be visible if a road were to be put in next to this property, but that wasn't a consideration for this application.

- The Spirit and Intent of the Ordinance is preserved because the storage shed may not be a permanent structure, will not obstruct views of the public or abutters and will not be considered unsightly
- There is Substantial Justice in granting the variance because the lot is narrow. By following the 25-foot side setback guidelines the storage shed would be placed in the middle of the lot. This would decrease the property value and become an unsightly view

P. Bealo noted that it would also be too close to the fire pit, which could be a hazard.

- The Values of Surrounding Properties will not be Diminished because the storage shed will be placed near the side property line that has not dwellings visible next to it. It will be 50% surrounded by vegetation
- Literal enforcement of the provisions of the ordinance would results in an Unnecessary Hardship because the storage shed would be in the middle of the back yard. It would obstruct our view and would look unsightly

D. Lloyd asked if the shed was intended to be permanent.

N. Provencher offered that they would just be digging enough to level the ground and the shed would be placed on blocks or gravel and may not be permanent.

P. Bealo explained that regardless of the shed being temporary or permanent, the variance, if granted, would be forever.

P. Bealo asked if there were any additional questions from the Board. There were none. He asked if there was anyone speaking in favor of, or in opposition to, the variance

request. It was confirmed that there were no “raised hands” in the remote audience and the public hearing was closed.

DELIBERATIONS:

★ J. Unger moved, second by D. Lloyd, to grant the request Nicole Provencher for a variance from Article V, §220-32I.A to allow a shed to be built within six (6) feet for the side property line. The subject property is located at 33 Forrest, Tax Map 49, Lot 5

Discussion:

J. Gifford offered with the 50-foot buffer and all the foliage he didn’t see any problems with the placement of the shed.

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

- The proposed variance will not be Contrary to the Public Interest because the shed will not be visible by the public or any abutters
- The Spirit and Intent of the Ordinance are preserved because the shed will not obstruct any views and the proposed location is the best place for it.
- There is Substantial Justice in granting the variance because there is no gain to the public by denying the variance
- Values of Surrounding Properties will not be Diminished because the closest structure is more than 50-60 feet away and the shed will not be visible from the street
- Literal Enforcement of the Provisions of the Ordinance would result in an Unnecessary Hardship because the lot is narrow and severely limits alternatives for placement of the shed

J. Unger noted the minimum lot sizing in this district is 110,000SF and the setback were intended for lots of that size, not the 14,000 of this lot.

There was no additional discussion on the motion.

Roll call vote: G. Ingham – yes; J. Unger – yes; P. Bealo – yes; D. Lloyd – yes; J. Gifford - yes

Other Business – Request from the Planning Board for Clarification

D. Voss read a letter from Planning Director, John Cashell. The letter noted that the Planning Board was reviewing a site plan application for 88 Plaistow Road, which proposed self-storage as the use for the entire parcel. The Board had granted a variance on May 30, 2019 for the self-storage use, no longer permitted in the Commercial 1 District. The Planning Board asked for clarification of whether or not the use was

granted for just the building at the rear of the site which was the plan seen by the Zoning Board at the time, or for the entire site.

P. Bealo offered that the notice of decision was over a year ago and it wouldn't be appropriate for the Board to re-hear that matter all this time later. He added that there needed to be certainty in the finality of the Board's judgments. He suggested that another copy of the Notice of Decision be sent to the Planning Board with a letter noting that there were no conditions attached to the decision to grant the variance.

P. Bealo noted that it was a good reminder to the Board that they are allowed to set conditions to grant a variance, such as they had done at this meeting with reference to 24 Harriman Road.

J. Gifford recalled that the only items that were of concern was the lighting.

D. Lloyd recalled that there were questions about the potential for runoff, but all questions were answered.

It was the consensus of the Board to request that D. Voss draft a letter to be reviewed by the chair and then sent to the Planning Board.

There was no additional business before the Board and the meeting was adjourned at 7:54PM

Respectfully Submitted:

Dee Voss
Administrative Assistant