



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

**ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES**  
**March 25, 2021**

The meeting was called to order at 6:32 pm

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, is authorized to meet electronically, and these reasons shall be reflected in the minutes. Notice of this electronic meeting was sent to all abutters of the subject properties and published in the Eagle Tribune Newspaper.

The Plaistow Zoning Board of Adjustment is utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during the meeting through the Zoom program, and the public has access to contemporaneously listen and, if necessary, participate in this meeting. The link to access this meeting was provided on the Town's website.

There is a "raise your hand" feature of the program that will allow attendees to participate in the discussion. There is also a Q&A box for the public to type questions during the meeting. The Public can also send emails with questions or concerns prior to the meeting to [dvoss@plaistow.com](mailto:dvoss@plaistow.com). All emails received by 3:00 PM on the day of the meeting will be read into the record at the meeting. Please note: all questions and concerns typed into the Q & A box or sent via email will be read aloud to become part of the public record. The meeting will also be live on Plaistow Access Cable - Channel 17 and will be livestreaming on the Town's website.

**Roll Call:** Peter Bealo, *Chair – attending remotely, no others present*  
Dan Lloyd, *Vice Chair - attending remotely, no others present*  
John Blinn - *attending remotely, no others present*  
Jonathan Gifford – *attending remotely, no others present*  
Gary Ingham - *Excused*  
Jim Unger, *Alternate – attending remotely, no others present*

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

★ *J. Unger was appointed as a voting member for this meeting.*

**Review and Approval of Minutes from February 25, 2021 Meeting**

★ *D. Lloyd moved, second by J. Blinn to approve the minutes of the February 25, 2021 meeting. There was no discussion on the motion.*

**Roll Call Vote:** P. Bealo – yes; D. Lloyd – yes; J. Blinn – yes; J. Gifford – yes; J. Unger – yes.  
**The vote was 5-0-0 U/A.**

P. Bealo went over the procedures for the meeting noting the following:

- Each matter will be heard in turn, the applicant will make their presentation, the Board will question and then the hearing will be opened to the public
- Once all testimony has been heard, and the public hearing closed there cannot be any additional input
- Each matter will be decided prior to the opening of a new public hearing for additional applications
- All motions will be made in the affirmative “to grant” format for clarity and consistency
- A written notice of decision will be available within five (5) business
- The Board reserves the right to continue any deliberations if they feel the need assistance of legal counsel
- No permits can be issued for thirty (30) days to allow for an appeal period per the RSAs

### **PUBLIC HEARINGS:**

**#21-04: A request from Barry Weymouth for a special exception under Article X, all sections, to permit a home occupation, namely and office for a real estate sales and evaluation business. The property is located at 133 Main St, Tax Map 40, Lot 50 in the VC Zoning District. The property owners of record are Barry M. and Tracy L. Weymouth.**

Barry Weymouth, applicant, and property owner of 133 Main Street was present remotely.

B. Weymouth noted that he’s been a realtor for some time but has never had an office in town. He noted that his office would be by appointment only. He also noted that he would like to be able to have a sign for exposure for his business.

P. Bealo asked for clarification on what was meant by “evaluation” in the application.

B. Weymouth noted that he is sometimes called upon as a broker to give an opinion on a property. He reiterated that any activity on site would be by appointment and added that any parking would be in the driveway or on street.

The Board reviewed the Conditions for a Home Occupation from Article X with the following findings:

- The proposed business use will be secondary to the residential use
- The proposed business use qualifies as a home occupation under §220-66A
- The proposed business use will not be injurious, noxious or offensive because of emission of odor, fumes, dust, smoke, vibration or noise. There will not be any offsite electrical fluctuations.
- This is a two-family dwelling
- The applicant is the property owner
- The proposed business use will occupy ~4% of the residential living space (25% is the maximum)
- The proposed business use will not change the character of the dwelling or the property
- The applicant intends to have a sign, and has been made aware that the size is limited to three (3) SF and a permit is required
- The applicant is the sole employee
- There will not be any outdoor merchandise displayed

- There is sufficient off-street parking, and on-street parking is permitted at this location
- The applicant does not expect any business-related deliveries that would not be in keeping with residential activities
- There is only one (1) business vehicle, which is also the applicant's personal vehicle
- There will not be any flammable, noxious or dangerous materials stored in the vehicle
- There are no covenants in the deed that would prohibit the proposed home occupation use
- This is not a condominium
- This is the only proposed business use at this property. It was noted to the applicant that there can only be one (1) home occupation per dwelling unit
- A floor plan was provided with the application for the home occupation

The following specifications of the ordinance were provided to the applicant:

- The home office is subject to inspection by the Code Enforcement Official (CEO) prior to the issuance of a Home Occupation certificate, and is subject to periodic inspections thereafter
- If in the opinion of the CEO the business practices change, the home occupation permit may be revoked
- If the ZBA feels it is warranted, the applicant may need to file for a site plan review and approval with the Planning Board. It is not felt to be warranted in this instance
- All home occupations may be renewed every three (3) years, provided there are no violations of the provisions on Article X
- The applicant will not be notified for renewal, it is their responsibility to track their expiration date and apply for renewal prior to that date

P, Bealo asked if the Board had any questions. There were none. He asked if there was anyone speaking in favor or, or opposition to, the application. There was no one else in attendance remotely and no emails had been received. The public hearing was closed.

#### DELIBERATIONS:

***★ J. Blinn moved, second by J. Unger, to grant the request from Barry Weymouth for a Home Occupation, under Article X, all sections to allow real estate sale and evaluation office at 133 Main St, Tax Map 40, Lot 50.***

#### Discussion:

It was noted that the application was a “no brainer” and it fit all the criteria.

There was no additional discussion.

***Roll Call Vote: D. Lloyd – yes; J. Blinn – yes; J. Gifford – yes; J. Unger – yes; P. Bealo – yes. The vote was 5-0-0 U/A.***

#### **OTHER BUSINESS – BY-LAW AMENDMENTS:**

The Board did a second reading of proposed amendments to their By-Laws. There were no changes suggested at this reading.

**★ J. Gifford moved, second by D. Lloyd, to adopt the changes to the Zoning Board of Adjustment By-Laws as read. There was no discussion on the motion.**

**Roll Call Vote: J. Blinn – yes; J. Gifford – yes; J. Unger – yes; P. Bealo – yes; D. Lloyd – yes; The vote was 5-0-0 U/A.**

**OTHER BUSINESS – TRAINING:**

The Board discussed the upcoming “Roles and Responsibilities” training sponsored by the Town. All members will attend the April 19, 2021 session.

There was no additional business before the Board and the meeting was adjourned at 7:00 p.m.

Respectfully Submitted:

Dee Voss  
Administrative Assistant

Attachments: Draft Amended ZBA By-Laws

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ZONING

220 Attachment 1  
OF  
Town of Plaistow

**Zoning Board of Adjustment Bylaws**  
[Adopted as amended 5-25-2006, Amended 1-24-2019]

**PROPOSED AMENDMENTS**

Deletions appear in **~~Strikethrough-Red~~**  
Additions appear in ***Red***

**AUTHORITY:**

These rules of procedure are adopted under the authority of New Hampshire Revised Statutes Annotated (***RSA***) 1983, Chapter 676:1, and the Zoning Ordinance and Map of the Town of Plaistow.

**OFFICERS:**

A Chair shall be elected annually by a majority vote of the Board in the month of **~~September~~ April**. He/She shall preside over all meeting and hearing, appoint such committees as directed by the Board and shall affix their signature in the name of the Board.

A Vice-Chair shall be elected annually by a majority vote of the Board in the month of **~~September~~ April**. The Vice-Chair shall preside in the absence of the Chair and shall have the full powers of the Chair on matters which come before the Board during the absence of the Chair.

All officers shall serve for one (1) year and shall be eligible for re-election.

Up to five (5) alternate members shall be appointed, as provided for the by the local legislative body, to serve whenever a regular member of the Board is unable to fulfill their responsibilities.

An Administrative Assistant shall be assigned to the Board by the Board of Selectmen or its designee. The Administrative Assistant shall be a paid employee of the Town of Plaistow and shall maintain a record of all meetings, transactions and decisions of the Board, and perform such other duties as the Board may direct by resolution. The Administrative Assistant has no vote on matters before the Board.

**MEETINGS:**

Regular meetings shall be held at the Town Hall at 6:30 p.m. A schedule of the meeting dates and application deadlines shall be published annually by December 1<sup>st</sup> for the next calendar year. Other meetings may be held on call of the Chair, provided public notice and notice to each

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member is given at least forty-eight (48) hours, excluding Sundays and legal holidays, prior to such meetings.

### PERSONAL ELECTRONIC DEVICES AT MEETINGS

Use of electronic devices is subject to the Right-to-Know Laws as described in RSA 91-A. Therefore, use of any personal electronic devices during board meetings is prohibited.

#### Exceptions:

- The Recording Secretary may use an electronic device to record the meeting.
- *Use of personal electronic devices is permitted for remote meeting access*

All personal electronic devices will be placed in silent mode during board meetings.

In the event that a member needs to handle an emergency situation, they may excuse themselves from the table to do so.

#### QUORUM:

A quorum for all meetings of the Board shall be three (3) members, including alternates sitting in place of members. RSA 674:33 provides that "...the concurring vote of three (3) members of the Board shall be necessary to reverse any action of an administrative official or decide in favor of any appeal..." For this reason, the Board will make every effort to ensure that a full five-member Board is present for the consideration of any appeal.

If there is not a full five-member Board the applicant shall have the right to request a continuance to the next meeting. The date and time of the next meeting shall be announced and considered official notification to all interested parties of the continuance. No additional written notification will be sent.

If any regular Board member is absent from any meeting or hearing, or disqualifies him/herself from sitting on a particular case, the Chair shall designate one of the alternate members to sit in the place of the absent or disqualified member, and such alternate shall be in all respects a full member of the Board while sitting.

#### DISQUALIFICATION:

If any member finds it necessary to disqualify him/herself from sitting in a particular case, as provided in RSA 673:14, he shall notify the Chair, or the Administrative Assistant, as soon as possible so that an alternate may be requested to sit in their place. The disqualification shall be announced by either the Chair or member disqualifying him/herself before the beginning of the public hearing on the case. The member disqualifying him/herself shall ~~absent~~ *remove* him/herself from the Board table during the public hearing and during the deliberations on the case.

#### CANCELED MEETINGS:

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In the event a meeting is canceled by lack of a quorum, severe weather conditions, or other event that is not the fault of the applicant, the costs of renotification of the public hearing shall be borne by the Board.

### ORDER OF BUSINESS:

The order of business for regular meetings shall be as follows:

- Roll call by the Administrative Assistant.
- Minutes of the previous meeting.
- Unfinished business.
- Public hearings.
- New Business.
- Communications and miscellaneous.
- Adjournment.

(Note: Although this is the usual order of business, the Board may wish to hold the hearings immediately after roll call in order to accommodate the public.)

### APPLICATION/DECISION:

Each applicant for a hearing before the Board shall be made on forms provided by the Board and shall be presented to the Administrative Assistant of the Board of Adjustment, who shall record the date of receipt of over their signature.

Only a completed application, submitted prior to the posted deadline, will be accepted. A complete application shall consist of the following items:

- Completed and signed application form.
- Original signature authorization to proceed letter if applicant is not the property owner.
- Names and addresses of all abutters, property owners and other consultants, including legal counsel, if applicable.
- Mailing labels for all abutters, property owners, and other consultants, including legal counsel, if applicable, with each name/address appearing three (3) times. See application form for specific label size.
- Any letters of denial or other referral from other boards, committees, commissions or departments.
- Any related plans or deeds if required.
- Electronic/Digital copies of all listed items.
- All applicable fees

Appeals from an administrative decision taken under RSA 676:5 shall be filed within ~~twenty~~ **thirty (30)** days of the decision.

At each meeting the Administrative Assistant shall present to the Board all applications received at least 10 days before the date of the meeting.

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All forms and revisions prescribed shall be adopted by resolution of the Board and shall become part of these rules of procedure.

Public notice of public hearings on each shall be pursuant to RSA 91-A. Notice shall include the name of the applicant, description of the property, to include Tax Map/Lot identification, action desired by the applicant, provisions of the Zoning Ordinance concerned, the type of appeal being made and the date, time and place of the hearing.

Personal notice shall be made by verifiable mail to the applicant and all abutters not less than five (5) days before the date of the hearing. Notice shall also be given to the Planning Board and other properties deemed by the Board to have special interest. Said notice shall contain the same information as the public notice and shall be made on forms provided for this purpose.

~~(Note: Return receipt requirement deleted as of 7/26/1985. Continued use of this requirement by local regulations has not be clarified.)~~

### **APPLICATION FEES:**

*Application Fees are charged to cover the cost of legal noticing in a newspaper of local circulation as well as staff time involved in preparing notifications and meeting materials.*

- *Application: \$125.00/application*
- *Verified Mailing Fee: Current USPS Certified/Return Receipt mailing costs, rounded up to the next whole dollar.*

*Note: When more than one application (request for relief) is filed at the same time, the application fee shall be multiplied by the number of applications. However, since all applications will be noticed in the same verified mailing, the mailing costs are not multiplied by the number of applications.*

### **PUBLIC HEARING:**

The conduct of public hearings shall be governed by the following rules:

- The Chair shall call the hearing into session and ask for the Administrative Assistant's report on the first case.
- The Administrative Assistant shall read the legal notice.
- Members of the Board may ask questions at any point during testimony.
- Each person who appears shall be required to state their name and address and indicate whether he is a party to the case or an agent or counsel of a party to the case.
- Any member of the Board, through the Chair, may request any party to the case to speak a second time.
- Any party to the case who wants to ask questions of another party to the case must do so through the Chair.
- The applicant shall be called to present their appeal, and those appearing in favor of the application shall be allowed to speak.
- Those in opposition to the appeal shall be allowed to speak
- The applicant and those in favor shall be allowed to speak in rebuttal.

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- Those in opposition to the appeal shall be allowed to speak in rebuttal.
- Any person who wants the Board to compel the attendance of a witness shall present their request in writing to the Chair not later than three (3) days prior to the public hearing.
- The Board of Adjustment will hear with interest any evidence that pertains to the facts of the case or how the facts relate to the provisions of the Town Zoning Ordinances and state zoning law.
- The Chair shall present a summary setting forth the facts of the case and the claims made for each side. Opportunity shall be given for correction from the floor.
- The hearing on the appeal shall be declared closed and the Board will immediately deliberate on that case.

### DECISIONS:

The Board shall decide each case within fourteen (14) days; the Board will approve, approve with conditions, deny the appeal, or defer its decision. Notice of the decision or deferral will be made available for public inspection, as required by RSA 676:3. If the appeal is denied or deferred, the notice shall include the reasons therefor.

### RECORDS:

The records of the Board shall be kept by the Administrative Assistant and made available for public inspection at the Planning Office in accordance with statutory requirements.

Final written decision will be placed on file and available for public inspection after the decision is made public, pursuant to RSA 676:3.

### REQUESTS FOR REHEARINGS:

~~Requests for rehearing must be submitted by any interested party within thirty (30) days of the decision of the Board. Fees for the renotification of the abutters of the rehearing shall be paid by the requestor and shall be submitted before the deadline for the next meeting.~~

*All requests for re-hearing shall be made in compliance with RSA 677:2 and 677:3, and if granted, must also comply with the following:*

- *If a re-hearing is granted, it will be scheduled for the next available meeting date*
- *The fees for any re-hearing request granted by the Board shall be the same as those for the initial application.*
- *Payment of the fees for any re-hearing are the responsibility of the re-hearing requestor.*
- *All fee payments shall be submitted before the published application deadline of the next meeting date.*
- *If payment is not received by the published application deadline date for the next meeting, the request for re-hearing shall be considered abandoned.*

Minutes of all meetings, including the names of the Board members, persons appearing before the Board and a brief description of the subject matter, shall be open to public inspection pursuant to RSA 91-A.

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### AMENDMENTS:

These rules of procedure may be amended by a majority vote of the members of the Board, provided that such amendment is read at two (2) successive meetings immediately preceding the meeting at which the vote is to be taken.

draft 03/25/2021