ZONING BOARD OF ADJUSTMENT
September 29, 2016

The meeting was called to order at 7:01 p.m.

Roll Call: Peter Bealo, *Chair*
Tim Fisher, *Vice Chair*
Jim Allen
Joyce Ingerson
Dan Lloyd
John Blinn, *Alternate (non-voting)*

#16-10: A request from METCON Realty, LLC, for a variance from Article IX, §220-60, to permit business sign of 42 sq. ft. to replace an existing sign and the maximum allowable is 15 sq. ft. The property is located at 144 Main St, Tax Map 41, Lot 11 in the VC District. The Town of Plaistow is the property owner of record.

Joseph Barbone, Sr. General Manager Methuen Construction was present for the application.

He presented the Board with a packet of photos and sketches of the proposed sign. He also noted that following about his application:

- The sign would be for Methuen Construction as well as Summit Metals
- The proposed sign would replace an existing sign, but the location might change slightly
- The proposed sign would be in keeping with the historic character of the Village Center District
- The proposed sign would have decorative posts with the sign in the middle.
- The existing sign is eight (8) feet wide and seven (7) feet high, with overgrown shrubbery around it
- The proposed sign would be well landscaped with smaller shrubs and perennials
- The theme of the proposed sign is in the spirit of the train depot across the street. Mr. Barbone offered that there was discussion about moving the depot building across the street and turning it into a museum
- The proposed sign would have a hip roof with angled supports. It will be lit, with the power supply for the electric being solar panels mounted to the roof of the sign
- The proposed sign would include space for future tenants as well as a sign for the Plaistow Community Gardens

The packet that J. Barbone submitted also had pictures of other free standing signs in the district.

J. Barbone explained that the hardship for his business is that they are located in the Industrial District, but have no road frontage in that district, which would allow for a larger sign. The entrance to their property is through the Village Center which has much more stringent signage requirements.

J. Barbone continued to offer:

- The sign is not huge or obtrusive, but provides adequate identification for their business use
- The dimensions of the signs without the roof are 9'6" X 12'
- The dimensions are 16' X 15'6" including the soffits

J. Barbone provided the following information with reference to the variance criteria:

- The sign will not be contrary to the public interest because it will improve the aesthetics from what currently exists. It is located near the railroad which has had warning lights and signals in place for many years. The size of the proposed sign is visually proportional to its surroundings
- The spirit and intent of the ordinance is preserved because the design intent to mimic the old railroad station close by to keep within the historic architecture of the Village Center
- There is substantial justice in granting the variance because it is in keeping with the theme of the Village Center District and will be visually proportioned to its surroundings
- The values of the surrounding properties will not be diminished because the sign is approximately the same size as the existing sign and will not obstruct scenic views. It will greatly enhance the visuals over what is currently there. Lighting will be down from the roof and mitigate any stray migration of light
- Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because there will be several business entities listed on the sign. The literal enforcement of the ordinance would result in vehicles drivers, especially large trucks, will be less likely to identify the entrance to the site. This could make for unnecessary turning traffic in the Village District as drivers have to turn around and go back to the entrance. Drivers would be distracted trying to locate the graphics/identifiers on a smaller sign. The building not having frontage on the street is also a hardship.

A letter of support from Sean Fitzgerald, Town Manager was read in to the record.

P. Bealo asked if there were any abutters wishing to question or comment. There was no one. He asked if the Board had any questions or comments.

J. Ingerson noted that the letter from the Town Manager notwithstanding, the fact that Methuen Construction had agreed to put up a sign for the Community Gardens, although generous, would not factor into her decision making process.

J. Allen asked what practice was for putting private business signs on public land.

D. Voss responded that the sign already existed on Town property.

There was discussion regarding the size of the sign listed in the application (42 sq ft) versus the sign that Mr. Barbone was talking about, which was approximately 120 sq ft. It was noted that a request could be downsized once an application was legally noticed, but it could not be upsized. The assumption is that an abutter will not be concerned with something that is smaller than what was noticed, but could have a problem with something larger than what was noticed.

P. Bealo noted that the largest sign the Board would be able to approved, if they voted to do so, would be the 42 sq ft sign that was noticed. He suggested that Mr. Barbone withdraw his application and re-apply for the correct sized sign.

J. Barbone stated that he would like to withdraw his application at this time.

#16-07: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #1) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

#16-08: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #2) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

#16-09: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #3) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

All three applications were read together as they are inter-related to each other.

Charlie Zilch, SEC and Associates, representing Susan Merck and Lisa Gardella, S&L Garage Realty, LLC

C. Zilch noted that following regarding the property located at 157 Plaistow Road:

- The property is the location of Skip's Custom Exhaust
- The property is located in the Commercial 1 District
- There are two abutting properties totaling 1.9 acres, with 439' of combined frontage
- The existing buildings are all serviced by onsite well and septic
- There are three existing buildings on the site
    - The northerly most building is a 3,542 sf., 1-

story commercial auto service and custom exhaust shop known as "Skips Custom Exhaust"
    - The middle building is a 1,292 sf., 2-story unoccupied commercial building, formerly used as a convenience store then an apartment and now as commercial space.
    - The southerly most building is a 1,176 sf., 1-story commercial auto detail shop known as "Skips Detailing".
- The application proposed three small additions the first two existing buildings, all of which will be within the minimum front setback
- Additions #1 (400 sq ft) and #2 (208 sq ft) are for additional office space
- Addition #3 (164 sq ft) proposes to square off that end of the building and will accommodate a larger garage door on the first floor and additional office space on the second floor
- The building that the additions are proposed for currently does not meet minimum setbacks
- The building was constructed prior to zoning requirements

C. Zilch showed the existing buildings, parking, proposed additions, septic and well on the site plan.

The Board reviewed the location of each proposed addition on the plan. It was noted that Addition #2 was being constructed over an existing stairway and Addition #3 would square off the end of the building.

C. Zilch noted that following in support of the criteria for granting the variance.

Addition #1:

1. The proposed variance will not be contrary to the public interest because: By granting the variance it will allow the owners the full productive use of site minimal disturbance and disruption of the existing businesses. This will not be contrary to the public interest because the proposal will be less impacting than the alternative of locating the addition elsewhere on the building. In order to site the addition elsewhere it would have to be located in an area either occupied by the existing septic system, or within areas currently utilized to support the existing daily automotive service. Placing the office in the location proposed, allows for easy access from the existing parking area and away from the service areas. The limited disturbance and ease of access provide the most effective use of the space and provides the additional office space needed to support the business. All considered, there will be no negative affect to the general health, welfare and safety of the general public.

2. The spirit and intent of the ordinance is preserved because:
The intent of the ordinance is to provide buffering from the road that services the property. The purpose of the setback is to provide adequate room for access, parking, screening and all necessary improvements associated with a commercial business. Additionally the setback provides continuity between onsite buildings and buildings

on abutting properties. In this particular case the building on which the addition is proposed is an existing non-conforming use already established within the setback. The proposed addition will be located within an area currently utilized for existing parking space that services the existing business. This addition will be no closer to the street line than the existing building. Any and all parking misplaced by the proposed addition can easily be added adjacent to the addition in an area that meets all required setbacks. All considered the addition does not interfere with intent of the ordinance and the spirit and intent of the ordinance will be maintained by granting of the variance.

3. There is substantial justice in granting the variance because: (Note: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)

There will be substantial justice in granting the variance by allowing the owners the most cost effective means of achieving their goals with the least amount of disturbance to the site or disruption to the business's and surrounding properties. By granting the variance and allowing construction in an area that lacks buffering by its historic use, more significant impacts are avoided elsewhere on the lot. Siting of the addition elsewhere or constructing a whole new building will increase site disturbance, introduce greater areas of impervious surfaces and disrupt daily operations.

4. The values of surrounding properties will not be diminished because:

Granting the request would allow for construction of a small building addition intended to support the existing commercial use. The continuation of an existing established commercial use in a commercial zone is in keeping with the district for which it is located. This addition will enhance the existing building and add to the value of the property. Granting of the variance will not result in the diminution of surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

This site, though large in size, is well established with much of the building space, parking and access within the 50' front property line setback. The proposed addition would be within an area previously disturbed in a location that provides continuity with the existing daily operations. Alternative locations for the proposed addition or for the construction of a new building will be far more impacting than this proposal. Denial would be an unnecessary hardship due to the uniqueness of the lot, its historic use and the lack of reasonable alternative locations.

Addition #2:

1. The proposed variance will not be contrary to the public interest because: By granting the variance it will allow the owners the full productive use of site minimal disturbance and disruption of the existing businesses. This will not be contrary to the public interest because the proposal will be less impacting than the alternative of locating the addition elsewhere on the building. In order to site the addition elsewhere

it would have to be located in an area either occupied by the existing septic system, well or within an area that would have to be excavated to match the lower floor elevation. Placing the addition in the location proposed, allows for easy access from the existing parking area and allows for easy access from the existing drive under bay doors located at the front of the building. The limited disturbance and ease of access provide the most effective use of the space and provides the additional commercial space needed to support the business. All considered, there will be no negative affect to the general health, welfare and safety of the general public.

2. The spirit and intent of the ordinance is preserved because:
The intent of the ordinance is to provide buffering from the road that services the property. The purpose of the setback is to provide adequate room for access, parking, screening and all necessary improvements associated with a commercial business. Additionally the setback provides continuity between onsite buildings and buildings on abutting properties. In this particular case the building on which the addition is proposed is an existing non-conforming use already established within the setback. The proposed addition will be located within an area currently occupied by the existing 3 season porch and stairs. This addition will be no closer to the street line than the existing building. Any additional parking required to support by the proposed addition can easily be added adjacent to the addition in an area that meets all required setbacks. All considered the addition does not interfere with intent of the ordinance and the spirit and intent of the ordinance will be maintained by granting of the variance.

3. There is substantial justice in granting the variance because: (Note: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)
There will be substantial justice in granting the variance by allowing the owners the most cost effective means of achieving their goals with the least amount of disturbance to the site or disruption to the business's and surrounding properties. By granting the variance and allowing construction in an area that lacks buffering by its historic use, more significant impacts are avoided elsewhere on the lot. Siting of the addition elsewhere or constructing a whole new building will increase site disturbance, introduce greater areas of impervious surfaces and disrupt daily operations.

4. The values of surrounding properties will not be diminished because:
Granting the request would allow for construction of a small building addition intended to support the existing commercial use. The continuation of an existing established commercial use in a commercial zone is in keeping with the district for which it is located. This addition will enhance the existing building and add to the value of the property. Granting of the variance will not result in the diminution of surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

This site, though large in size, is well established with much of the building space, parking and access within the 50' front property line setback. The proposed addition would be within an area previously disturbed in a location that provides continuity with the existing daily operations. Alternative locations for the proposed addition or for the construction of a new building will be far more impacting than this proposal. Denial would be an unnecessary hardship due to the uniqueness of the lot, its historic use and the lack of reasonable alternative locations.

Addition #3:

1. The proposed variance will not be contrary to the public interest because: By granting the variance it will allow the owners the full productive use of site minimal disturbance and disruption of the existing businesses. This will not be contrary to the public interest because the proposal will be less impacting than the alternative of locating the addition elsewhere on the building. In order to site the addition elsewhere it would have to be located in an area either occupied by the existing septic system, well or within an area that would have to be excavated to match the lower floor elevation. Placing the addition in the location proposed, allows for easy access from the existing parking area and allows for easy access from the existing drive under bay doors located at the front of the building. The limited disturbance and ease of access provide the most effective use of the space and provides the additional commercial space needed to support the business. All considered, there will be no negative affect to the general health, welfare and safety of the general public.

2. The spirit and intent of the ordinance is preserved because:

The intent of the ordinance is to provide buffering from the road that services the property. The purpose of the setback is to provide adequate room for access, parking, screening and all necessary improvements associated with a commercial business. Additionally the setback provides continuity between onsite buildings and buildings on abutting properties. In this particular case the building on which the addition is proposed is an existing non-conforming use already established within the setback. The proposed addition will be located within an area currently occupied by the existing building overhang and concrete parking area. This addition will be only slightly closer to the street line than the existing building. Any additional parking required to support by the proposed addition can easily be added adjacent to the addition in an area that meets all required setbacks. All considered the addition does not interfere with intent of the ordinance and the spirit and intent of the ordinance will be maintained by granting of the variance.

3. There is substantial justice in granting the variance because: (Note: Any loss to the individual that is not outweighed by a gain to the general public is an injustice)

There will be substantial justice in granting the variance by allowing the owners the most cost effective means of achieving their goals with the least amount of disturbance to the site or disruption to the business's and surrounding properties. By granting the variance and allowing construction in an area that lacks buffering by its historic use, more significant impacts are avoided elsewhere on the lot. Siting of the

addition elsewhere or constructing a whole new building will increase site disturbance, introduce greater areas of impervious surfaces and disrupt daily operations.

4. The values of surrounding properties will not be diminished because:
Granting the request would allow for construction of a small building addition intended to support the existing commercial use. The continuation of an existing established commercial use in a commercial zone is in keeping with the district for which it is located. This addition will enhance the existing building and add to the value of the property. Granting of the variance will not result in the diminution of surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:
This site, though large in size, is well established with much of the building space, parking and access within the 50' front property line setback. The proposed addition would be within an area previously disturbed in a location that provides continuity with the existing daily operations. Alternative locations for the proposed addition or for the construction of a new building will be far more impacting than this proposal. Denial would be an unnecessary hardship due to the uniqueness of the lot, its historic use and the lack of reasonable alternative locations.

P. Bealo asked if the noted NEI telephone easement affected the plan.

C. Zilch responded that the easement has been there forever. He noted that he didn't think it was in effect any longer; it just has not been formerly extinguished.

P. Bealo asked if there was anyone speaking in favor of the application. There was no one. He asked if there was anyone speaking in opposition to the application. There was no one.

P. Bealo asked if the Board had any additional questions.

J. Ingerson asked if the apartment was still being used.

Lisa Gardella, property owner, noted there was formerly an apartment there, but it was not longer in use.

J. Ingerson asked if there were any plans to use the apartment in the future.

L. Gardella replied that the apartment would never be used again.

J. Ingerson questioned if this plan would have to go the Planning Board.

It was noted that the applicant would have to go back to the Planning Board to amend the site plan if they are granted their variances at this meeting.

C. Zilch added that the Planning Board would also be reviewing other features such as additional parking, drainage, erosion controls, septic and traffic for the amended site plan.

DELIBERATION:

#16-07: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #1) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

★D. Lloyd moved, second by J. Allen to grant the request for variance for Addition #1 as described in the legal notice:

P. Bealo summarized the application noting the following:

- The application is not contrary to the public interest as it would give productive use of the site, joining two existing structures without getting any closer to the property line than the existing building.
- The application is not contrary to the spirit and intent of the ordinance as it wouldn't be any more intrusive than the existing buildings on the site which were constructed prior to zoning
- Substantial justice is maintained as there is not loss to the public in granting the variance
- There is no negative effect on the surrounding property values as they are sprucing up the property
- There is a hardship in that the building already exists in the setback and any addition will also be in the setback

J. Ingerson noted that they have already done a lot to improve the property.

T. Fisher agreed that this is a unique circumstance which necessitated the need for a variance.

There was no additional discussion on the motion. The vote was 5-0-0 U/A.

#16-08: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #2) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

★T. Fisher moved, second by J. Allen to grant the request for variance for Addition #2 as described in the legal notice:

P. Bealo noted that the five variance criteria are nearly identical for all three variance applications.

- Granting the variance would not be contrary to the public interest because the structure is already existing, in this case they are just building up/
- The application is not contrary to the spirit and intent of the ordinance because the building is already in the setback and can't be moved back
- There is no loss to the public therefore there is substantial justice in granting the variance
- There is no loss in property values as the property is being cleaned up and is well maintained
- There is a hardship because the location of the building is already in the setback

There was no additional discussion on the motion. The vote was 5-0-0 U/A.

#16-09: A request from S&L Garage Realty, LLC, for a variance from Article V, §220-32I.A, to permit a proposed building addition (addition #3) to be located within the minimum 50'setback from the front property line. The property is located at 157 Plaistow Rd, Tax Map 30, Lots 66 & 67 in the C1 District. The applicants are the property owners of record.

★D. Lloyd moved, second by J. Allen to grant the request for variance for Addition #3 as described in the legal notice:

P. Bealo again noted that all the same criteria applied to this application as the previous two. The key was that they building already exists in the set back and cannot be relocated to comply. There are not other locations to expand because of the location of the septic and well.

J. Ingerson added that she was assuming that this was just for additional room for the current business use and not expansion for different business use.

There was no additional discussion on the motion. The vote was 5-0-0 U/A.

There was no additional business before the Board. The meeting was adjourned at 8:07p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant