



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

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
January 6, 2022

The meeting was called to order at 6:30 pm

Roll Call: Peter Bealo, *Chair*
Dan Lloyd, *Vice Chair*
John Blinn, *excused*
Jonathan Gifford, *excused*
Gary Ingham
Jim Unger, *Alternate*
Michael Murray, *Alternate*

Also attending: Dee Voss, *Administrative Assistant*

★ *J. Unger and M. Murray were appointed as a voting members for this meeting.*

Minutes of December 2, 2021

★ *G. Ingham moved, second by J. Unger, to approve the minutes from the December 2, 2021, meeting as written. There was no discussion on the motion.*

Roll Call Vote: *P. Bealo – Abstain; D. Lloyd – yes; G. Ingham – yes; J. Unger – yes; M. Murray – yes.*

P. Bealo explained the process the Board uses for hearing and deciding (deliberating) on each application. He also noted that all motions are routinely made in the “to grant” format, but that is not indicative of how any member, including the one making the motion, might vote. P. Bealo added that notices of decision will be sent within five (5) business days, but that no permits will be issued for thirty (30) days in order to allow for any appeals (requests for re-hearing) as per the NH RSAs

P. Bealo noted that there were five (5) voting members at this meeting.

PUBLIC HEARINGS:

#21-29: A request from Uptown Self-Storage, LLC, for a variance from Article V, Table 220-32B to allow a climate controlled self-storage facility, which is not a permitted use in the district. The property is located at 113 Plaistow Road, Tax Map 28, Lot 15, in the C1 Zoning District. Aristotelis Danos is the property owner of record.

Paul Pappas, Attorney-at-Law; Kostas Danos, property owner; Mark Dean, Dean Architects PLLC; and Jason Hill, PE., TFM Moran, Inc were present for the application.

P. Pappas explained the following regarding the application:

- The parcel is Tax Map 28, Lot 15, 113 Plaistow Road
- October 20, 2021 made application to the Department of Building Safety for a building permit, which was denied on October 27, as self-storage is not a permitted use in the Commercial 1 (C1) district where this property is located
- November 27, filed application for appeal with the Zoning Board of Adjustment (ZBA)
- Literal enforcement of the ordinance will cause a hardship to the applicant as this property is not conducive to the listed used allowed in the C1 district
- The property owner has been trying unsuccessfully to market the property for over forty (40) year and has not been able to because of the peculiar conditions of the lot

P. Bealo interjected that he moved to Plaistow in 1987 and there was a successful pizza restaurant located on the property at that time, so the property has not been being marketed for forty (40) years.

K. Danos reported the history of the site and acknowledged there had been a pizza restaurant on the site until it was sold and relocated up the street. He added that they tried to market a plaza on the site, but the rents they would be able to charge didn't match up with the costs of constructing the building. He offered that the proposed use would be a modern building with low traffic impacts.

P. Pappas offered that the conditions of the site were unacceptable to most retailers because the Edelstein Chiropractic office was carved out of the lot, impacting visibility and access to the lot. He added that the entrance off Route 125 was tight, and the lot was awkwardly shaped.

P. Bealo asked who carved out the lot for Edelstein.

K. Danos replied that it was already in existence when his father purchased the property.

P. Pappas offered that the use they were proposing would be less intrusive than many of the permitted uses in the district and would not diminish the values of the surrounding properties.

D. Lloyd asked if the only entrance was off of Route 125.

P. Pappas noted additional frontage on Old Road for access.

There was discussion about the location of the proposed building as it was shown on the plan. It was noted that the building was setback from Route 125 approximately 125-150 feet, with ten (10) parking spaces located along the front of the building. It was also noted that there would be a gated access that would only be accessible to the business clientele. It was noted that the architecture of the building was not of a traditional garage-door style self-storage but had more of an office building look to it.

D. Lloyd asked if the business would be 24-hour accessible.

M. Dean noted that there would be defined business hours.

P. Bealo asked if there was a loading area.

M. Dean responded that there was a small loading area on the that would accommodate trucks and U-Haul vehicles.

J. Unger questioned if there were the garage-type unit on the back of the building.

M. Dean replied that there were units accessible from the outside located on the back of the building and that all other units were accessible from the inside of the building.

M. Murray questioned some cross-hatched areas of the plan. It was noted that the building had been moved from the original plan presented to the Building Inspector in order to meet the required setbacks and the cross-hatch on the plan was not significant of anything.

D. Lloyd asked if there would be any outside vehicle storage proposed.

M. Dean responded there would not.

J. Unger questioned if the proposal met all other zoning requirements except the use. It was confirmed.

P. Bealo asked if there was anyone speaking in favor of, or in opposition to the application. There was no one. It was also noted that no emails or letters had been received prior to the public hearing.

P. Bealo offered that he was struggling with this application, the voters of Plaistow removed this use from the C1 area, and he was very hesitant to go against that. He noted there was no evidence that other C1 uses wouldn't be viable.

P. Pappas noted that there was a high demand for self-storage use, and while he understood the demand, the variance process was designed to grant relief when appropriate.

M. Dean offered that they had been asked to design a building that would look more like the approved uses in the district. That's why the building looks more like an office or retail building, to comply with the character of the district.

D. Lloyd asked if the photos presented were representative of what the landscaping would look like.

M. Dean offered that it was as close as possible to the intend of the look but is still an artistic rendering.

P. Bealo noted if granted the applicant would have to present substantially the same plan to the Planning Board of review.

J. Hill offered that the goal in creating the rendering is to enhance the architecture with the landscaping. He noted that the impervious surface calculations were well below what is allowable in the district for the size of the lot. He offered that the lighting would also enhance the property. He offered that this building would produce good tax revenue for the Town, with relatively low impact on services. The style is not industrial or warehouse in appearance and is therefore in keeping with the spirit and intent of the ordinance. He noted that for a 75,000 square foot structure, traffic counts would be low, in the vicinity of 20-30 trips (ten (10) cars) on a Saturday morning.

J. Hill also noted that the soils were good for proper drainage and would provide good recharge with shallow raingardens or underground structures.

M. Murray asked how the 75,000 square feet were calculated. It was noted that included all three (3) floors of the proposed building.

M. Dean noted that the building would meet the 45' maximum height requirement of the district.

P. Bealo asked if the single-family dwelling on the property was proposed to be eliminated.

P. Pappa noted that it would. He added that granting the variance would allow the property owner to get rid of an eyesore of a property and building a structure that would look like a commercial office building with enhanced landscaping. He also noted that there were no abutters in attendance objecting to the application.

J. Hill added that when you look at the existing neighborhood this building would add life and spruce things up, increasing values.

There was no additional input, and the public hearing was closed.

DELIBERATIONS:

★ M. Murray moved, second by D. Lloyd, to grant the request for a variance from Article V, Table 220-32B to permit a self-storage use at 113 Plaistow Road, Tax Map 28, Lot 15 in the Commercial 1 Zoning District, with the following condition(s):

- ***The Plan present for the variance application must be the same plan presented to the Planning Board for review as it pertains to the granting of this variance. Any proposed changes in the Plan that would impact this variance will void this approval.***

Discussion:

G. Ingham noted that it was a very attractive building that was being proposed.

There was discussion about what kinds of self-storage units the voters may have had in mind when they prohibited the use in the C1 district. It was suggested that they were thinking more the garage-style more common around town and weren't envisioning the office-building style construction.

D. Lloyd offered that when he worked in Somerville and Cambridge there were self-storage businesses on every corner and very little traffic. He added that there have been an empty lot on this corner for a long time and this building would clean up the area. He noted that the building wasn't proposed to be right on the front property line, but setback about 150 feet.

J. Unger added that aside from the use, it met all other zoning requirements.

P. Bealo noted that the voters have the chance to bring the use back and have chosen not to. He recalled that when the self-storage was being built at 88 Plaistow Road there was a lot of pushback from residents.

D. Lloyd offered that it was better for the lot to be productive than to be vacant. He also noted that this kind of business didn't require a lot of staff, which has been an issue/

P. Bealo suggested that the lack of staffing was a temporary thing and was not mentioned by the applicant. He also noted that this property will soon have the ability to connect to the potable water system, which would increase the viability of the property for the permitted uses.

J. Unger added that the lot has been vacant for many years despite two (2) real estate booms.

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

- The proposed variance would be Contrary to the Public Interest because the voters of Plaistow have determined they this is not a use they want to have in the Commercial 1 zoning district.
- The Spirit and Intent of the Ordinance are preserved because the attractive rendition make this more of a commercial use, than the typical warehouse appearance of most self-storage facilities.
- There is Substantial Justice in Granting the variance because the public does not gain by a vacant lot
- The Values of Surround Properties will not be Diminished because with the exception of the abutting residential use, this would not adversely affect surrounding commercial values.
- Literal enforcement of the provisions of the ordinance would not result in an Unnecessary Hardship because there was a previous success commercial use of the property and the applicant failed to present evidence that no other permitted commercial use would be viable, particularly considering that there are three (3) roadway frontages (Route 125, Old Road and Brickyard Way) that give this parcel access and visibility.

Roll Call Vote: D. Lloyd – yes; G. Ingham – no; J. Unger – yes; M. Murray – no; P. Bealo – no. The vote was 2-3-0 and the motion was defeated. Variance denied.

#21-30: A request from Robert Bendetson for a variance from Article V, Table 220-32I to permit a structure to be placed 15 feet from the side property line, where 35 feet is the minimum required. The property is located at 26 Plaistow Rd, Tax Map 25, Lot 4, in the C1 Zoning District. The property owner of record is Bendetson-Plaistow Realty Trust, Norris and Margery Bendetson, TR.

Adam Crunk, Crunk Engineering (remote) and Robert Bendetson, property owner Trustee (in-person) were present for the application.

A. Crunk presented the application to the Board, noting the following:

- The current Ethan Allen building would be demolished
- In its place a new 24-hour outpatient healthcare facility would be constructed
- The current building is already in the setback. The new building is proposed for the same setback, but the building footprint it proposed to be increased by extending the building further back into the lot

A. Crunk responded to the criteria for the granting of a variance with the following:

- The proposed variance will not be Contrary to the Public Interest because the building is already located within the setback
- The Spirit and Intent of the Ordinance is preserved because there is still adequate separation between the buildings as there is a steep slope and a wooded buffer between this parcel and the parcel to the north, where the setback encroaches.

There was discussion about the ability of the Fire Department to access the building, particularly in light of the fact that there would be people inside 24-hours a day.

A. Cronk noted that the building would have sprinklers and would meet all applicable fire codes.

- There is Substantial Justice in Granting the variance because relocating the building would impact the septic system, which would be a large cost to the property owner without any gain to the public
- The Values of the Surrounding Properties will not be Diminished because this is a permitted use in the district
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because it would push the building further into the site, therefore decreasing visibility, which is essential to those seeking treatment. It would also further encroach on the businesses to the south.

There was discussion regarding what a 24-hour outpatient healthcare facility is. It was noted to be the step between an urgent care and an emergency room. They can treat higher levels of traumatic injury than an urgent care can, which allows patients to be stabilized locally before being sent to a hospital. They are not a full emergency room but have many of the same tools, and are open 24 hours, to allow them more intensive diagnostics than an urgent care can provide, and they can better stabilize a critical patient for transport to a hospital. It looks like a hospital emergency room without the overnight stays.

P. Bealo asked if there would be a helicopter pad. It was noted there would not be, but there were designated drop off areas for ambulances.

M. Bendetson offered that when the original Ethan Allen building was built, the setbacks were different, and a lot of things have changed on Route 125 since then. He also noted that the Ethan Allen store would be relocating to the back building that had been vacated by CORE Physicians.

P. Bealo noted that the Town doesn't have a hospital, but there is a need for a higher level of care than can be provided at an urgent care.

P. Bealo asked the Board if there were any additional questions, there were none. He if there was anyone speaking in favor or, or in opposition to the application. There was no one. It was also noted that there were no emails or letters received prior to the public hearing, and the public hearing was closed.

DELIBERATIONS:

★G. Ingham moved, second by J. Unger, to grant the request for a variance from Article V, Table 220-32I to allow a structure to be placed within 15' of the property line, at 26 Plaistow Rd, Tax Map 25, Lot 6, with the following condition(s):

- ***The Plan present for the variance application must be the same plan presented to the Planning Board for review as it pertains to the granting of this variance. Any proposed changes in the Plan that would impact this variance will void this approval.***

Discussion:

J, Unger offered that this was an interesting occupancy and had the potential to save lives. He added there was no more encroachment proposed than is already existing.

G. Ingham offered it would be an asset to the Town, noting they weren't really changing much by making the building fifteen (15) feet longer.

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

- The proposed variance would not be Contrary to the Public Interest because the intrusion into the setback is no greater than the existing building.

- The Spirit and Intent of the Ordinance are preserved because is not applicable as the building is already existing, the footprint is just being extended.
- There is Substantial Justice in Granting the variance because the public would be at a loss if the project is not allowed to move forward due to a setback issue.
- The Values of Surround Properties will not be Diminished because the area is already heavily commercial, and those values will not be diminished by this improvement.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because the building it already in existence in the setback, there will not be any further intrusion into the setback than is already there.

Roll Call Vote: G. Ingham – yes; J. Unger – yes; M. Murray – yes; P. Bealo – yes; D. Lloyd – yes. The vote was 5-0-0 U/A.

Other Business – Holiday Gathering

The Board had previously decided to delay a holiday gathering until January. They discussed a date and place for the gathering.

There was no additional business before the Board and the meeting was adjourned at 7:44 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant