



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

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
May 26, 2022**

The meeting was called to order at 6:36 pm

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

Also attending: Dee Voss, *Interim Zoning Official, Administrative Assistant*

★ *M. Murray was appointed as a voting member for this meeting.*

Minutes of April 28, 2022

★ *M. Murray moved, second by G. Ingham, to approve the minutes from the April 28, 2022, meeting as written. There was no discussion on the motion.*

Roll Call Vote: J. Blinn - yes; G. Ingham – yes; M. Murray – yes. The vote was 3-0-0 U/A.

D. Voss explained the process the Board uses for hearing and deciding (deliberating) on each application. She noted that all motions are made in the affirmative “to grant” format, but that was not indicative as to how any member might vote on a particular application, including the maker of the motion, or the second. D. Voss 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

D. Voss also noted that there were less than a full-member board and explained that each motion to grant had to be passed with at least three votes to the affirmative, meaning that all members present and eligible to vote at this meeting would have to vote in favor of granting the variance for it to be approved. It was also noted that when there are less than five members, the applicant had the right under the Board’s By-Laws to request a continuance to the next meeting. It was also noted that should the applicant voluntarily decide to move forward with their application with less than a full board, they could not use the less than a full board as a reason to request a re-hearing.

PUBLIC HEARINGS:

#22-09: A request from David A. Jones for a Variance from Article V, §220-32B to permit landscaping contractor business in the C1 Zoning District, where is it not a permitted use. The property is located at 14 Danville Rd, Tax Map 30, Lot 86 in the C1. The property owner of record is Danville Road Realty Trust, Jeffrey Peabody, TR.

J. Blinn noted that he would have to recuse himself from ZBA Matter #22-09, 14 Danville Road as he has both a personal and professional relationship with the applicant.

G. Ingham noted that he would also have to recuse himself from the same matter as he was an abutter to the subject property.

This left a single eligible voting member, which was not enough to open that particular public hearing.

J. Blinn stated that ZBA Matter #22-09 was continued to June 30, 2022, and that no additional notice of the hearing would be forthcoming.

#22-08: A request from Kevin Joyce for a Variance from Article V, §220-32E, to allow a barber shop and future barber school, in the MDR Zoning District, where it is not a permitted use. The property is located at 216 Main St, Tax Map 30, Lot 23. The property owner of record is Kevin S. Joyce.

Kevin Joyce, 44 Brookside Dr., Kingston, NH, property owner, was present for the application.

He noted the following in support of his variance application:

- The property was the location of the former Bradford Shoe Store
- There is currently a barbershop across the street that needs a larger place to operate
- He acquired the building in partnership with the barber across the street
- They would like to open as a barbershop for a couple of years, and then add a barber school to the property
- In 2018 they applied for and were granted the same variance that they are applying for at this meeting, but that variance had expired after two (2) years (Note: any variance granted must be exercised within two (2) years or is considered to be abandoned)
- The property was always commercial, but it was retail, not a barbershop
- The property across the street is properly zoned to have a barbershop and there has been one there for many years
- The Board was happy with the idea when they granted the first variance
- 80% of the work, including a new roof and siding, has already been done
- They can't hire plumbers to finish the work until they complete the Planning Board process
- He has been back and forth between New Hampshire and Florida
- The barbershop will have to be open for two (2) years before they can apply for accreditation as a barber school
- Once the school is open they intend to offer free haircuts to veterans
- The building in the current location is too old, only has three (3) chairs and can't be remodeled to accommodate more
- Once the school is open the students will be offering the free haircuts
- He is requesting that the Board re-affirm the previously granted variance

It was noted that should the variance once again be granted the applicant still had to get site plan approval from the Planning Board.

K. Joyce went through the variance criteria offering the following responses to the Board:

- The proposed variance would not be Contrary to the Public Interest because the business has been at its current location, directly across the street, for over forty (40) years

- The Spirit and Intent of the Ordinance are preserved because granting the variance will not alter the essential character of the neighborhood.
- There is Substantial Justice in Granting the variance because the proposed use is consistent with the areas present use.
- The Values of Surround Properties will not be Diminished because the current barbershop is directly across the street and has been for decades, relocating will not alter the appeal of surrounding properties
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship:
 - o No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property because the proposed variance will not impair any adequate supply of light and air to adjacent properties or substantially increase fire potential, traffic, or other nuisances.
 - o The proposed use is a reasonable one because the current shop has been in business directly across the street for 30+ years.

K. Joyce noted that they had lost the grandfathering of this property for a retail use. He also noted that they had already done substantial interior upgrades to the building and that this property will be better than the one currently located across the street.

K. Joyce offered that the delay in moving forward after the variance had been previously approved was mostly due to other business issues and flying back and forth to Florida. He added that eventually the barber that he has partnered with will be buying the building from him, he was just helping to get the business going.

J. Blinn asked if the Board had any questions, there were none. He asked if there was anyone speaking in favor of, or opposition to the application, there was no one. It was also noted that no letters, calls, or emails were received prior to this meeting. The public hearing was closed.

DELIBERATIONS:

M. Murray moved, second by G. Ingham, to grant the request from Kevin Joyce for a variance from Article V, Table 220-32E to allow a barber shop and future barber school at 216 Main St, Tax Map 30, Lot 23 in the MDR District. with the following conditions:

- ***The applicant must make application to the Planning Board for site plan review within 180 days of the date of this decision or the variance shall be considered as denied***
- ***Should the property owner not exercise the variance within the two-year requirement of the NH RSAs, and it expires again, no additional requests for this use will be considered by the Plaistow Zoning Board of Adjustment.***
- ***No permits can be issued without completing the Planning Board site plan approval process***

It was noted that conditions were being placed on this application as the property owner did not act in a timely manner on the variance the first time it was granted.

It was offered that not much had changed regarding this application from the first time the Board reviewed and approved it.

The Board reviewed the variance criteria with the following findings:

- Granting the variance will not be contrary to the Public Interest because this is a quiet business use, with little traffic impacts to the neighborhood
- The Spirit and Intent of the ordinance are preserved because this will be a good use of the property and will not impact the neighborhood
- There is Substantial Justice in granting the application because this is a good use of the property and will be a benefit to Veterans
- Surrounding Property Values will not be Diminished because there will be improvements made to the property that will increase the value of the neighborhood as a whole.
- Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because the building was originally a commercial use, and this is a good fit for the neighborhood.

There was no additional discussion.

Roll Call Vote: G. Ingham – yes; M. Murray – yes; J. Blinn – yes. 3-0-0 U/A.

D. Voss made note of the conditions in the motion to K. Joyce, who acknowledged that he understood them.

Other Business:

J. Blinn acknowledged that this would be G. Ingham's last meeting with the Board and thanked him for his dedicated service.

G. Ingham thanked the Board and the Town for their support.

There was no additional business before the Board and the meeting was adjourned at 7:04 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant