



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

**ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
July 28, 2022**

The meeting was called to order at 6:31 pm

Roll Call: Peter Bealo, *Chair, excused*
Dan Lloyd, *Vice Chair*
John Blinn, *absent*
Jonathan Gifford
Jim Unger
Michael Murray, *Alternate*
Jim O'Brien, *Alternate*

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

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

Minutes of June 30, 2022

★ *D. Lloyd moved, second by M. Murray, to approve the minutes from the June 30, 2022, meeting as written. There was no discussion on the motion.*

Roll Call Vote: *D. Lloyd – yes; J. Gifford – yes; J. Unger – yes; M. Murray – yes; J. O'Brien – yes. The vote was 5-0-0 U/A.*

D. Voss explained the process the Board uses for hearing and deciding (deliberating) on each application. He 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

PUBLIC HEARINGS:

Notice of Request to Continue

#22-11: A request from Sweet Hill Farm, LLC to Appeal the Administrative Decision of the Building Inspector/Code Enforcement Officer’s issuance of a Stop Work Order. The property is located at 82 Newton Rd, Tax Map 68, Lot 8 in both the ICR and LDR Zoning Districts. The applicant is the property owner of record.

D. Voss read a request from Attorney Thomas MacMillan to continue ZBA Matter #22-11 to October 27, 2022.

D. Lloyd stated for the record that ZBA Matter #22-11 is continued to October 27, 2022. 6:30 p.m. He added that this was the official notice of the continuance and that no additional notice will be forthcoming.

#22-10: A request from Cynthia J. Flynn for a Variance from Article V, Table 220-32I to permit an addition to be constructed within 12.15' of the property line, where 25' is the minimum required setback. The property is located at 71 Pollard Rd, Tax Map 61, Lot 38 in the LDR zoning district. The applicant is the property owner of record.

Cynthia Flynn, 71 Pollard Road, was present for the application. She provided pictures of the subject property that were circulated to the Board.

C. Flynn explained that following regarding her variance application:

- The proposed addition to the house would be a two-car garage with a family room above it
- There are no new bedrooms or bathrooms proposed
- The parcel the very narrow and the well, septic and an electric make this side of the building the only place to locate the addition

J. Unger asked if the garage would have the doors on the front or the side.

C. Flynn replied they would face the front.

D. Lloyd inquired if there would be a connecting structure or pathway between the garage and house.

C. Flynn responded there would be a doors on the front and side, but no pathway to the house.

J. Gifford noted a chimney on the side of the house where the garage is proposed.

C. Flynn offered that the chimney was non-functional and would be removed.

There was discussion about how the existing driveway would be curved to meet the new garage doors.

C. Flynn pointed out where the septic was located on the back of the house. It was noted that there would still be access to it from either side of the property for maintenance purposes.

J. Unger noted that the Pictometry picture showed most of the lots in the neighborhood were long and narrow and would probably need variances for similar expansion.

C. Flynn provided the Board with the following responses to the criteria for the granting of a variance:

- The proposed variance would not be Contrary to the Public Interest because the addition to the home is on our private property and should diminish or alter the character or value of the surrounding properties or affect public health and safety.
- The Spirit and Intent of the Ordinance are preserved because there will be adequate separation between the improvements on my personal property and the neighbor's actual property line and any structures on their property.

J. Gifford asked if Ms. Flynn had spoken with her neighbors regarding her plan.

C. Flynn replied that she had spoken with the neighbor who would be the most impacted by the addition and there were no concerns. She added that the neighbor offered that she was more interested in keeping her as a neighbor.

- There is Substantial Justice in Granting the variance because it will improve the value of the subject property
- The Values of Surround Properties will not be Diminished because the addition to the home is on our personal property and will not negatively affect the neighbors.
- 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 property is narrow and limits the placement of the proposed addition.
 - o The proposed use is a reasonable one because it is an improvement to the home and will increase the value of the property and possibly other surrounding homes.

M. Murray noted that there was already a one-car garage.

C. Flynn offered that the new garage would be two-car but deep enough for four (4) cars to provide additional storage, which is currently lacking in the house.

D. Lloyd asked Ms. Flynn if she had any additional information to provide the Board. There was none. He asked if the Board had any additional questions, there were none.

D. Lloyd asked if there was anyone speaking in favor or, or in opposition to, the application. There was no one. It was noted that no emails or letters were received regarding this application and the public hearing was closed.

DELIBERATIONS:

J. Gifford moved, second by M. Murray to grant the variance request for 71 Pollard Road, Tax Map 61, Lot 38, to allow a structure to be placed 12.15' from the property line, where 25 feet is the minimum required.

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

- Granting the variance will not be contrary to the Public Interest because this is a reasonable expansion of a residential use.

J. Gifford noted that neighbors with the same idea may have the room to expand out to the back.

D. Lloyd offered that this area of Pollard Road has had some changed in ownership and the neighbor is improving their properties.

- The Spirit and Intent of the ordinance are preserved because the lots are long and narrow, and this addition is not oversized for the neighborhood. There is still adequate separation between structures on abutting properties.

D. Lloyd offered the lots were long and narrow, and that proposed addition was not overzealous for the neighborhood.

M. Murray added there was still plenty of separation.

J. Gifford noted that it looked like there would be a forty (40) foot gap to the closest structure from the proposed addition.

- There is Substantial Justice in granting the application because there is no gain to the public in the denial of the application and this is the only place on the property where the addition can be reasonably located.

It was noted that the well, septic and a steep hill prevented the addition from being placed elsewhere to meet the setbacks.

- Surrounding Property Values will not be Diminished because this is an enhancement to the property and will not adversely affect the property values of others.

J. Unger offered that the addition would most likely improve the surrounding property values.

J. Gifford added that it could change the outlook for the whole neighborhood.

- Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because there is a unique condition in the parcel as it is long and narrow shape presenting challenges to the reasonable expansion of the residential use. It was also noted that there will still be full access around the structure.

There was no additional discussion.

Roll Call Vote: J. Gifford – yes; J. Unger – yes; M. Murray – yes; J. O’Brien – yes; D. Lloyd – yes. The vote was 5-0-0, U/A.

Other Business:

Changes to the Zoning Board's By-Laws - Second Reading and Adoption

D. Voss read two (2) proposed additions to the Board's By-Laws.

Under the Public Hearing Section add:

- *Once a public hearing has been closed, there shall be no additional input provided to the Board in support of, or opposition to, the application. An application may not be withdrawn once the public hearing has been closed and the Board begins deliberations.*

Under the Decisions Section add:

All motions for relief will be made in the "to grant" format and shall be passed by at least three (3) votes to the affirmative. Any motion to grant relief that does not pass by at least three (3) votes in the affirmative shall be considered as denied.

J. Gifford moved, second by D. Lloyd that the amendments to the Public Hearing and Decisions sections of the ZBA By-Laws as read at the June 30, and July 28, 2022 meetings be adopted.

There was no discussion on the motion.

***Roll Call Vote: J. Gifford – yes; J. Unger – yes; M. Murray – yes; J. O'Brien – yes; D. Lloyd – yes.
The vote was 5-0-0 U/A.***

There was no additional business before the Board and the meeting was adjourned at 7:53 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant