



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

ZONING BOARD OF ADJUSTMENT
April 27, 2017

The meeting was called to order at 7:00 p.m.

Roll Call: Peter Bealo, *Chair*
Tim Fisher, *Vice Chair*
Jim Allen, *Absent*
Joyce Ingerson
Dan Lloyd

Review of Minutes

★T. Fisher moved, second by D. Lloyd, to approve the minutes of the March 30, 2017 meeting. There was no discussion on the motion. The vote was 3-0-1 (Ingerson abstaining).

It was noted that there were only four (4) members available at this meeting. The implications as far as voting were explained. It was noted that the applicant could request a continuation until such time as there is a five (5) member board. It was further noted that should the applicant decide to continue with the Public Hearing at this meeting, they could not use the lack of a five (5) member board as a reason to request a re-hearing. The applicant chose to move forward at this meeting.

#17-04: A request from Taurus Plaistow Investor Limited Partnership for a variance from Article V, Table 220-32B.D.(10) to permit a retail business to offer animal grooming services in a plaza, which is not permitted. The property is located at 5-11 Plaistow Rd, Tax Map 24, Lot 38 in the C1 District. The applicant is the property owner of record.

Mark Donohoe, Select Real Estate Consulting, Inc. was present with authorization to represent Taurus Plaistow Investor Limited Partnership.

M. Donohoe explained that since Shaws Supermarket left the plaza they have been struggling to fill the vacancies. In an effort to correct that they have been renovating and repositioning the plaza. He noted that they have been able to lease to Savers, Aldi and relocation the Dollar Tree to a better storefront. Mr. Donohoe added that they had been chasing PetSmart to locate in their plaza for about four (4) years. He offered that they were unaware of the zoning change that was approved in 2016 that disallowed some uses related to animals to be located in plazas due to health concerns. It was explained that PetSmart would like to offer grooming services that would be completely located within the store.

M. Donohoe added that Mike Dorman, Chief Building Official, was supportive of the application as it is similar to uses already available in the PetCo located across the street and the health concerns had more to do with animal activities outside the building.

M. Donohoe offered his answers to the variance criteria noting the following:

- The proposed variance would not be Contrary to the Public Interest because the internal grooming center will be located inside the store and will be operated to meet all local rules and ordinances
- The Spirit and Intent of the Ordinance is preserved because the internal grooming center does not pose any safety or health concerns for the Town
- There is Substantial Justice in Granting the variance because there is no safety or health concern with an internal grooming center, and there are other pet stores that have internal grooming centers
- The Values of the Surrounding Properties will not be Diminished because the grooming center will be inside the store and will meet all rules and regulations to operate properly.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because the purpose of the recent change to Chapter V was to prevent health and safety concerns with the care and treatment of animals and their close proximity to restaurants. Because the planned PetSmart will have all its facilities inside the building there are no health or safety concerns. The applicants are trying to fully lease the center and this tenant will not open without the capability to offer grooming.

P. Bealo reference the positive staff report provided to the Board by the Department of Building Safety. He asked if there would be any animals living in the building.

M. Donohoe replied that there might be some fish in tanks, mice, hamsters and gerbils in cages, but they are asking only for grooming services, no boarding.

T. Fisher asked how the grooming center would be accessed.

M. Donohoe responded that it would be through the front door.

J. Ingerson asked if the PetSmart was a standalone building. She noted that she had been in the Verizon store and could smell the cigar smoke from the business next door.

M. Donohoe answered that PetSmart would be stand alone. He added that he just had the cigar store check their ventilation and add some ductwork to hopefully alleviate that problem.

J. Ingerson inquired as to how the building would be ventilated and how waste would be handled.

M. Donohoe explained that they will have their own separate ventilation system and their own trash. He added that the building was being designed to insure those kinds of problems didn't happen.

T. Fisher asked if this was going to be a new building. It was confirmed that it was.

T. Fisher suggested that if animals were going to be entering from the parking lot that there should be bag dispensers provided for pet owner's to pick up after their pets should they do anything before entering the building.

M. Donohoe explained that there will be the metal stands that provide bags and a place for disposal. He added that there will be ample signage asking pet owners to pick up after their animals. M. Donohoe added that there are provisions in the PetSmart lease that they are ultimately responsible for managing the issue and he pledged that the property owner will be on top of the matter.

The Board looked at the site plan provided by the applicant. The location of the loading dock, concrete pad and employee parking in the rear of the building were noted.

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

J. Ingerson just requested that her concerns regarding proper ventilation be forwarded to the Building Inspector.

D. Lloyd asked how the grooming functions would affect the septic system.

M. Donohoe noted that had been an initial concern of the property owners so it was been insisted upon, with agreement from PetSmart that a filtration system will be installed with a maintenance plan to prevent hair from entering the septic system. There will also be a filter with a clean out for the floor drains.

T. Fisher asked if it was PetSmart's desire to have grooming in all their stores.

M. Donohoe replied that it was his understanding that they will not go forward with a new store unless the grooming is allowed.

P. Bealo asked if there was anyone speaking in favor of, or in opposition to the application. There was no one and the matter was closed.

The deliberations process was explained, noting that there could not be any additional input; the decision would be made at this meeting; notice of decisions will mailed within ten (10) days and there would be no permits issued for thirty (30) days to allow for any appeals to be filed.

DELIBERATIONS:

★D. Lloyd moved, second by T. Fisher, to approve the request for a variance to allow pet grooming services at the PetSmart, 5-11 Plaistow Road, as stated in the legal notice.

Discussion:

P. Bealo recapped the testimony noting the following:

- It does violate the current zoning ordinance, but there is a similar use in the plaza directly across the street which is in close proximity to a grocery store
- Ventilation concerns have been put on the property owner's radar and they seem to be addressing those concerns
- Waste will be dealt with voluntarily by pet owners with the ultimate responsibility for clean up being carried by PetSmart

J. Ingerson noted that she has been in many PetSmart stores and they have always been impeccably clean. She added that her only concern was with the odors.

D. Lloyd added that his only concern was with the leach field and septic, but that has been addressed.

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

- The proposed variance would not be Contrary to the Public Interest there will be new business brought to the plaza. It was suggested that the new zoning was over-stating the potential hazard of these types of activities. It was noted that pet grooming services have long been offered in other plazas without incident.
- The Spirit and Intent of the Ordinance is preserved because grooming doesn't involve any pet staying for a long time, most of the time the owner stays with the pet until they are done. There is no overnight boarding being proposed.
- There is Substantial Justice in Granting the variance because there are no real health and safety concerns that have been shown to be related to grooming services.
- The Values of the Surrounding Properties will not be Diminished the retail use of PetSmart is a permitted use and will enhance the overall plaza, bringing in more patrons. Adding the grooming use, inside the business, wouldn't diminish any property values.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because the property owner would lose a long-term tenant and provide an advantage to other plazas where grooming is grandfathered and available.

There was no additional discussion on the motion. The vote was 4-0-0 U/A.

OTHER BUSINESS:

There were no additional matters before the Board. The meeting was adjourned at 7:33 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant