



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

**ZONING BOARD OF ADJUSTMENT**  
**MEETING MINUTES**  
**December 5, 2019**

The meeting was called to order at 6:30 p.m.

**Roll Call:** Peter Bealo, *Chair*  
Dan Lloyd, *Vice Chair*  
John Blinn, *excused*  
Jonathan Gifford  
Gary Ingham

**Review/Approval of Minutes**

★ *D. Lloyd move, second by G. Ingham, to approve the minutes from the October 31, 2019 meeting. There was no discussion on the motion. The vote was 4-0-0 U/A.*

P. Bealo noted that there was a four-member board for this meeting. He explained the significance of only having four-members for voting purposes adding that each applicant had the right to request a continuance to a meeting with a full board. It was also noted that should an applicant move forward at this meeting, they cannot use the lack of a five-member board as a reason to request a re-hearing.

**PUBLIC HEARINGS:**

**Public Hearing #1**

**#19-19: A request from Khristopher Marks for a special exception under Article X, all sections to allow a home office for a waterproofing business. The property is located at 107 Main St, Tax Map 40, Lot 82 in the VC District. Khristopher A. Marks and Emily M. Hannay are the property owners of record.**

Khristopher Marks, 107 Main St, was present for the application,

K. Marks noted that he operates a waterproofing business, which also includes installation of vapor barriers, dehumidifiers and the like for both commercial and residential customers. He noted that all the work is done at the customer's site and he's basically using his kitchen table to process paperwork and email from his laptop. Mr. Marks explained the history of how he came to his current profession.

J. Gifford asked if it was intended that there be a sign on the property.

K. Marks replied that he had a small sign on the property but took it down upon receiving a notice of violation from the Department of Building Safety. He also noted that he does have a lettered box truck that he parks in his driveway.

The Board reviewed the criteria for the granting of a home occupation under Article X noting the following:

- The type of home occupation is allowed under § 220-66.C
- The use is not injurious, noxious or offensive to the neighbors, all work is done at the customer's location, therefore there is no smoke, fumes, vibrations, dust, noise or visual, audible or electrical interference or fluctuations
- The property and the business are owner-occupied and this is a single-family residence
- The business is conducted in the residential building and uses <1% of the living space, it's basically paperwork at the kitchen table
- There is nothing proposed that would change the residential character of the dwelling or the property
- The business owner is not planning to have a sign at this time, but was informed that a three (3) square foot sign is allowed with a permit
- The applicant is the only employee who will be working from the house. There are other employees who would go directly to the client site
- There will not be any outside display of merchandise
- There are no customers or employees coming to the site, but there is adequate parking for the business truck and homeowner's personal vehicles
- There are no deliveries to the home, all materials and supplies are either delivered directly to, or pick-up on the way to the job site
- There is one (1) commercial vehicle and it does not exceed the one-ton capacity
- There will not be any noxious, flammable or hazardous stored in the truck
- There are no covenants in the deed that would prohibit a home occupation
- This is not a condominium, so no additional authorization is necessary
- This will be the only home occupation at this location.

P. Bealo explained that the home occupation is subject to periodic inspection if the Building Inspector deems them necessary. The applicant was also informed of their responsibility to renew the permit every three (3) years if the business continues.

P. Bealo asked the Board if there were any additional questions, there were none. He asked if there was anyone speaking in favor or, or in opposition to the application. There was no one.

P. Bealo explained the deliberations process, noting that once the Public Hearing was closed there could not be any more input from the applicant or any interested party. He also noted the thirty-day appeal period, adding that no permits will be issued until that time has passed. With no additional input the Public Hearing was closed.

## **DELIBERATIONS:**

**#19-19: A request from Khristopher Marks for a special exception under Article X, all sections to allow a home office for a waterproofing business. The property is located at 107 Main St, Tax Map 40, Lot 82 in the VC District. Khristopher A. Marks and Emily M. Hannay are the property owners of record.**

**★ G. Ingham moved, second by J. Gifford, to grant a special exception under Article X to Khristopher Marks for a home office for a waterproofing business at 107 Main St, Tax Map 40, Lot 82.**

P. Bealo offered that the application complied with all requirements of the Home Occupation Ordinance.

*There was no additional discussion. The vote was 4-0-0 U/A.*

### **Public Hearing #2**

**#19-20: A request from PH Electric for a variance from Article IV, §220-21.B (1)&(2) and C (1)&(2) to permit two (2) proposed pavement areas to be within the 50' and 75' no-structure wetland buffers. The property is located at 222 Plaistow Rd, Tax Map 45, Lot 6 in the INDII District. DBH Realty of Plaistow, LLC is the property owner of record.**

Charlie Zilch, SEC and Associates, and Jim Hanley, Civil Design Consultants, were present for the application. Also present were Bruce and David Howard, business and property owners.

C. Zilch noted the following about the property and the application:

- The property is a 10.5A parcel, with 575' frontage on Plaistow Road at the Kingston, NH town line
- The property is completely located within the Industrial II (INDII) zoning district
- There is currently a 13,000SF building located on the property with a large paved parking area
- There are two (2) entrances off Route 125
- There are substantial wetland areas that wrap around the existing pavement
- The wetlands have recently been re-flagged by wetlands scientist Timothy Ferwerda
- There is some drainage under Route 125
- The original site plan was approved in 1993 with a structure in a different location
- In 2001, Camp America, RV Sales and Services, abandoned the original building and expanded to the current 13,000SF structure.
- There were variances granted previously for the storage of non-motorized vehicles on crushed gravel
- P & H Electric has owned the site and operated an electrical service business since 2008
- Their amended site plan included motor vehicles sales, which they have since abandoned
- The current building includes warehouse, pre-fabrication and office space. All work is done within the building

- The commercial site is attractive and well maintained
- Business is doing well and the owners would like to expand by adding a 14,400SF single-story warehouse structure. The current warehouse space would then become the pre-fabrication space and the rest of the building would be for offices and training space.
- The new addition is proposed to be located on the existing pavement, which meets all current setback
- There is a drop off at the rear of the existing building
- In order to make the new building function for the business, the land would be brought level to match grades with the current building
- Since the intent is to put the new building on the existing pavement around the current building, new access will need to be provided around the proposed addition
- Access is not only for the trucks used by the business, but also for emergency apparatus
- 4,100 SF of new pavement is proposed around the building
- The proposed pavement would be in already disturbed areas but there are a couple of places where it proposes to intrude into the wetlands buffer, but outside of the 25' no disturb buffer

J. Hanley showed an aerial photo of the site on the projector screen, noting all the features of the site. He noted that proposed paved access around the site would accommodate the WB45 tractor-trailer model. He also noted that the inclusion of crushed stone around the paved area bettered the drainage so that everything works.

J. Hanley noted that the proposed amended site plan was originally developed using pervious pavement, but due to the significant maintenance involved as well as the need for more durability considering the types of vehicles that will be using it, it was thought the conventional pavement would work best, but a variance would be required.

J. Hanley discussed the details of the drainage plan and its recharge into the aquifer. It was noted that the system reduced off-site flows by 10%.

P. Bealo questioned the tractor-trailer radius around the building.

J. Hanley noted that it has been used and is functional.

C. Zilch added that it was also accessible for emergency apparatus.

J. Hanley offered that the pavement would have minimal impact of the wetlands buffer.

G. Ingham noted that the impact was mostly the grading.

P. Bealo asked if the Conservation Commission (ConCom) had seen the plan and asked if they had any concerns.

C. Zilch explained that ConCom had seen the plan with pervious pavement, when there was no need for relief, and had no objections. The ConCom has not met since the plan was changed to impervious pavement so he has not been able to get a response from them. He noted that he has

spoken informally with Jill Senter, ConCom Chair and who has scheduled a December 19, 2019 meeting to review the change in the plan. C. Zilch questioned if it would be possible for a favorable ConCom letter to be a condition of approval.

P. Bealo offered that ConCom's letters aren't always clear on their position. He recalled one letter that listed all the favorable attributes of a plan and then stated that they were not in favor of the plan, without an explanation. He added that he wasn't comfortable with making a decision before reviewing any letter the ConCom might provide.

It was also noted that if a ConCom letter was a condition of approval, and the letter was found not to be favorable such that it would not meet that condition, the variance application would be denied. It was reminded that once a variance application is denied, there is no opportunity to re-apply for the same variance.

P. Bealo suggested that the cleanest way for this application to proceed would be for the applicant to request a continuance. He noted that the Board would be meeting again on January 2, 2020. He reminded that ConCom is an advisory board, and while their input is valuable they do not have any decision-making authority.

There was a discussion of the Zoning Board of Adjustment (ZBA) procedures and how they differ from the Planning Board's process. Things that are more an administrative function with the Planning Board are not the same with the ZBA. The Board expressed that they did not want to disadvantage the applicant with a letter from ConCom as a condition of approval.

C. Zilch requested that this application be continued to the next meeting.

***★ G. Ingham moved, second by J. Gifford, to continue the public hearing for #19-20, the variance request for 222 Plaistow Road to the January 2, 2020 meeting. There was no discussion on the motion. The vote was 4-0-0 U/A.***

### **Other Business**

There was a brief discussion of the Board's holiday celebration scheduled for the next evening.

There was no additional business before the Board and the meeting was adjourned at 7:22 p.m.

Respectfully Submitted:

Dee Voss  
Administrative Assistant