



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

**ZONING BOARD OF ADJUSTMENT  
MEETING MINUTES  
January 2, 2020**

The meeting was called to order at 6:32 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 December 5, 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 any 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:**

*Continued from December 5, 2019*

**#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, property and business owners.

G. Ingham noted that the Board had been given an in-depth presentation at the previous meeting and inquired if everything had to be re-presented at this meeting.

It was noted that it was the Board's discretion if they wanted to have everything from the last meeting re-presented, but it wasn't required. C. Zilch offered to give a summary to start the hearing.

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

- The property is a 10.5A parcel
- The property is completely located within the Industrial II (INDII) zoning district
- There is currently a 13,000SF building that houses an electrical service and supply business
- There is associated paved parking and a gravel shoulder around the property, which was approved to park non-motorized equipment
- There are substantial wetland areas that wrap around the existing pavement
- There were variances granted previously for the gravel area, which allowed for the parking on non-motorized equipment
- The current building includes warehouse, pre-fabrication and office space. All work is done within the building
- The proposal is for a 14,400SF warehouse addition that will suit the current and long-term business needs
- There is a drop off at the rear of the existing building
- In order to make the new building function for the business use, the land would be brought level for the proposed addition and will match grades with the current building
- The location of parking along the southwest and northwest sides of the lot, all outside of the 25' no-disturb wetlands buffer.
- The tractor-trailer turning radius will accommodate a 55' long vehicle
- The designated loading/unloading areas

J. Hanley offered a brief synopsis of the previously presented drainage design associated with the proposed addition, noting the following:

- The matched the pre-design discharge of the property
- The water that is recharged to the wetlands will be cleaner than the current untreated discharge
- The drainage design has been reviewed by the Planning Board as well as that board's review engineer
- The previous proposal was for pervious pavement, which has been rejected by the Planning Board's Review Engineer for maintenance and durability concerns
- The Conservation Commission (ConCom) had reviewed and supported the pervious pavement design. They have also reviewed and now support the new design with impervious pavement

C. Zilch also noted that there was a letter from Mike Dorman, Department of Building Safety. It was noted that a copy of that letter was included in the member's folders.

C. Zilch noted that at the closest point they are still proposing to be 39' away from the wetlands and at no point are they proposing to be within the 25' no-disturb buffer.

*(Note: See minutes of December 5, 2019 meeting for other presentation notes regarding this application)*

It was noted that the applicant had not responded to the variance criteria in their previous presentation.

C. Zilch provided the following responses to the variance criteria in support of the application.

- The proposed variance will not be contrary to the Public Interest because by granting the variance, it will allow P&H to expand its business by allowing the building addition and associated improvements located within previously disturbed areas within the wetland buffer. The building addition will be located in existing pavement area and the additional pavement area will be located in existing gravel area.

Currently, stormwater runoff from the existing pavement area sheet flows into the wetlands with no pretreatment. P&H proposes the new roof runoff area to be recharged into the ground through an infiltration trench. The additional pavement area is proposed to sheet flow into an adjacent infiltration trench which will store the water quality volume. Post-development peak flows will decrease for up to and including the 50-Year 24-Hour storm event.

Civil Design Consultants, Inc. (Project Engineer) met with the Town's peer review consultant, Keach-Nordstrom Associates, Inc. (KNA), to discuss the project. The project originally showed the additional pavement area (4,130-SF) to be porous pavement, however; KNA preferred that the pavement be bituminous concrete since the porous pavement would require regular long-term maintenance for the system to be functional.

Considering both the allotted buffer and the fact that the construction will be within an area previously disturbed, the wetlands will remain unaffected by the improvements. Additionally, the location of the proposed addition would take advantage of the generous truck turning and maneuvering area already available onsite. Only the additional section of pavement is necessary to allow for both the commercial vehicles serving the business full access around the addition, it will provide emergency access as well. All considered the nature of the addition and its location does not negatively affect the general health, welfare and safety of the general public.

- The Spirit and Intent of the ordinance is preserved because the intent of the ordinance is to protect and buffer wetlands from site uses that may adversely affect the wetland complex. In this particular case, the wetlands for which we are seeking the variance, is a mix of poorly drained and very poorly drained forested wetlands that are located within an undisturbed and established limited buffer. No work is proposed within the 25' No Cut, No Disturb Buffer.

The proposed building addition and access will not increase impacts to the wetlands since it is in a previously disturbed area. Currently, runoff from the existing pavement parking area sheet flows off the pavement and into the

wetlands without any pretreatment. Runoff from the roof of the proposed building addition and pavement area will be routed into infiltration trenches and infiltrate the recharge volume. Therefore, the spirit and intent of the ordinance, protection of the wetlands, will be maintained by granting of the variance.

- There is Substantial Justice in granting the variance because there will be substantial justice in granting the variance by allowing P&H the most cost-effective means of achieving their goals with the least amount of disturbance to the site. By granting the variance and allowing construction in an area that has been previously disturbed, P&H will make the site better by providing groundwater recharge from runoff from proposed impervious area that previously had none.
- The Values of Surrounding Properties will not be diminished because the proposed building addition and additional pavement area will be located in existing pavement and gravel areas. Currently, runoff from the parking area flows into the wetlands without any pretreatment. This project adds value by proposing to infiltrate the recharge volume of the building addition and pavement area. Peak runoff rates discharging towards the wetlands will be decreased in all major storm events. Additionally, whereas this is a commercial business surrounded by commercial businesses, granting of the variance allows for expansion of the similar use that will not diminish the value of surrounding property values.
- Literal enforcement of the provisions of the ordinance would result in an Unnecessary Hardship because this site, though large in size, is limited by a wetland complex that surrounds the operational area. When applying the wetland setbacks, only the area in which the addition is proposed allows for the greatest level of compliance to the setback requirements. There are no other reasonable alternative locations that would fully comply with wetland setbacks. Denial would be an unnecessary hardship due to the uniqueness of the building and yard space location in relation to the wetlands and lack of reasonable alternative location.

P. Bealo asked if the Board had any questions. There were none. P. Bealo asked if there was anyone speaking in favor of the application.

A letter of support from the ConCom was read for the record. The letter noted support for the better collection and treatment of runoff as the reason ConCom supports the granting of the variance request.

P. Bealo asked if there was anyone who would like to speak in opposition to the application. There was no one and the Public Hearing was closed.

### **DELIBERATIONS:**

***★ J. Gifford moved, second by G. Ingham, to grant the request from PH Electric for a variance from Article IV, §220-32.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 at 222 Plaistow Rd, Tax Map 45, Lot 6.***

P. Bealo noted that the proposed amended site plan offered advantages over the existing conditions on the site.

J. Gifford added that there would be better collection and treatment of the runoff, not only from the building, but the pavement, with the amended plan.

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

- There is nothing contrary to the Public Interest as the applicant will be able to make maximum use of their property while increasing and improving the treatment of stormwater runoff with the new drainage design. It will be better for the environment
- The variance would not be contrary to the Spirit and Intent of the Ordinance because the applicant is not seeking to disturb any areas that were not already disturbed. It was also noted that they would continue to be fourteen (14) feet outside of the 25' no-disturb buffer
- There would be Substantial Justice in granting the variance request. To not do so would be a loss to the Town since the new drainage design provides for better treatment of runoff
- Surrounding Property Values will not be Diminished as this property is surrounded by existing commercial and industrial uses. The property has always been well maintained and the expansion could have the potential to increase the surrounding property values
- There would be an Unnecessary Hardship in not allowing a successful business to expand when they are not proposing any additional intrusion or detriment into the wetlands buffer.

J. Gifford noted that this site is always impeccably maintained and it was obvious that the Howards are caring property owners.

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

### **Other Business**

There was no additional business before the Board and the meeting was adjourned at 6:57 p.m.

Respectfully Submitted:

Dee Voss  
Administrative Assistant