



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

ZONING BOARD OF ADJUSTMENT
March 30, 2017

The meeting was called to order at 7:10 p.m.

Roll Call: Peter Bealo, *Chair*
Tim Fisher, *Vice Chair*
Jim Allen, *Excused*
Joyce Ingerson, *Excused*
Dan Lloyd
John Blinn, *Alternate*

Interim Town Manager, Mark Pearson, was present and was introduced to the Board.

★John Blinn was appointed as a voting member for this meeting.

Review of Minutes

★*T. Fisher moved, second by D. Lloyd, to approve the minutes of the January 26, 2017 meeting. There was no discussion on the motion. The vote was 3-0-1 (Lloyd abstaining).*

Nominations for Chair and Vice-Chair

★*T. Fisher moved, second by D. Lloyd, to nominate Peter Bealo as chair for the Zoning Board of Adjustment. P. Bealo accepted the nomination. There was no discussion on the motion. The vote was 3-0-1 (Bealo abstaining).*

★*P. Bealo moved, second by D. Lloyd, to nominate Tim Fisher as vice chair for the Zoning Board of Adjustment. T. Fisher accepted the nomination. There was no discussion on the motion. The vote was 3-0-1 (Fisher 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.

#17-02: A request from Catherine Pare-Duff for a special exception under Article X, All Sections to permit a home office for a business, namely an office for a real estate business. The property is located at 17 Cifre Ln, Tax Map 51, Lot 43 in the MDR

District. The property owners of record are Thomas & Donna Moolic and Catherine A. Pare

Catherine Pare-Duff, 17 Cifre Lane, was present for the application.

It was noted for the record that this is a structure with two (2) dwelling units and written permission had been received from the co-owners of the property.

C. Pare-Duff noted that she was a licensed realtor in Massachusetts and New Hampshire and would like to have an office in her home for her real estate business. She noted that she didn't want a sign, just the office from her home.

The Board reviewed the requirements of Article X noting the following:

- The nature of the business qualifies for a home occupation under §220-66A
- There are no uses that would be noxious or injurious by emission of fumes, dust, noise or vibration
- There will no equipment that would cause fluctuations in electrical use
- Ms. Pare-Duff is co-owner of this the property, which has two (2) dwelling units
- Written permission from the co-owners has been received
- Ms. Pare-Duff has owned the property for five (5) years, thus establishing the residential use prior to the business use
- All business will be conducted within +/- 1% of the living space (25% is the maximum allowed)
- The residential character of the dwelling will not change
- There will be no need for exterior storage
- There will be no sign at this time
- There are no outside employees who will be working on the property
- There will not be any outside merchandise display
- There is sufficient off-street parking for the dwelling and any customers
- There are no anticipated deliveries, but any made will be made in typical residential fashion
- There are no commercial vehicles greater than a one-ton capacity
- No flammable materials will be stored on the property for this business use
- This is not a condominium and there is no homeowner's association, therefore no special permissions are necessary
- There are no restriction in the deed

The applicant was reminded that they are subject to inspections by the Building Inspector and that is it their responsibility to renew the home occupation every three (3) years.

P. Bealo asked if the applicant wished to present any additional information. She did not.

P. Bealo asked if the Board had any questions; there were none. He 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 be 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 home occupation at 17 Cifre Lane as stated in the legal notice.

Discussion:

P. Bealo recapped the testimony.

D. Lloyd offered that it was a straightforward home occupation request.

P. Bealo added that it was one of the least intrusive home occupation uses allowed.

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

#17-03: A request from Austin Realty Trust for a variance from Article V, Table 220-32D.C(3) to permit a commercial lot coverage (39% on plan) greater than the 30% maximum allowed. The property is located at 155 Main St, Tax Map 41, Lot 36 in the VC District. The property owner of record is Austin Realty Trust, William Bartlett, Trustee

Tim Lavelle, James Lavelle Associates, and William Bartlett, TR, Austin Realty Trust were present for the application.

T. Lavelle noted that following information for the Board:

- The property the historic train depot located at 155 Main St
- The owner would like to restore the building for an office use
- In order to meet the Town's parking requirements, including Handicap Accessible (HCA) spaces they will exceed the allowable lot coverage
- There is a proposed new driveway and parking depicted on the plans provided to the Board
- The lot is 0.36AC
- One of the lot lines is right along the building
- Because of the position near the railroad right-of-way the lot will not have the appearance of exceeding maximum coverage and there will be adequate drainage areas
- A new septic design has already been approved by the New Hampshire Department of Environmental Services (NHDES) and there approval for a well
- The building is currently being restored and renovated
- The office use will stop the decay of this historic structure.

T. Lavelle offered the following responses to the criteria for the granting of a variance:

- The proposed variance will not be contrary to the public interest because it utilizes an existing building on an existing lot of record
- The spirit and intent of the ordinance is preserved because the lot coverage was minimized to the best of the lot's ability
- There is substantial justice in granting the variance because it allows for the improvement of the existing historic property
- The values of surrounding properties will not be diminished because this will improve the aesthetics value of the property
- Literal enforcement of the provisions of the ordinance would result in unnecessary hardship because it would not allow for ample parking or full access to the existing building

P. Bealo asked if the Board had any questions.

T. Fisher offered that it was good to see the reuse of the existing building despite its restraints. He added that changing this property to residential (the other permitted use in the VC district) would not be workable.

P. Bealo asked if all parking would be paved. It was confirmed that it would be.

T. Lavelle noted that the plan showed the building rectangle and then another rectangle around that extending out towards the railroad right-of-way. He noted that second triangle to be the extended roofline, noting there were easements that allowed for it to be there.

J. Blinn asked what type of business was proposed for the location.

W. Bartlett replied that they were looking at putting his daughter's photography office in the building.

J. Blinn asked if five (5) parking spaces would be enough. It was noted that it would be more than sufficient.

T. Lavelle noted that the driveway was not the usual twenty-four (24) feet wide, but was only fourteen (14), which was an effort to keep the lot coverage down closer to the allowable. He added that he would be requesting a waiver from the Planning Board for that regulation requirement.

T. Fisher asked if there would be any issues with Dr. Holliman's (direct abutter) access. It was noted that there would not be any changes to his access.

It was noted for the Board that should the applicant prevail in his variance request he would still need to go back to the Planning Board to continue the site plan approval process.

P. Bealo asked if the Board had any questions; there were none. He asked if there was anyone speaking in favor of or in opposition to the application. There was no one and the matter was closed.

DELIBERATIONS:

★T. Fisher moved, second by J. Blinn, to grant the variance request for lot coverage as stated in the legal notice.

P. Bealo offered that it was a reasonable use of the property.

J. Blinn added that it would help to spruce up that area of the Village Center District.

T. Fisher noted that there was an industrial use located right near this property.

P. Bealo added that the long and narrow shape of the building made a difference in the access and available parking areas.

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

- It would not be contrary to the public interest because it was an existing building and they would be restoring the historical character of it
- The spirit and intent of the ordinance are maintained because it is a reasonable use of the property and there isn't another way to reduce the lot coverage while still providing adequate parking
- There is substantial justice in improving the historical property. There is no affect on the closest abutter as the structures (Dr. Holliman's and the subject property structure) are well spaced apart. There is no impact to other businesses.
- There is nothing that will diminish the surrounding property values. It is felt that surrounding values will be enhanced by the restoration of the historical building
- Literal enforcement of the ordinance will create a hardship as it wouldn't allow the property to be used for any permitted use in the district.

It was noted that the condition of the building and other site features fell to the jurisdiction of the Planning Board.

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

OTHER BUSINESS:

It was noted that D. Lloyd, J. Ingerson and D. Voss will be attending the Spring Planning and Zoning Conference on April 29, 2017.

There were no additional matters before the Board. The meeting was adjourned at 7:36 p.m.

Respectfully Submitted:

Dee Voss
Administrative Assistant