

Zoning Board of Adjustment
Wednesday, September 15, 2021
Town Hall
7 pm

Present: Board Members Chair Jan Galloway-Leclerc, Vice-Chair Myra Mansouri, Clerk Tom Murray, Ernie Vose, Alternates Judy Trow and Dave Edkins. Absent: Board member Pauline Barnes, alternate Don Sellarole.

Recording: Marilou Blaine. These minutes were recorded. They are unapproved and will be reviewed at the October 2021 meeting for corrections, additions and/or omissions.

Roll Call: Ms. Leclerc called the meeting to order at 7pm. One board member was absent so alternate Ms. Trow was asked to sit in her place. She agreed.

Minutes: Minutes of August 2021. Corrections: Ms. Leclerc asked that on page 4, paragraph 3 that the two sentences about the Planning Board participating in discussion of the feather flags be stricken. Page 1, paragraph 4, change it to say come out of nonpublic page 1, paragraph 6, Ms. Trow removed the word "of" in the second sentence and on page 3, second to last paragraph change "Sort" to "Short." Ms. Trow made a motion to approve the minutes as amended. Mr. Vose seconded the motion and the motion carried.

Old Business:

Public Hearing No. 1: Special Exception for Doug and Laura Palmer, 308 Main St., Tax Map 24, Lot 13 in the Commercial District. Ordinance Article IV No. 9 Special Exceptions. Smart Power Sports, a retail and commercial storage business in the former RN Johnson building. Request for a sign 33-inches-by-22-inches to hang off the road side of the building. Problem: distance from edge of traveled road.

Mr. Palmer said because the building is so close to the road, it impossible to have a sign 60 feet from the edge of the road. So the sign would be 18 feet from the road and it conforms to the Special Exception requirement to be less then six square feet. Ms. Trow asked if the sign would be lighted. Mr. Palmer said not at this time.

Mr. Murray said that Article IV No. 9 Special Exceptions states the "signs of six (6) square feet may be placed between ten (10) and sixty (60) feet of traveled roadway by Special Exception from the Board of Adjustment." Since the sign Mr. Palmer presented is less than 6 square feet, Mr. Murray said, he has a legitimate special exception. The sign will be attached from the road side of the building and is high enough (10 feet off the ground) that it eliminates the potential limitation of visibility for vehicles going by. Mr. Murray made a motion that the sign be approved for Doug Palmer, 308 Main Street to accommodate a vertical sign off the side of the building. Mr. Murray's motion was seconded and the motion carried. Ms. Leclerc asked Mr. Palmer to take a picture of the sign when it is installed and send it to the secretary. The secretary will send Mr. Palmer an approval letter and copy it to the Town Offices.

Mr. Palmer did not read his answers to the criteria on the Special Exception application. They will be attached to the end of the minutes.

Public Hearing No. 2. Variance: building addition. Peter and Kimberly King, 46 Dearborn Circle, Map 24, Lot 55-12 in Residential B District. Ordinance Article V C 2 distance from middle of the road. The Kings want to build a 20-foot-by-12-foot living room on the front of their home. They are 63 feet

from the center of the road and the ordinance states the building must be 65 feet.

In the August meeting, Mr. King spoke about a spruce tree he had planted in front of his house when the family moved in. The tree was where the addition was going to go and he had to have it removed. It had gotten quite large. Ms. Leclerc is the person who removed the trees and cut it into boards. She recused herself from participating in the public hearing and alternate Dave Edkins was asked and agreed to sit in for her. The vice-chair Myra Mansouri stepped in for Ms. Leclerc.

Since Mr. Edkins had not been at the previous meeting when the Kings presented their proposal, Ms. Mansouri asked Mr. King to explain what they wanted to do. Mr. King explained that they had lived at 46 Dearborn Circle and moved there 15 years ago after their son was born. After deciding that they wanted to remain in that neighborhood and not move, they hired an architect to do a complete set of plans to build a 12-foot-by-20-foot addition. They needed the space as their family has grown and the children are older. But because they were 2 feet shy of conforming to the ordinance of distance to the middle of the road, they were required to get a variance. The two feet will make an incredible difference to their addition and he is hoping the board will allow the two feet for this single-family residence.

Ms. Mansouri asked if all the letters been sent out to abutters, if the fees had been paid, is the application filled out and if anything has come back from the abutters about the project. The secretary said yes to all the requirements and no to the comments from abutters. A friend, Sue Fillion, who lives on Booksellers Road in Walpole, helped them work through the application and read the answers to the five criteria.

1. The proposed variance will not diminish surrounding property values.

The proposed variance would allow a small addition to an existing single-family home. The addition will add value to our home and therefore not diminish the values of surrounding properties. It has been designed by an architect. We are not assessors or people listing real estate, but we do not believe the small addition to a single-family residence in a residential neighborhood will diminish the surrounding property values. There's plenty of space surrounding the house.

2. Granting the variance would be in the public interest.

The guidelines are that it doesn't have to show that there is a public interest, just that it wouldn't conflict with a public interest, Ms. Fillion said.

Granting this variance will benefit the public interest as there is an existing single-family residence on the parcel and the intent of the Residential B District is to promote single-family residential use. Given the existing residence on the parcel, permitting the variance will not affect the neighborhood or alter its essential characteristics.

3. Denial of the variance would result in unnecessary hardship to the owner.

This parcel of land is uniquely shaped as it tapers to the south to form a triangle-shaped piece of land. It is different than most parcels in the neighborhood that are rectangular. It is also on the same side of the street where the deck is smaller than at the other houses.

The abutting properties and those to the north on the same side of the street are deeper. Our house was built on the widest part of the property. Given the existing single-family residential neighborhood, permitting the variance will not affect the neighborhood or alter its essential character.

Ms. Fillion said the lot is an odd shape. The house is on the widest section of the lot and then it tapers like a pie towards the south. It is uniquely different than other lots in the neighborhood.

4. Granting the variance would do substantial justice.

There is no gain to the general public by the denial of the variance since granting the variance would not result in any change to the existing use of the residence on the property or a change in the neighborhood. It will allow us more living space for our family while maintaining a modest-sized home in keeping with the character of the neighborhood. It will not affect traffic flow or cause unsafe road conditions. There is still 63 feet to the center line. This is a small residential street that only has local traffic.

Ms. Fillion added that it won't negatively affect a neighbor's property.

5. The proposed variance is not contrary to the spirit of the ordinance.

This property is zoned Residential District B. According to the ordinance, "The purpose of establishing a Residential District is to preserve free from the distraction of business, traffic noise and odor, those areas of Town suitable for quiet and safe residence and to assure those who built houses there that they may continue to dwell in such comfortable surroundings." The variance, if granted, will not change the existing single-family character nature of the neighborhood.

Ms. Fillion said this is the goal of a use of property in a residential district. No traffic. No congestion. It's in keeping with the neighborhood. It doesn't result in crowding other homes on the street.

Ms. Mansouri asked if there were any questions. Mr. Vose asked what the setbacks were on the other sides of their property. Mrs. King looked at the application and said 89 feet at the rear, 52 feet on the north side and 145 feet on the south side.

The variance process is to comment on each of the criteria and then approve the entire variance in one vote. Mr. Vose made a motion to accept the proposal as presented, Mr. Edkins seconded the motion and the motion carried.

Ms. Trow thanked the Kings for their thorough and thoughtful answers, it doesn't always happen, she said. Mr. Vose congratulated them on a well-done application. Some members of the board applauded them and said it was the best thought-out variance application they had seen in years.

Mr. King was told he needed to go to the Town Offices for a building permit. The secretary will write an approval letter.

Report on Public Hearing with the Planning Board

Ms. Leclerc said she presented her two amendments to the Planning Board and right away it was pointed out that the words "wind-activated" signs like feather flags was a problem. Mr. Dalessio asked what about putting out a sign with the word "Open" on it. Is that prohibited? Ms. Leclerc said she didn't really know how to answer that. She thought we had thought of every possible type of flag. Flags along the highway and feathered out along the highway were the issue, Ms. Mansouri said. That was the intention. One suggestion from the board was that we take out wind-activated and just have inflatable signs, feather flags, etc. She was also told that we make sure that that's what feather flags are really called. So we are not just making up a name and it's called something else.

Mr. Vose asked Mr. Edkins what they did in Charlestown. Mr. Edkins didn't recall it ever being an issue. As far as signs saying "open," they were exempt, Mr. Edkins said. The Superior Court says you can't prohibit what is said on a sign, Ms. Leclerc said. One suggestion from the Planning Board was that the feather flags be put in the amendment regarding temporary sign so there is a time limit.

Mr. Edkins asked if the board can make a distinction between informational signs and commercial promotional signs. Also, if the open sign were attached to the building, as opposed to a sign along the road, that is better, Mr. Murray said. That would make a big difference because the ones by the road distract drivers. Ms. Leclerc suggested everyone reread the court ruling on signage.

It was suggested Ms. Leclerc call the NH Municipal Association and ask about feather flags and what should be included in the ordinance. Ask what they would suggest about wording. Should there be a time period?. When Joanna Andros came to the ZBA, it was 24-7. Ms. Leclerc said another thing is that all of those signs, we never saw a single business come to the ZBA.

Is feather flags the correct terminology? Mr. Edkins googled feather flags and samples of the flags that we were discussing were displayed on the screen.

Ms. Leclerc hope she may be hearing some suggestions from the board. Then the ZBA board will pull together what it finds out from the municipal association. She will let the board know what suggestions she gets.

Also since the Planning Board voted to continue the hearing next month, the Zoning Board won't have a meeting before they meet. So the board needs a workshop meeting to come up with an alternative ordinance. After checking their schedule, board members decided on Tuesday, October 5 at 7 pm in the Town Hall.

Email account for Zoning Board

Ms. Leclerc and Ms. Mansouri attended the Select Board meeting on August 26, 2021. They explained that ZBA Board member Pauline Barnes attended a "Right to Know" webinar given by the NH Municipal Association. The Select Board minutes state say that Ms. Leclerc said that "two lawyers suggested it might be a good idea for boards to set up a separate email account solely for board business. Some ZBA members are concerned about some recent court rulings regarding email and town officials. Therefore, the members wanted to discuss this with the Selectboard." Ms. Leclerc and Ms. Mansouri wanted to know if this was possible and if so how would it work.

Ms. Dalessio said the board members would have to bring in their computers to allow the Town's network company to do it. The Town doesn't back-up their emails. It would be the responsibility of the members. The Town used to have a ZBA address, but it was never used. Ms Pschirrer said that emails have been able to be subpoenaed for a long time. Depending on who was coming after them they could still go after the individual's email depending on their levels of distrust.

Ms. Leclerc gave the example of the school board members from Charlestown when they the town was trying to leave the district. The court looked at the individual computers of the members and found they were emailing one another.

After Ms. Leclerc brought back the information from the Select Board to the Zoning Board, it was agreed that all that hassle wasn't worth creating a town email account, if private emails could be subpoenaed anyway.

A motion was made and seconded to adjourn the meeting. The motion carried.

Respectfully submitted,
Marilou Blaine
ZBA Secretary

cc: ZBA, WPB, Town Offices.

Posted: Inside Town Offices, on bulletin board outside Post Office, The Walpolean, www.walpolenh.us

Next meeting: Wednesday, October 20, 2021.

Workshop: Tuesday, October 5, 2021.

Attachment: Special Exception application of Doug and Laura Palmer.

1. Property owned by Douglas and Laura Palmer, under the business name of Old Hewitt Barn Properties, LLC. The building will be used to house the businesses of SMART power Sports and Walpole Logistics, both owned and operated by Douglas Palmer.
2. The property is located at 308 Main St., Tax Map 24, Lot 13 commercial district.
3. 308 Main St. is 1.40 acres, with approx. 320 feet of road frontage. The property is mostly flat. The building is approx. 192 feet long, nearly parallel to Main St. It is located approx. 18 feet from the road on the south side and approx. 2 feet from the road on the north side.
4. See attached image for representation of proposed sign placement. The sign is approx. 22 inches-by-22-inched and made of compressed white recycled plastic, called HDPE. It looks like a piece of 3/4 inch plywood painted white. It will be hung with an L-shaped bracket from the road side of the building.
5. Because the property will be used to house two businesses, we will require a sign. The placement of the building close to Main St. creates an inability to place a visible sign on the property without an exception. We are asking for an exception to place a 33-inch-by-22-inch sign, perpendicular to Main St., within 60 feet of the road, on the western facing side of the building, near the south end.
6. The proposed placement, while within 60 feet of the road (15 feet), would be high enough (approx. 10 feet off the ground) to eliminate potential limitation of visibility for any vehicles passing by or coming/going. Please see attached image to give an idea of placement the photo that was taken from the door of a large pickup truck. Visibility getting into Main St. from the property would not be affected at all.

Respectfully submitted,
Marilou Blaine, ZBA Secretary

Copies: WPB, ZBA, Town Offices.

Posted: Town Offices, bulletin board outside Post Offices, The Walpolean, www.walpolenh.us

Next meeting: October 20, 2021