

TOWN OF EPPING, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING
Epping Town Hall
MINUTES September 20, 2023

PRESENT: Brian Reed, Kevin Martin, Cassie Hojaboom, John Horne; Alternate Max Miller and Don MacLaren; Planner Casey Wolfe; Secretary Phyllis McDonough.

CALL TO ORDER: Chairman Reed called the meeting to order at 6:00pm.

Chairman Reed moved Martin seconded the motion to appointed Miller to sit in for Scully. The motion carried unanimously.

- I. PLEDGE OF ALLEGIANCE TO THE FLAG**
- II. HEARING OF CASES**

ROURKE DESIGN-BUILD, LLC – Chairman Reed read notice requesting a Variance under Article 3 Section 3.6.12 to allow a 45-foot-tall industrial warehouse where a maximum height of 35-feet is allowed. The parcel is located at Exeter Road, Map 030, Lot 074 in the Industrial Commercial Zone.

Ian MacMillan from Johns and Beach came before the Board with the proposal. He explained in 2018 this property was approved for a 5-lot industrial subdivision and new short road with a cul-de-sac. This application is before the board for 45-foot height where 35 feet is allowed.

MacMillan provided renderings to the board. He noted the previous application was for for a 50-foot height because it was a pitched roof; proposing a flat roof and less height. Building will have loading docks, the 45-foot height will include where the trucks sit.

MacMillan informed the board they met with the fire department and during that meeting the tallest ladder was discussed being able to only reach 30 feet; access ladders will be provided on the sides of the building. MacMillan explained 189 square feet of the building is mostly the distribution center and some office spaces on the ground floor.

MacMillan explained the previous developer paid to extend the sewer and water, water usage for this site is low they will have a fully compliant sprinkler system for the building

MacMillan addressed the criteria and applicant’s comments for the Variance. The responses for the five criteria are attached with the file.

Martin asked if there would be units on top of the 45 feet. MacMillan explained the top of the roofline 45-foot max, and if there were any units, such as on the roof top, nothing would show.

Martin questioned the application that was approved in 2018 for five lots is still approved for five lots? MacMillan responded that is correct, as no variance was needed.

McLaren spoke about an application that came before the board many years ago on Fogg Road, where there was a concern of the height but with sprinklers and mutual aide, he doesn’t have any issues.

Chairman Reed opened the public hearing.

Lieutenant/Paramedic Adinara Challinor from the fire department explained she did have conversation regarding this application, and noted they could not get to the top of the building although the windows can be reached with the ladder, and also the structure will need sprinklers.

Chairman Reed closed the public hearing.

Hojaboom question that this new design building will remain flat. MacMillan responded, correct.

The Board deliberated on the variance request before taking a vote:

1. **Public Interest** – Martin stated if approved with a condition that states there is no occupancy above the 35 feet, can the board set a number of occupants. Chairman Reed stated that can be included in the decision.
2. **Spirit of the Ordinance is observed** – No comment.
3. **Substantial Justice** – Miller stated it seems that they've checked all the boxes.
4. **Diminishes Property** – Martin and Chairman Reed agreed because of the zone this site is in, they do not see any diminishing of property values.
5. **Hardship** – Miller, Hojaboom and Chairman Reed agreed a certain height is needed for this type of business.

Chairman Reed moved Miller seconded the motion with a condition that no occupancy above 35 feet. The motion carried unanimously.

JEFFREY OWEN – Chairman Reed read notice for an Appeal from an Administrative Officer's Decision Per RSA 676:5, from the Board of Selectmen's denial for a Home Occupation on 8/21/23, to operate "DIY Trailer Rental LLC" from his home. The parcel is located at 28 High Street, Map 022, Lot 140 in the High-Density Residential Zone.

Jeffrey Owen and his wife Jannell came before the board with the proposal to have a small business renting small trailers for people who are doing small projects, etc., at their homes. He explained he was before the Board of Selectmen about a month ago for a home occupation, and at that time was denied the request.

Owen's explained he only stores the trailers does not move them; the customer comes into his property to the fenced in area.

Owen explained what was brought up at the Board of Selectmen's meeting was the amount of property he would be using to store the trailers. He stated he's aware that he can't use more than ¼ of his property, it would just be a small home business, no noise and no parking on the road.

Referring to the photos provided by Owen's, the Chairman asked that the total number of trailers stored will be no more than four and what size they are. Owen responded no more than four; they range from eight feet long to 22 feet long.

Owen explained the process of going to the Board of Selectmen for a home occupation and was denied. Martin asked the reason for the denial. Owen explained the Selectmen stated he would be using more than ¼ of his property and an abutter had concerns against the request.

MacLaren stated the Town's zoning ordinances are antiquated, suggesting the Town needs more clarification to the ordinances. MacLaren advised if the board feels the Selectmen erred in their decision and if the application is approved, to add a restriction to the size.

Largest trailer is 22 feet.

Chairman Reed opened the public hearing.

Abutter Dan Grimes of 29 High Street is in support of his neighbor's proposal. He stated they are upstanding neighbors and feels they have taken into consideration on how the business will be conducted. Grimes explained he lives at the corner of Pike and High Streets. Grimes explained Owen and he have discussed traffic flow; he won't disrupt the neighborhood have customers come to his property.

Abutter Ron Laurent of 31 High Street asked the Chairman to read abutter Mike Jean's letter into the record. The Chairman read the letter.

Laurent read the permitted uses in the high-density residential zone with very narrow streets and is concerned with the traffic and parking. Laurent stated another concern is with the children playing in the street. He followed up stating this business just doesn't belong in the zone and asked the Board to uphold the Selectmen's denial.

Owen stated he's lived at property for six years have owned a trailer he pulls in through that area and has plenty of room, although understands that concern is reasonable. The Chairman asked with is this business with a regular person or a company, he has both. Owen explained if someone is picking up a trailer there's no backing up involved, just pull into the driveway. Owen noted he understands there are children in the neighborhood, has a child of his own.

Chairman Reed closed the public hearing.

MacLaren noted the concern of what may happen is an emotional component, although it is a compact area. He stated, although the ordinance is antiquated, there is a provision for rental services in the area. MacLaren stated he feels it would be a stretch to put rental in as a permitted use stating the Board can determine the hours of operation if approved.

Hojaboom questioned applicant about the amount of trailers is that the number that will remain or does he want to grow. Owen explained as a home occupation he is totally fine with stipulations hours of operation to keep the neighbors and town happy. Hojaboom asked about the hours of business. Owen stated he has it listed as 8:00am-8:00pm. Hojaboom noted a home occupancy only allows for one business in the home. Owen stated this would be the only business run from their home. Hojaboom asked how many vehicles. Owen stated there are two personal vehicles and he has a work vehicle; this business does not have its own vehicle. Hojaboom questioned the parking. Owen stated there will be no on street parking.

Martin asked if the only reason this went to the Board of Selectmen is because rental's is not an allowed use. Wolfe explained if it's for home occupation, an applicant has to go before the Selectmen.

McLaren asked the Chairman to poll the board on Section 6.7.3 (permitted uses), and ask what their opinion is to that section. Chairman Reed responded that he is willing to let any of the board members speak to this application but does not feel it necessary to poll the board.

Miller stated his opinion he sees it as a landscaping company. Hojaboom responded as well as a sale or display business.

McLaren questioned the board if they see this as a rental. Miller and Hojaboom responded, yes.

McLaren added he's not really hearing any discussion amongst the members on how this falls under Section 6.7.3.

Hojaboom questioned McLaren if he doesn't think this request fits in that zone. McLaren stated he does not see that it fits in the zone, it's clearly a rental business and isn't close to what's allowed.

A brief discussion was held amongst the board members on whether or not to continue this hearing and include the Selectmen in the next meeting, suggested by Hojaboom, to hear both sides of the argument.

Wolfe gave a recap of the Selectmen's meeting on this request. She stated concerns about changing the nature of the neighborhood; dangerous as it's on the intersection of Pike and High Streets; increase of traffic; concerns with the proposed hours of operation. The Selectmen agreed they would feel differently if the business was only used for the office of the business.

Miller suggested to approve the appeal with the stipulation to meet clients at another location, or continue the application.

Miller stated, for the record, that he acknowledges this is a rental business and may fit in 8.6.7.3. Hojaboom concurred that a sale or rental of any form

Martin moved Hojaboom seconded the motion to approve with the restriction to meet any customers off-site for delivery of trailers, and on-site storage not to exceed ¼ of the property for storage. The motion carried unanimously.

REQUEST FOR REHEARING BROUGHT BY POLKA DOT HOUSING, LLC – Chairman Reed read notice to Request a rehearing with respect to the ZBA's August 16, 2023 denial for the variances from Article 6 Section 6.10.3.b to Permit One Unit Per 3,440 Square Feet and Article 6 Section 10.3.f to Permit Two Parking Spaces Per Dwelling Unit. Parcel located at 242 Main Street, Tax Map 22, Lot 60 (the "Property"), in the High-Density Residential Zone.

Chairman Reed addressed a statement in the written request to rehear was if the board gave good reason for hardship.

MacLaren noted what was pointed out by the Attorney Baum was there was lack of proper detailed reasoning. He stated Wolfe did send a notice of decision. Secondly Attorney Baum wrote that the board erred on the objection that there was no hardship and the spirit of the ordinance.

Miller stated in the interest of having everything on the record so that the record is set straight, he does not feel the board erred in their decision, that it could be that is wasn't fully documented. He stated he did not see the decision that was sent to the applicant. Wolfe read her decision that was forwarded to the applicant.

Miller stated he feels since the board addressed three of the five criteria; he is in favor to rehear.

Hojaboom stated she did vote to approve the application, therefore is in favor to rehear.

Horne had no comment.

Chairman Reed stated he feels the board did their job with their reasoning and therefore is not in favor to rehear.

Hojaboom asked the board if they all feel they adequately worded their decision.

MacLaren stated in looking back in the notes they have, although feels the members should state their reasonings on decisions. He noted that the board did not give reason for a hardship, but feels the density was addressed.

Wolfe requested that the board, whether approve or deny the request that they give a reason so she can add that to her decision letter.

Martin moved Hojaboom seconded the motion to rehear to the Polka Dot Housing application for clarification on the decision and to write a proper decision letter. The motion carried unanimously.

MINUTES OF AUGUST 16, 2023 FOR APPROVAL & SIGNATURE – Hojaboom moved Selectman Reed seconded the motion to approve and sign the minutes of August 16, 2023. The motion carried

2024 BUDGET FOR APPROVAL – Hojaboom moved Miller seconded the motion to approve the 2024 budget. The motion carried unanimously.

ADJOURNMENT – Hojaboom moved Martin seconded the motion to adjourn at 8:15 pm. The motion carried unanimously.

Respectfully submitted,

Phyllis McDonough,
Zoning Board of Adjustment Secretary

Brian Reed

Kevin Martin

Cassandra Hojaboom

John Horne

Max Miller