

**MINUTES**  
**ZONING BOARD OF ADJUSTMENT**  
**TOWN OF PETERBOROUGH**

Monday, June 7, 2010 – 7:00pm  
1 Grove Street, Peterborough, New Hampshire

**Present:** Chair Matthew Waitkins, Alice Briggs, Vice Chair Loretta Laurenitis, Jim Stewart, Sharon Monahan, Tricia Cravetti

**Also Present:** Tom Weeks, Code Enforcement Officer, Dario Carrara, Assistant Code Enforcement Officer, Nicole MacStay, Assistant to the Town Administrator

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Chair Waitkins called the meeting to order at 7:00pm.

### **Nomination of Chair and Vice Chair**

**Motion:**

Ms. Laurenitis made a motion to nominate Mr. Waitkins as Chair of the Zoning Board of Adjustment; Mr. Stewart seconded.

**Vote:**

All in favor, the motion passed unanimously.

After an extended discussion, the Board decided to table the nomination of Vice Chair until their July meeting

Chair Waitkins then read the notice:

**Case No. 1156 Patricia Walker** Request for a Variance to Article II, §245-6A & §245-7A of the Peterborough Zoning Ordinance. Applicant requests the Boards approval to sell antiques and operate a retail consignment shop while maintaining a dwelling on property located at 133 Wilton Road, Parcel No. U019-004-000 in the Family, General Residence and Rural Zoning Districts. There was no objection to the notice.

Patricia Walker introduced her husband, David, and presented their case. She explained that they have decided that the best use of the property is as a consignment and antique shop. They are considering keeping the apartment as it is, and because the downstairs of the house would require a great deal of work to make it a second dwelling unit, they would like to use that area as additional consignment space.

Ms. Laurenitis asked Ms. Walker if she could say more about the consignment shop. Ms. Walker said that it would be for the sale of antiques and furniture, and she will be renting space in both the barn and the house. Ms. Briggs asked how many sellers there would be in the house; Ms. Walker said approximately twenty. However she was not certain since she has never run this kind of operation before. Ms. Briggs then asked how many square feet would be used for retail. Ms. Walker said that there would be a total of 3,500 square feet of retail, with 2,200 in the barn alone. Mr. Stewart asked if in addition to antiques, would there also be general retail. Ms. Walker said that there would also be gifts for sale in addition to the antiques. Ms. Briggs asked if there would be any retail on the second floor of the house; Ms. Walker said that there would not. Ms. Briggs then asked

what was the square footage of the second floor; Ms. Walker replied that it was approximately 1,200 square feet.

Ms. Laurenitis asked if there would be an expansion of the parking. Ms. Walker said that there is already plenty of parking, and there is an area cleared behind the barn for additional parking. Ms. Laurenitis asked how many parking spaces are required. Mr. Weeks said that they are required to have ten total spaces, two spaces per 1,000 square feet of retail, and two additional for the dwelling. He added that Ms. Walker is proposing sixteen parking spaces, plus two handicap accessible spaces in the front of the building. Ms. Laurenitis asked how many have already been approved; Mr. Weeks said eight.

Ms. Briggs asked what the operating hours Ms. Walker anticipates are. Ms. Walker said that she plans to be open 10am to 6pm Tuesday through Saturday, and 11am to 5pm on Sundays. Ms. Briggs, noting that the lot is in three zoning districts, asked for an explanation. Chair Waitkins reviewed the history of the lot and its zoning. Ms. Briggs then asked about other non-conforming uses in the area; Ms. Walker and Mr. Weeks listed the other businesses in the neighborhood.

Chair Waitkins asked Mr. Weeks why the applicant was before the Board for a variance. Mr. Weeks explained that currently the barn can host the retail of antiques, but the proposal is to expand the use to general retail and to incorporate the house. Ms. Briggs asked how many employees they intend to have; Ms. Walker replied that they would want two full-time employees per shift. Ms. Monahan asked what about the property constituted a hardship. Ms. Walker said that it is zoned as a two-family residence. However the home is on a busy road, and she is not sure if it could be rented. The first floor of the house is against code, and will be difficult to convert it into a two-family dwelling. Ms. Briggs asked if it could be used as a single family dwelling. Ms. Walker said that it could be.

Chair Waitkins then asked if anyone present wanted to speak either for or against the application. Hearing no comment, and as there were no further questions from the Board, Chair Waitkins closed the public hearing on case 1156.

Chair Waitkins then read the notice of the next case:

**Case No. 1157 David & Lisa Pilcher** Request for a Special Exception to Article II, §245-8B(5) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to operate an in home Day Care Facility on property located at 6 Snow Road off Murphy Road, Parcel ID No. R006-018-001 in the Rural District. There was no objection to the notice.

Ms. Pilcher began by explaining that she and her husband are both licensed foster care parents. Under New Hampshire law there can be up to three children in a day care before special licensing is required. She and her husband are in the process of becoming licensed to care for more than three children, as well as providing day care to foster children. Both the Fire and Health inspectors have inspected their home, their water has been tested, and everything has passed. She added that she understands that there are concerns about traffic; however she said that they only expect a couple of additional vehicles.

Ms. Monahan asked how many children she is expecting. Ms. Pilcher said between six and nine children, as her own children age. Ms. Briggs asked what is the status of Snow Road. Ms. Pilcher replied that it is a private road with four houses, and they all share the maintenance. Ms. Briggs asked if there is some erosion. Ms. Pilcher said that there is when it rains, but all the homeowners

share the upkeep. Ms. Monahan asked if the septic system is adequate for the use. Ms. Pilcher said that their home is a four-bedroom. Mr. Weeks explained that she needed to know if the septic system is designed with adequate load for the use. There was an extended discussion of what is included in each of the required inspections.

Ms. Briggs asked what the hours of operation will be. Ms. Pilcher said that she will have children between 6am and 6pm five days a week. Ms. Laurenitis asked if Ms. Pilcher has seen the letters sent to the Board regarding traffic, and what is her response. Ms. Pilcher said that she had, and that there would only be two more additional vehicles.

Chair Waitkins asked if anyone wished to speak either in favor of or opposed to the application. George McGee of 10 Snow Road said that he is concerned about the road; it is a shared space, and they need to share the cost. He is concerned that increased wear and tear will mean increased shared costs, and noted that the corner of the road in front of the Pilcher's house often washes out. Mr. Pilcher explained that the erosion at that corner is due to rain and not traffic. Mr. McGee added that when there is snow the road narrows to one lane. Ms. Briggs asked how the maintenance costs are apportioned; Mr. McGee replied that each homeowner pays 25% of the costs. Ms. Laurenitis asked if there has been a noticeable difference in the traffic; Mr. McGee said that he does notice because he is bringing his kids out to school when people are driving in. Ms. Briggs asked if he thought that additional cars would impact the washout. Mr. McGee said that the additional car load would be negligible. Chair Waitkins closed the public hearing for case 1157.

Chair Waitkins read the notice for the next case:

**Case No. 1158 Maggies Health for Amvica Properties, LLC** Request for a Variance to Article IV, §245-18F(2)(b) of the Peterborough Zoning Ordinance. Applicant requests the Boards approval to erect a freestanding sign that exceeds 10 feet in height on property located at 14 Main Street, Parcel No. U017-006-000 in the Downtown Commercial District. There was no objection to the notice.

Peter Robinson, owner, explained that as one stands at the corner of either Main Street and Grove Street or Main Street and School Street you cannot see that Maggies is there. He is asking for a freestanding sign so that people can see Maggies from the street. He said that they have found that motorists often miss the store entirely because they are paying attention to other vehicles and pedestrians. He said that they are also asking to raise the sign above what is allowed by the ordinance because when vans and trucks park in front of the store they would obscure the sign due to a dip in the pavement outside the store. He added that they did explore a sign on the roof, however because the roof is not a structural component of the building he recommended against that option.

Mr. Weeks told the Board the only thing at issue here is the height at the top of the sign, not at the top of the pole. Mr. Stewart asked if it would be possible to reconfigure the sign in such a way that the maximum of ten feet would be acceptable. Mr. Robinson said that when they looked at it as a landscape layout it was not as appealing. Mr. Carrara noted that the top of the Bellows Nichols sign is 14 feet 10 inches and the bottom is 10 feet 7 inches above the sidewalk.

Chair Waitkins asked if anyone present wanted to speak either for or against the application. Ken Christian said that on the surface he has no objection to the sign, but he has not seen it yet. Phil Jones of the Unitarian Universalist Church said that there does not seem to be a safety issue, and their only concern is aesthetic, but he is pleased that there are no lights or neon proposed.

**Motion:**

In a motion made/seconded (Waitkins/Stewart) that in **Case No. 1156 Patricia Walker** Request for a Variance to Article II, §245-6A & §245-7A of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to sell antiques and operate a retail consignment shop while maintaining a dwelling on property located at 133 Wilton Road, Parcel No. U019-004-000 in the Family, General Residence and Rural Zoning Districts is hereby GRANTED.

**The Board finds:**

1. The granting of this variance would not be contrary to the public interest because a variance was previously granted for the sale of antiques, children's toys, clothing and eco-products; the property is located on a busy highway and there are similar businesses in the immediate area.
2. The use is not contrary to the spirit of the ordinance because the purpose of the three ordinances which cover this lot were in general to keep retail uses out of residential areas. However, because of the existing retail uses in the immediate area of this property, the spirit of the ordinance is contradicted by the character of the neighborhood.
3. Granting the variance would do substantial justice because the property is not located in an intact family residence neighborhood, and there are similar retail uses in the vicinity, and as a result, substantial justice does not require strict enforcement of the ordinance.
4. The values of surrounding properties are not diminished because there are a number of commercial establishments nearby.
5. Special conditions of the property distinguish it from surrounding properties because property already carries a variance to sell antiques in the barn. In addition, this property is located in three zoning districts; the property is partially located in the General Residence District. Also, this property is located on a straight-away on Route 101, the major east/west highway.
6. Owing to these special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because the ordinance does not reflect the current character of this segment of Wilton Road.
7. The proposed use is a reasonable one because there are similar uses in the area, the road will support the use and there is sufficient parking.

**The Board imposes the following conditions:**

1. The hours of operation shall be 10am to 6pm.
2. There shall be no more than two employees.
3. The vehicles operated from the premises shall not exceed 12,000 pounds, and the use shall not entail more than occasional visits by vehicles of such size.
4. The sale of antiques and retail consignment operations are restricted to the barn and the first floor of the house; the second floor of the house shall be maintained as a single family dwelling.
5. The applicant must obtain approval for expanded parking from the Planning Board.
6. There shall be no exterior storage of materials related to the business.

7. The business shall not be expanded beyond the current dimensions of the existing structure.

**Vote:**

All in favor, the motion passed unanimously.

In regards to Case 1157 the Board agreed to postpone the deliberation until after they make a site visit and receive approval from the Health Officer.

**Motion:**

In a motion made/seconded (Waitkins/Stewart) in **Case No. 1158 Maggies Health for Amvica Properties, LLC** request for a Variance to Article IV, §245-18F(2)(b) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to erect a freestanding sign that exceeds 10 feet in height on property located at 14 Main Street, Parcel No. U017-006-000 in the Downtown Commercial District is hereby GRANTED.

**The Board finds:**

1. The variance will not be contrary to the public interest because the sign will not alter the character of the neighborhood. In addition, the increased height of the sign will promote public safety by locating the bottom of the sign above the pedestrian area.
2. The spirit of the ordinance is observed because the Peterborough sign ordinance recognizes that establishments need identification and the public needs direction. The higher sign is required to achieve that purpose because there is a dip in the pavement directly in front of Maggie's.
3. Substantial justice is done because Maggie's does not have an opportunity to be noticed from the street because it is set back from the surrounding businesses, and it is only visible from directly in front of the building.
4. The values of surrounding properties will not be diminished because the sign proposed is consistent with the character of other signs in the area.
5. Special conditions of the property distinguish it from surrounding properties because the building is set back approximately eight feet behind the neighboring storefront. In addition, the outside façade does not provide enough structural strength to support a suspended sign. The traffic patterns on that portion of Main Street make it difficult for drivers to read signs placed perpendicular to the road. There is also a significant dip in the pavement in front of the building.
6. Owing to those special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because the sign does not block any other businesses, it will pose no harm to the community, and will possibly benefit other businesses by helping draw customers to the downtown.
7. The proposed use is a reasonable one because the sign will be similar in height to the existing Bellows-Nichols sign, it will promote traffic safety by making the business easier to locate, and it will promote pedestrian safety by placing the sign above the heads of those passing underneath.

**The Board imposes the following condition:**

The sign shall substantially conform with the dimensions and style of the sign shown on the drawing submitted with this application.

**Vote:**

All in favor, the motion carried.

As there was no further business, the meeting adjourned at 10:32pm.

Respectfully Submitted,

Nicole MacStay, Assistant to the Town Administrator