



ZONING BOARD of ADJUSTMENT

Town of Hollis

Seven Monument Square

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Minutes of March 28, 2024

The Zoning Board of Adjustment meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:00 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT PRESENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao, and Drew Mason; Alternate Members – Stan Swerchesky, and Michael Bishop.

MEMBERS ABSENT: Regular Member – Rick MacMillan; Alternate Members – Kat McGhee, Bill Moseley, and Meredith West.

STAFF PRESENT: Kevin Anderson, Town Planner & Environmental Coordinator; Donna Setaro, Building and Land Use Coordinator.

J. Belanger led the Pledge of Allegiance.

B. Major explained the policies and procedures.

B. Major stated that the voting members for both cases this evening will be J. Belanger, C. Robbins-Tsao, D. Mason, S. Swerchesky, and M. Bishop.

Determination of Regional Impact

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for case ZBA2024-004 or case ZBA2024-005.

ZBA2024-004

The application of Thomas Vitullo, property owner, for a Special Exception to Section XII; paragraph C; Nonconforming Structure, of the Zoning Ordinance, to construct a 16 x 20 porch 19.3 feet from the rear property line (Required 35 feet), located at 37 Federal Hill Rd., (Map 059, Lot 019) in the Recreational Zone.

Applicant: Thomas Vitullo, 37 Federal Hill Road. Stated that they want to remove an existing nonconforming structure, a detached screened-in porch. Instead, they would like to install a screened-in porch that would be attached to the residence. They would be moving the structure an additional 1.8 feet back from the lake, so it would be more conforming. There would be no change to the neighborhood, no impact to the roadway, no impact to the septic system, no impact to the watershed area. They will eventually be adding a wood burning stove to the screened porch. Per a question from B. Major, T. Vitullo confirmed that they are basically converting the screened porch area to additional living space — a three-season porch. The height of the porch will not change, and it will sit below the existing peak of the roof. The existing house is on a slab; the foundation of the new screened-in porch will be a monolithic pour, replacing the slab on which the existing porch sits.

Per a question from S. Swerchesky, T. Vitullo confirmed that the existing porch is not attached to the house. It's

about 4.3 feet from the house. There is a covered walkway in between. In getting rid of the covered walkway, and attaching the new structure to the house, it will move 1.8 feet back from the lake, and be a bit larger in size than the existing porch. The impervious footprint will not change.

S. Swerchesky voiced a concern that the new porch could be converted to a bedroom, necessitating a septic renewal and increased capacity. He asked if the Applicant intended to insulate the walls of the proposed new porch. T. Vitullo said that yes, they are intending to insulate the building area. S. Swerchesky asked if there is going to be a closet; T. Vitullo said no, and would find it an acceptable condition that the new porch not be used as a bedroom. There is no intention to make it a bedroom.

Per a question from D. Mason, T. Vitullo stated that there will not be any kind of attic above the new porch; it will have a vaulted ceiling.

Per a question from J. Belanger, T. Vitullo confirmed that he does own this lot and the adjacent lot. J. Belanger asked whether T. Vitullo had thought about combining the lots; T. Vitullo stated that he had not. Currently they are renting out the cottage on the other lot.

B. Major asked whether the shed and doghouse on the property were pre-existing, or structures that the Applicant installed. T. Vitullo answered that they put up the shed, but the doghouse was already there. B. Major asked how the shed happened to be right on the line; T. Vitullo responded that that's just where they put it. B. Major stated that the concern he has is in regard to density. It looks as if close to a third of the entire lot is built up with structure. This proposal would improve that to an extent, because the Applicant would essentially be removing one building and combining it with the main house.

K. Anderson stated that there is the existing detached screened-in porch, and a walkway that allows access to the brick patio which is adjacent to Silver Lake. With the proposed new layout, the Applicant would no longer be able to access the brick patio in that manner, though there are probably interior doors that will still allow access. As this proposal requires a shoreland permit, with the Applicant having to show all impervious area, K. Anderson asked whether T. Vitullo is planning on putting a walkway in front of the new porch. How will they access the patio? T. Vitullo replied that no, they do not intend to install a walkway. They can just walk right around the porch, and there will be two doors from the inside. From the beach you can step right onto the patio; there is no wall.

K. Anderson asked whether the brick patio areas are at all pervious — are they cemented in? T. Vitullo stated that they are not cemented in, but they are paver stones. K. Anderson stated that, along with B. Major, he is concerned about the impervious area on this lot. Obviously, this is a built-up lot. The Applicant has successfully obtained a shoreland permit, so clearly the criteria provided were sufficient. He asks that in the future, if the Applicant does any further work on the property, he try to get as much water to infiltrate into the site as possible. T. Vitullo stated that they are looking to eventually replace the existing pavers, and when they do they can use pavers which allow drainage.

T. Vitullo stated that the septic system is located in the front of the house; the wellhead is in the back. The septic system is typical — a leaching field, with a tank. The front lawn is a leach field.

Per a question from B. Major, T. Vitullo stated that the house was converted from a beach cottage sometime in the 1970s.

Per a question from J. Belanger, T. Vitullo confirmed that yes, his neighbors are aware of the application, and the neighbors with whom he has spoken have had no objection.

Spoke in favor of the application

Ann Tucker, 39 Federal Hill Road. Stated that she has no objection at all to the application, and in fact thinks that it will improve the property. The fact that the Applicant will be pulling the building back from the lake should be helpful to the lake, as well. The appearance will be better, and the structure will be much more functional as an attached part of the house.

No further questions from the Board and none from the floor. The hearing portion of the case was closed.

ZBA2024-005

The application of Elenye Ghenatos-German, for a Special Exception to Section XXII, paragraph 3; Home Based Business, of the Zoning Ordinance, to permit a music lesson business, property owned by Leticia Ghenatos Liv. Trust, located at 57A Runnells Bridge Rd., (Map 010, Lot 007) in the Recreational Zone.

Applicant: Elenye Ghenatos-German, 57A Runnells Bridge Road. Stated that she is a piano teacher, focusing mostly on classical and acoustic music. Her daughter lives upstairs, and also teaches — voice, cello, piano, and ukulele.

K. Anderson stated that he helped with this application; when it first came in it was a big list of many things the Applicant wished she could do on the property. He guided it toward a Home Occupation because the Applicant didn't have an established business — she is looking to promote her music. Both of her daughters are in the music industry as well. This application would be one of the first steps toward what the Applicant will probably turn into a business, but it is small enough to qualify for a home business.

E. Ghenatos-German stated that she has a degree from the New England Conservatory of Music, and her daughters both went to Berklee College of Music. A lot of what they do is perform together as a family, and they also coach other families on how to play together. Most of the hours that they teach depend upon who the clients are; homeschoolers, for instance, they can take earlier in the day. Most of the teaching hours fall between 9am and 9pm. Most of the teaching hours are going to be after school. Currently, when they teach at schools, their lessons are from about 3/3:30 in the afternoon until about 7:30 or 8pm. She loves teaching, she loves what she does, and is hoping to share it with the community.

B. Major asked whether the Applicant is ok with having a maximum of six lessons per day. E. Ghenatos-German answered yes. B. Major asked whether she would be comfortable with the provision that there be no concerts on the premises — no performances of more than three people. D. Mason brought up the possibility of end-of-year recitals; E. Ghenatos-German stated that they probably wouldn't be doing anything like that. Usually they have recitals elsewhere, arranging to do them at a church or other location. She could envision, though, a few kids wanting to play together as an ensemble, and wanting to play for their immediate family — it could be a small-group kind of concert, but she doesn't have any plans for that right now.

B. Major asked whether it would be reasonable to add as a condition that there be no amplified music, which could be heard at a neighbor's property. E. Ghenatos-German answered that she doesn't think anything can be heard by anybody nearby. Her piano studio is on the left side of the property, closer to the access road. With the insulated walls that they have, and the sturdiness of the home, which was built in 1761, she hasn't had any complaints as yet. E. Ghenatos-German stated that her closest neighbor is on the left side of them, at 59 Runnells Bridge Road. She would assume that it is more than 300 feet between that neighbor and her piano studio.

Per a question from B. Major, E. Ghenatos-German stated that the hours of operation they'd like to hold would be 9am - 9pm, Monday - Friday, mostly. On Saturdays they usually just do make-up lessons, and most people are generally more available before noon on Saturdays — so 9/9:30 to noon would probably be the average.

S. Swerchesky asked whether one of the lesson rooms is currently a bedroom. E. Ghenatos-German answered

145 that it was a bedroom, but she is using it as an office right now.

146
147 S. Swerchesky pointed out that we have to consider whether there will be enough septic capacity for this home
148 business, and asked whether that had been looked into. E. Ghenatos-German responded that they do have two
149 septic systems on the property, because it was a two-family home although they are currently occupying it as a
150 one-family, with her daughter living upstairs. She does not know the size of the septic systems. S. Swerchesky
151 stated that he doesn't think the proposed business would have a big effect on the septic, but the Board has to dot
152 their i's and cross their t's. He asked whether that would be something the Building Department would look into.
153 K. Anderson responded that he's probably the one who would be looking into it. For lessons, it would probably
154 fall into the category of about 5-10 gallons per person. A bedroom is 150 gallons, so you'd be talking about a
155 very minimal increase to a two-bedroom system. He is not sure what is on record for the property, but it is an
156 excellent question. S. Swerchesky added that the Applicant has given up a bedroom, which is now not putting
157 any strain on the septic system — so it's a wash.

158
159 Per a question from C. Robbins-Tsao, E. Ghenatos-German stated that she and her mother purchased the home
160 this past September, and are co-owners of the home, under a Trust. They have made some major improvements,
161 including putting a new roof on both the house and garage, paving the driveway and expanding it a little bit,
162 taking down some trees that were not healthy, and adding a shed, for which they got a building permit.

163
164 B. Major asked to confirm that they have no employees other than the residents of the home — the Applicant and
165 her daughter. E. Ghenatos-German responded that she has two daughters who teach lessons there now; her other
166 daughter very occasionally comes in to teach violin, viola, and piano, but mostly teaches out of her own home.

167
168 J. Belanger asked how many years the Applicant plans to be doing this work. E. Ghenatos-German answered that
169 the daughter who lives on the property just turned 30; E. Ghenatos-German's own teacher is still teaching, and is
170 probably in her mid-70s. She imagines that, hopefully, she still has 20-30 more years of doing this. J. Belanger
171 asked whether there is any chance the Applicant would be teaching outdoors in the summer, for instance, when
172 the weather is nice. E. Ghenatos-German stated that typically probably not. J. Belanger brought up the point that,
173 as the Applicant doesn't know how long the work might continue, her neighbors could eventually change. New
174 neighbors might complain about the sound. J. Belanger proposed a sound limit: if someone complains, they will
175 have to have a professional go out and measure the sound level. He suggested a provision that within 400 feet of
176 the house, the sound level should not exceed 115 dB. He doesn't think that the Applicant will ever come close to
177 that, but at least if she is under that level then the neighbors can't complain. J. Belanger explained that 110 dB is
178 the sound of a lawnmower, or a heavy truck, or a power saw. 120 dB is disco music, loud bar music, or a
179 shotgun.

180
181 D. Mason asked whether the second floor of the residence is used for teaching at all. E. Ghenatos-German
182 answered no.

183
184 M. Bishop asked about the exit from the lesson room located in the house. E. Ghenatos-German stated that there
185 is an egress window within that room, as well as a door into a foyer that leads to the front door. They generally
186 don't use the front door as much as the side door from the driveway, through the kitchen, directly into the piano
187 room. It could be used as an emergency exit, however, as could the egress window, and there is also an exit in the
188 piano room that leads directly outside. M. Bishop asked whether the separate piano studio has any windows. E.
189 Ghenatos-German stated that it has two windows, and the door.

190
191 K. Anderson explained that the application will go with the property; although E. Ghenatos-German's use will
192 have a limited noise level, someone could come in in the future with a louder use. That is why the Board needs to
193 consider some provisions.

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195 B. Major stated that he thinks J. Belanger's proposal allows too much noise — he himself wouldn't want to be a

neighbor hearing a lawnmower running at 8pm, necessarily. M. Bishop pointed out that the property is on a main road, with a lot of traffic. K. Anderson stated that the Town of Hollis does not have a noise ordinance. We have a construction noise ordinance, but not a noise ordinance. It's difficult to put limitations on noise if we don't have an ordinance.

In looking at the noise level reference that J. Belanger was using, B. Major pointed out that piano practice is listed at 65 decibels. K. Anderson cautioned about putting decibel limits on anything: they are extremely hard to enforce. Noise is largely a perception of what is loud and what is not.

B. Major asked if there were any instance in which the Applicant's neighbor could ever hear music. E. Ghenatos-German stated that maybe if they were walking on the access road, they might be able to hear it, faintly. She has central air conditioning and does not need to open her windows. She also has bookshelves full of music which additionally help to absorb sound.

No one spoke in favor or against the application.

No further questions from the Board and none from the floor. The hearing portion of the case was closed.

DELIBERATIONS AND DECISION

ZBA2024-004

The discussion of the application of Thomas Vitullo, property owner, for a Special Exception to Section XII; paragraph C; Nonconforming Structure, of the Zoning Ordinance, to construct a 16' x 20' porch 19.3 feet from the rear property line (Required 35 feet), located at 37 Federal Hill Rd., (Map 059, Lot 019) in the Recreational Zone.

J. Belanger stated that he has no questions and no problem with this case. He thinks it is going to make the property better, and reduce some of the existing infringements.

D. Mason stated that he has a general dislike of the density in the area, but in terms of this application he has no problem.

S. Swerchesky stated that the only concern he has is in regard to the room potentially being changed into a bedroom — so he'd like to put a condition on the application that the new porch not be used as a bedroom in perpetuity.

D. Mason stated that he doesn't have a problem with people sleeping out on the porch in hot weather, but he has a problem with it becoming a permanent bedroom.

M. Bishop was also concerned about the density of the area in general, and the strain on septic systems.

S. Swerchesky moved for the following condition;

1. The proposed 3 season addition shall not be used as a bedroom.

Seconded by M. Bishop.

Motion unanimously approved.

Questions/Special Exception

Question #1 Is the Exception specified in the Ordinance?

Question #2 Are the specified conditions under which the Exception may be granted present?

Question #3 Should the Exception be granted with the specified conditions and restrictions?

Board Member	Question #1	Question #2	Question #3	Total -Yes	Total - No
J. Belanger	Yes	Yes	Yes	3	0
C. Robbins-Tsao	Yes	Yes	Yes	3	0
D. Mason	Yes	Yes	Yes	3	0
S. Swerchesky	Yes	Yes	Yes	3	0
M. Bishop	Yes	Yes	Yes	3	0

THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED WITH THE FOLLOWING CONDITION;

- 1. The proposed 3 season addition shall not be used as a bedroom.**

ZBA2024-005

The application of Elenye Ghenatos-German, for a Special Exception to Section XXII, paragraph 3; Home Based Business, of the Zoning Ordinance, to permit a music lesson business, property owned by Leticia Ghenatos Liv. Trust, located at 57A Runnells Bridge Rd., (Map 010, Lot 007) in the Recreational Zone.

J. Belanger stated that he still thinks we should set a sound level because you never know what's going to happen with the property in the future, and the sound level that he is proposing is so high that it is unlikely to be met.

M. Bishop agreed that, at a distance of 400 feet, it was unlikely that any instrument would meet that sound limit — but it does open up the possibility for someone to come into the property in the future with much louder music than currently proposed, and they'd be good to go.

B. Major stated that he'd prefer to tailor the condition to the point of not being able to hear the music from neighboring properties. It's nice to have a decibel limit, but that's virtually unenforceable.

J. Belanger stated that if someone complains, the Town will have someone bring in sound equipment and prove it one way or another.

B. Major asked whether, at 8 o'clock at night, you want 115 decibels 400 feet from your house. J. Belanger stated that he's saying it should not reach 115 decibels; it should be less than that.

D. Mason asked what the Board imposed on the past case of the Bed & Breakfast. Did we put a decibel limit on that application? The answer was that the Bed & Breakfast was limited to acoustic instruments at outside functions — no amplified sound.

B. Major pointed out that the first thing you hear, as you approach a concert, for instance, is the bass. The bass travels a long distance. You can hear bass before you can pick up any of the other instruments. The Board in general pointed out that wind direction can also be a factor.

K. Anderson cautioned again about putting conditions on what is audible, what is perceived, from his experience with noise complaints and enforcement. His idea of what is a complainable offense may be different than someone else's idea of what is a complainable offense: it's a perception. A decibel limit is scientifically measurable — but now you're putting the Town in the position of having to police the matter.

J. Belanger moved for the following condition;

1. The sound level at 400' from the dwelling, shall not exceed 115dB.

Seconded by S Swerchesky.

C. Robbins-Tsao, D. Mason and M. Bishop voted No.

J. Belanger and S. Swerchesky voted Yes.

Motion fails 3 to 2.

D. Mason suggested that there be no use of drums at all, or amplified sound after 6pm. He pointed out that a keyboard is an amplified sound. M. Bishop stated that he would support both of those.

K. Anderson stated that the concept of amplified sound is very difficult to determine.

It was pointed out that some of the Applicant's use is going to be amplified, just by definition.

D. Mason stated that he would suggest letting it all go. S. Swerchesky concurred; the street noise is going to be louder than any music.

D. Mason moved for the following condition;

1. The hours of operation shall be Monday – Saturday 9:00 am to 9:00 pm.

Seconded by M. Bishop.

Motion unanimously approved.

C. Robbins-Tsao moved for the following condition;

2. The business is limited to 6 lessons per day.

Seconded by M. Bishop.

S. Swerchesky voted No.

J. Belanger, C. Robbins-Tsao, D. Mason and M. Bishop voted Yes.

Motion passed 4 to 1.

Questions/Special Exception

Question #1 Is the Exception specified in the Ordinance?

Question #2 Are the specified conditions under which the Exception may be granted present?

Question #3 Should the Exception be granted with the specified conditions and restrictions?

Board Member	Question #1	Question #2	Question #3	Total -Yes	Total - No
J. Belanger	Yes	Yes	Yes	3	0
C. Robbins-Tsao	Yes	Yes	Yes	3	0
D. Mason	Yes	Yes	Yes	3	0
S. Swerchesky	Yes	Yes	Yes	3	0
M. Bishop	Yes	Yes	Yes	3	0

THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED WITH THE FOLLOWING CONDITIONS;

- 1. The hours of operation shall be Monday – Saturday 9:00 am to 9:00 pm.**
- 2. The business is limited to 6 lessons per day.**

Review of Minutes

C. Robbins-Tsao moved to approve the minutes of February 22, 2024.

Seconded by M. Bishop.

Motion unanimously approved.

D. Setaro said for the record that case ZBA2024-006 has been withdrawn by the applicant.

Meeting Adjourned

The ZBA meeting adjourned at 8:25 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator,
and Aurelia Perry, Recording Secretary.