



BOARD of ADJUSTMENT
Town of Hollis
Seven Monument Square
Hollis, New Hampshire 03049
Tel. 465-2209 FAX 465-3701

Minutes of August 23, 2018

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: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Member – Susan Durham; Alternate Members –Drew Mason, Kat McGhee, Bill Moseley and Meredith West.

Major explained policies and procedures.

Major appointed Mason and McGhee as voting members for the cases this evening.

Case ZBA 2018-011

The application of Leo Lorden for a Special Exception to Section XXII, Home Based Business, Paragraph 4, Home Shop of the Zoning Ordinance to permit the operation of a landscape business, property owned by Raymond Lorden, located at 15 Spaulding Lane (Map 008, Lot 056) in the Residential/Agricultural Zone.

Morgan Hollis of Gottesman & Hollis in Nashua approached the podium on behalf of his clients, Raymond and Joan Lorden and their son Leo. He stated that a Home Based Business is one that provides sales and services off of the premises and has no customers or clients visiting the home. He stated that this application complies with the requirements for a special exception, as well as complying with the zoning ordinance of the Town. He said that the Lordens purchased the property at 15 Spaulding Lane in 2010. They tore down one chicken coop and converted another to a multi-bay garage. He shared Google Earth pictures with the Board, showing the six acre property with a single paved driveway from the road to the home and between the barn and the house. He indicated the locations of the abutters and the vegetative screening of the property. He said that the two employees would park in an area which is 150 feet off the road. Mr. Hollis continued, saying that Leo Lorden started his landscaping business when he was 14 years old, mowing lawns and shoveling snow. He has three trucks and three trailers in use for the business. His two employees arrive about 7:00 am. They park their vehicles and leave, along with Leo, in the business trucks. They return no later than 7:00 pm. They will make no more than 12 trips in and out of the property daily. Hollis said that the back of one of the trailers is visible from the road. The commercial trucks cannot be seen from the road, and both Raymond and Joan Lorden drive pickup trucks.

Belanger asked if the operation could be viewed from Route 122. Hollis said that it could not because there are trees. He stated that the business operation doesn't affect the character of the neighborhood. The hours of 7:00 am until 7:00 pm are typical commuting hours. There will be no repairs of vehicles or heavy machinery. There will be no outdoor storage of bark mulch, gravel, or timber. There will be no outside storage of equipment. There will be no storage of fuels, oils, or any hazardous materials. Hollis said that Leo Lorden went to the abutters at 5 and 16 Spaulding Lane and they had no objections. Their letters are on file.

McGhee asked about the size of the trucks. Leo Lorden approached the podium and stated that he had three one-ton trucks – two F350s and one F450. They are not diesel fueled. The trailers are 16-foot box trailers. Belanger asked what would happen if he wanted to expand the business. Lorden responded that he would move elsewhere.

Belanger asked if 33 Spaulding Road is an abutter. Lorden responded that it is an abutter. The property is 1,500 feet away and trees buffer the view.

Belanger confirmed that there will be no liquid fertilizer and no administrative employees. Major asked about the storage of fuel. Lorden responded that twenty gallons of fuel will be picked up each morning and used up during the day.

Major asked about the storage of clippings. Hollis responded that there was a complaint earlier about the storage of clippings overnight, so that practice has been discontinued. Moseley asked if the business would be plowing snow in the off-season. Hollis responded that it would be plowing snow in the winter. McGhee asked about the amount

of storage in the red barn. Hollis stated that one bay is used for equipment such as weed whackers, backpack leaf blowers and plows. The rest of the red barn is used by Leo's father, Raymond.

Mason asked about the possible installation of a fence or barrier to keep the back of the trailer out of view. Hollis stated that the gravel area could be extended so that the back of the trailer could be moved further back and totally out of view.

Mason asked if the business would result in an increase in the use of the septic system. Hollis said that it would not because the employees work away from the property all day.

Major asked if the applicant would agree to the stipulation of no more than three one-ton pickups. Hollis responded that they would. Belanger asked if the applicant would agree to the stipulation that the vegetation buffer not be cleared and that it would be replaced if the existing vegetation dies. Raymond Lorden, Jr. approached the podium and stated that he would agree to that stipulation.

Hollis continued, saying that there will be no business sign, no mailbox with advertisement of the business and no vehicles with signs. He stated that no merchandise, stock, commodities or parts will be sold on the premises, and the public is not welcome there. Regarding objectionable circumstances, there will be no issue with noise, vibrations, dust, smoke, traffic, electrical disturbances, odors, heat or glare. He stated that the general requirements have been covered; they have touched all bases for the special exception requirement, and the residential character has been maintained.

McGhee asked how long the business has operated without a special exception. Hollis said it has operated for several years. A complaint about a large pile of grass clippings precipitated looking into the possibility of a need for a special exception.

Mason asked about the hours for the snow plowing operation, given that plow trucks would probably be operating outside of the 7:00 am to 7:00 pm hours of the landscaping operation. Hollis acknowledged that this would be the case and that the trucks might be leaving at any hour and probably returning twelve hours later.

West asked about materials stored on site. Hollis said he saw in the red barn only weed whackers, leaf blowers and plows. Mason asked about weed killers, pesticides, etc. Hollis responded that these would not be used. Special licensing would be required, and Leo has no interest in this aspect of landscaping.

Letter received in favor of the application

Major stated the ZBA had received two letters dated on August 06, 2018; Theresa Capodilupo, 16 Spaulding Lane, and David Salyer, 15 Spaulding Lane. Both letters were in favor of the landscape company.

Spoke not opposed or in favor of the application

Kevin Anderson, 42 Spaulding Lane.

Anderson asked if the applicant would be required to seek Planning Board approval. Major replied no. Anderson stated he does oppose a full blown landscape material yard and asked if this is approved, would the approval be only good for the applicant or would the approval go with the property. Major replied the approval would go with the property. Anderson stated the ZBA should consider the following conditions of approval: no outside storage or storage of fertilizers, minor maintenance only, all operations restricted between the house and the barn and no equipment visible from the road. Major stated that the applicant had proposed conditions of approval; there would be no outside storage of landscape materials and the equipment would not be visible from the road. Anderson stated he was aware of the operation and has no problems with the snow plowing. In Anderson's opinion the application could be granted as long as there are appropriate conditions imposed to limit the operation to its current scope.

Spoke in opposition to the application

Nicoletta Marchand, 33 Spaulding Lane.

Marchand stated she has lived in the area for 39 years and bought the property for its rural character and quiet location. In her opinion, a commercial business should not be able to operate within a residential area.

The increased noise, dust and traffic are her main concern. Major asked if Marchand was aware a home shop is an allowable use in the area. Marchand replied yes. However, she felt her quality of life will be impacted if the business was allowed.

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

Case ZBA 2018-012

The application of Robert & Patricia Markowich, property owners, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 779 square foot accessory dwelling unit located at 39 Cameron Drive (Map 025, Lot 036) in the Residential/Agricultural Zone.

Kristin Markowich, daughter, presented case ZBA2018-012 on behalf of the property owners. Markowich stated the application is seeking a Special Exception for the construction of an 800 square foot Accessory Dwelling Unit (ADU). Major explained the meeting notice was for a 779 square foot ADU and if the applicant wants to change the size of the ADU, a new notice would have to be sent and the meeting proposed. The applicant decided to seek the approval for a 779 square foot ADU.

Markowich explained the ADU would be constructed off the back of the existing single family residence (SFR). The ADU would not be visible from the street. The outward appearance and style of the ADU will blend with the existing home using the same materials, windows and roof. The ADU shall not be detrimental to the character, environment, scenic value, health, safety or general welfare of the town in any way. There would be no impact on traffic or physical conditions of the Town's road. The ADU would include a bedroom, bathroom, kitchen and family room. The ADU would be secondary to the SFR. The common heated wall for the ADU would be located in the existing three- season porch which would be renovated and used as a family room and/or library for the primary residence. The ADU would have adequate off street parking. Belanger asked if a doorway was to be installed in the in the renovated family room area and was the area heated. Markowich replied yes.

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

Case ZBA 2018-013

The application of Anthony Stanizzi, property owner, for a Special Exception to Section XII, Non-Conforming Uses, Structures and Lots, Paragraph C, Non-Conforming Lots of the Zoning Ordinance to permit the construction of a 24' x 28' addition to the rear of a existing garage 12 feet from the side yard setback (required 35 feet) located at 201 S. Merrimack Road (Map 043, Lot 015) in the Residential/Agricultural Zone.

Anthony Stanizzi explained his request as being a 24' x 28' rear addition to his existing garage. The addition would be used for storage, a workshop and one single stall for a horse. The existing garage sits 12 feet from the side yard setback. The addition will not further infringe upon the existing setback. The addition will have no impact on traffic or physical condition of the Town's road. The addition is virtually invisible to abutters, thus having no effect on scenic value.

McGhee asked if the addition was towards the Langley property. Stanizzi replied yes. Major asked if there was a vegetative buffer between the addition and the Langley property. Stanizzi replied yes; however, a few trees would need to come down. Major asked if Stanizzi would agree to leave a buffer along the north end of the property (Langley side) to obscure the visibility of the addition. Stanizzi replied yes. Mason stated after reviewing the plot plan it seems like the rear of the addition may in fact be further from the side setback. Condra stated he had conducted a site visit and confirmed the property line towards the back of the addition is further away from the side setback

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

Case ZBA 2018-014

The discussion of the application of Sharon Howe, Anna Keyes Powers Chapter DAR for a Variance to Section XIV, Sign Ordinance, Paragraph L.4, Exceptions Historic Plaque (markers) of the Zoning Ordinance to permit the installation of one 8.65 square foot Historical Marker, where 2 square feet are allowed, located on either Rte. 130 or

Rte. 122 in the state right-of-way are in the Agricultural Business Zone.

Mary Pease, Regent, Anna Keyes Powers Chapter of the DAR in Hollis, explained the DAR is requesting a variance from the Hollis sign ordinance. The ordinance states these types of signs are allowed only if they two square feet. The proposed sign is 8.75 square feet. The size of the signs is mandated by the state. The Powers home and homestead of 37 ½ acres were located very near the intersection of the four corners (Rt. 122 and Rt. 130) in Hollis. The exact placement of the marker will be determined by the Town and the State. At the current time, it is expected the marker to be placed on Route 130. The state markers are installed and maintained in the roadway right-of-way by the State and are uniform in size and design throughout the State. The text of each marker is appropriate to the site being identified. There is no cost to the Town for the marker.

The proposed text for the new highway marker is as follows:

CAPT. PETER POWERS HOMESTEAD

HOLLIS' FIRST PERMANENT SETTLERS, CAPT. PETER POWERS AND HIS WIFE, ANNA KEYES, ESTABLISHED THEIR 37-1/2 ACRE HOMESTEAD ON THIS HILL IN 1730. CAPT. POWERS MARCHED WITH LOVEWELL; WAS A SURVEYOR AND TOWN OFFICER; 1ST CAPT. OF THE WEST DUNSTABLE MILITIA; COMMANDER OF A 1754 EXPEDITION TO EXPLORE THE COOS COUNTRY AND CAPT. OF THE HOLLIS COMPANY IN THE 1755 EXPEDITION TO CROWN POINT. HE AND THREE SONS SERVED IN THE FRENCH & INDIAN WAR; FOUR SONS WERE SOLDIERS IN THE REVOLUTIONARY WAR. CAPT. POWERS DIED OF FEVER 8-27-1757 AGE 49.

The purpose of the sign is to convey to the public the location of the homestead. The sign would not change the character of the neighborhood. Major asked where the actual homestead was. Belanger said he was not aware of the intent to place a historic sign regarding Peter Powers in Hollis. He said that he owns the property at 17 Proctor Hill Road, and Peter Powers' original dug well is still there in front of the house. The Powers homestead used to be set back in what is now a field. Ken Bennet used to own that land, and he removed the old Powers home foundation. But the family used to walk down toward the road to get water because of the ledge where they built a home. Major asked what issues the Historic District Commission (HDC) had regarding the sign since they denied the application. Setaro stated that the HDC recognized the historical significance of the proposed marker. However, the HDC denied the application because it violates section XIV.L.4. The HDC does not have the authority to deviate from the ordinance. Belanger stated he has no problem with the sign but does have a problem with parking and pulling over to read the sign as a safety concern. McGhee stated that since the State would be installing the sign, safety concerns would probably be addressed. The ZBA members agreed.

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

ZBA recessed at 8:50 pm.

ZBA resumed at 8:55pm.

DELBERATION AND DECISION

Case ZBA 2018-011

The discussion of the application of Leo Lorden for a Special Exception to Section XXII, Home Based Business, Paragraph 4, Home Shop of the Zoning Ordinance to permit the operation of a landscape business, property owned by Raymond Lorden, located at 15 Spaulding Lane (Map 008, Lot 056) in the Residential/Agricultural Zone.

The ZBA discussed the application and found that, with the appropriate conditions of approval, the application meets the home shop requirements.

McGhee moved for the following condition:

1. The vegetative buffer along Pepperell Rd (Rte. 122) and the applicant's property shall be maintained and replaced as necessary.
2. The applicant shall be limited to three (3) one (1) ton or lower rated commercial trucks and three (3) 16 foot trailers.
3. No storage of hazardous materials shall be permitted, and the applicant is limited to 20 gallons of gas outside the capacity of the vehicles.
4. There shall be no outside storage of landscape materials.
5. The applicant shall park all commercial vehicles out of public view.
6. No business-related vehicle repairs shall be conducted on site.
7. The applicant shall not install a business sign.
8. The landscaping business is limited to 7:00 am to 7:00 pm, Monday – Saturday. The snow plowing and snow removal portion of the business has no such restriction.

Seconded by Belanger.

Motion unanimously approved.

No further discussion.

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?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Brain Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0
Drew Mason	Yes	Yes	Yes	3	0
Kat McGhee	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING CONDITIONS:

1. The vegetative buffer along Pepperell Rd (Rte. 122) and the applicant's property shall be maintained and replaced as necessary.
2. The applicant shall be limited to three (3) one (1) ton or lower rated commercial trucks and three (3) 16 foot trailers.
3. No storage of hazardous materials shall be permitted, and the applicant is limited to 20 gallons of gas outside the capacity of the vehicles.
4. There shall be no outside storage of landscape materials.
5. The applicant shall park all commercial vehicles out of public view.
6. No business related vehicle repairs shall be conducted on site.
7. The applicant shall not install a business sign.
8. The landscaping business is limited to 7:00 am to 7:00 pm, Monday – Saturday. The snow plowing and snow removal portion of the business has no such restriction.

Case ZBA 2018-012

The discussion of the application of Robert & Patricia Markowich, property owners, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 779 square foot accessory dwelling unit located at 39 Cameron Drive (Map 025, Lot 036) in the Residential/Agricultural Zone.

The ZBA had a brief discussion and determined to approve the application. The ZBA did note the applicant is limited to the floor plan submitted with a total area of 779 square feet.

No further discussion.

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?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Brain Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0
Drew Mason	Yes	Yes	Yes	3	0
Kat McGhee	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED.

Case ZBA 2018-013

The discussion of the application of Anthony Stanizzi, property owner, for a Special Exception to Section XII, Non-Conforming Uses, Structures and Lots, Paragraph C, Non-Conforming Lots of the Zoning Ordinance to permit the construction of a 24' x 28' addition to the rear of a existing garage 12 feet from the side yard setback (required 35 feet) located at 201 S. Merrimack Road (Map 043, Lot 015) in the Residential/Agricultural Zone.

Major stated the proposed garage addition is located on a lot which is heavily wooded and not visible from the road; it would be barely visible, if at all, from the abutting Langley property. The ZBA members agreed.

No further discussion.

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?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
Brain Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0
Drew Mason	Yes	Yes	Yes	3	0
Kat McGhee	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED.

Case ZBA 2018-014

The discussion of the application of Sharon Howe, Anna Keyes Powers Chapter DAR for a Variance to Section XIV, Sign Ordinance, Paragraph L.4, Exceptions Historic Plaque (markers) of the Zoning Ordinance to permit the installation of one 8.65 square foot Historical Marker, where 2 square feet are allowed, located on either Rte. 130 or Rte. 122 in the state right-of-way are in the Agricultural Business Zone.

Mason stated the only reason the HDC denied the application is because they do not have the authority to vary the sign ordinance size restriction of two square feet. McGhee and West agreed. Major said that, since the application was for a variance, the ZBA needs to determine what the hardship is. Major asked the ZBA members for their opinions. Durham said the State DOT has only one size for the requested sign. Belanger stated the sign ordinance is in direct conflict with the state regulations. The ZBA members agreed.

Belanger moved for the following finding of fact:

- 1. The Board finds the hardship created was the inability to comply with the Hollis Zoning Ordinance, Section XIV.L.4, since said ordinance is in direct conflict with the State DOT regulations.*

Seconded by Major.

Motion unanimously approved.

Questions - Variance

Question 1. The variance will not be contrary to the public interest

Question 2. The spirit of the ordinance is observed

Question 3. Substantial justice is done

Question 4. The values of surrounding properties are not diminished

Question 5a(1). No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property

Question 5a(2). And, the proposed use is a reasonable one.

Board Member	Question #1	Question #2	Question #3	Question #4	Question #5a(1)	Question #5a(2)	Total Yes	Total No
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Mason	Yes	Yes	Yes	Yes	Yes	Yes	5	0
McGhee	Yes	Yes	Yes	Yes	Yes	No	5	0

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING FINDINGS OF FACT:

- 1. The Boards finds the hardship created was the inability to comply with the Hollis Zoning Ordinance, Section XIV.L.4, since said ordinance is in direct conflict with the State DOT regulations.**

Review of Minutes

Belanger moved to approve the minutes of July 26, 2018.

Seconded by McGhee.

Motion unanimously approved with Durham abstaining.

Meeting Adjourned

The ZBA meeting adjourned at 9:15 pm.

Respectfully submitted, Donna L. Setaro, Building & Land Use Coordinator