



BOARD of ADJUSTMENT
Town of Hollis
Seven Monument Square
Hollis, New Hampshire 03049
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Minutes of June 28, 2018

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:30 pm.

MEMBERS OF ZONING BOARD OF ADJUSTMENT: Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao, Rick MacMillan and Susan Durham; Alternate Members –Drew Mason, Kat McGhee, Bill Moseley and Meredith West.

Major explained policies and procedures.

Major appointed all regular members to vote on the cases this evening.

Case ZBA 2018-008

The application of Amanda Johnson, property owner, for a Special Exception to Section XXII, Home Based Business, Paragraph 3, Home Occupation of the Zoning Ordinance to permit the operation of a Chiropractic Business known as “Synergy Chiropractic, LLC” located at 50 Long Hill Road (Map 062, Lot 045-011) in the Residential/Agricultural Zone.

Amanda Johnson explained she has been practicing since 2009 and is fully licensed by the State of New Hampshire. Johnson stated she has a 13 month baby and would like to work from home. The business/office will be located in the library area within the existing home. Patients will park either by the garage or in the turn-around area. It is anticipated that no more than 2 patient vehicles parked at one time. The driveway is set back from the road and the vehicles can not be seen. Appointments normally last 15-30 minutes depending on the treatment being done. The business provides consultations, exams, adjustments, electric muscle stimulation and therapeutic ultrasound. No x-rays or x-ray equipment will be used on site. On average 3 – 8 patients will be seen per week by appointment only, no walk-ins would be accepted. Traffic would not be impacted since the number of vehicles coming and going is minimal. The character, environment, scenic value, health, safety or general welfare of the Town would not be impacted by the scope of the business. Home based businesses are an allowed use in the residential agricultural zone as long as the business meets the Town’s ordinance. It was Johnson’s opinion her business does meet the ordinance.

Major asked how many employees would be on site. Johnson replied no employees she works alone. Major asked how large the applicants’ lot was. Johnson replied 3.877 acres. MacMillan asked if a baby sitter would be onsite during business hours. Johnson replied no. West asked would there be any expansion to the business. Johnson replied not at this time. The patient load actually has been cut since becoming a mother. McGhee asked how long each visit is. Johnson replied approximately 30 minutes to an hour depending on the procedure. McGhee asked once her child was older would there be any business expansion. Johnson replied if the business expands outside what is allowed per the ordinance, the business will be re-located to an office.

Belanger stated if approved would Johnson agree to the following conditions; there shall be no signs indicating the business on the premises, there shall be no more than 2 client cars at the home at any one time, there shall be no classes with multiple attendees, the practice shall be limited to no more than 4 clients per day. Johnson stated 4 clients per day would limit her business some of the sessions contains several family members. Belanger asked if 4 session per day would be more agreeable. Johnson replied yes. Major stated expansion needs to be considered because the business is in a residential area. Johnson stated whatever conditions the Zoning Board of Adjustment (ZBA) imposes she will remain in compliance. Johnson added she has no intention to work full time. Tsao asked how was the business promoted was it by word of mouth or advertising. Johnson replied her patients have been the same for 4 to 5 years and has only had three new clients in the past 3 years.

Mason noted after review the home based business ordinance the application seems to meet all of the requirements such as; no products for sale, no employees and no outside storage. Mason asked how many parking spaces would be available for clients. Johnson replied 3 to 4 additional cars could fit in the parking area. Mason asked if the applicant was aware of the stipulation of 12 vehicular trips per day. Johnson replied yes.

No one spoke in favor of the application.

Spoke against the application.

Gerald Prunier, 54 Long Hill Road

Prunier stated he is against the application for the following reasons; the area is a single family neighborhood with covenants restricting the use as residential. The area was designed as a cluster development meaning the lots are undersized and close to one another. Prunier stated his property line is approximately 17 feet away from the applicants and is concerned about the business operation. The applicant has run her business at 146 East Dunstable Road for many years and within 6 weeks of moving to the area she wants to relocate her business to a residential area. The hours of operation from 9am – 6:30pm seems to be excessive for a small business as stated by the applicant. The number of vehicles coming and going would adversely affect the neighborhood. One other concern was who would be monitoring the business for compliance if approved. Major stated the applicant stated the lot size for 4 acres +. Prunier stated the 4 acres is common land, not the applicants' property. Major stated is the lot than 1 acre and were there covenants in place which restrict home based businesses. Prunier replied the covenants do not directly prohibit home based businesses and the lot is approximately 1 acre.

Belanger noted previously the ZBA granted another home based business on Long Hill Road. The use is allowed by the ordinance. The only way the ZBA could deny the application is if, the proposal does not comply with the ordinance. Prunier agreed however, the ZBA should consider the extent of the business use and that is does not adversely affect the appearance, character or condition of the residence or surrounding area which includes property values. McGhee stated with the small amount of additional traffic and no exterior changes including signage. McGhee feels the application would not have any adverse effects on the neighborhood. McMillan stated property values may be impacted due to the business and the character of the neighborhood as well.

Jan Tom, 1 Parkhurst Road

Tom stated her concern on traffic. The road is narrow, has sidewalks and is already used as a cut through. The speeds which traffic goes on Long Hill is excessive which the Hollis Police Department does not monitor. The application should not be granted based on traffic and the neighborhood would lose its small feel.

Joyce Janosky, 38 Long Hill Road

Janosky stated based on the closeness of the properties in the area the application should not be approved. Jankosky agree with all of the abutters concerns as well.

Major read 2 letters against the application;

Richard Bruson, 48 Long Hill Road

As direct abutters of 50 Long Hill Road, both Richard and Karen Bruson of 48 Long Hill Road are opposed to running a business in our residential zoned neighborhood.

Terri Port, 40 Long Hill Road

“...I will not be able to attend the meeting in person, as I will be out of town on business, but as a neighbor on Long Hill Road, I would like my objection registered. I am very much opposed to an in-home business on our street. We already have far too much through traffic and adding to that will be detrimental. On top of which, this is a residential neighborhood, not a business district.”

Applicant rebuttal

Johnson stated she was not expecting such strong objections. The business is small and she is not planning on expanding the business. The hours of operation Monday, Wednesday and Thursday for clients is not excessive. The number of hours per day would probably be between 1 to 2 hours with up to 4 cars per day. Major asked if a condition was imposed for the days of operation being Monday, Wednesday and Thursday would this condition be agreeable. Johnson replied she would like to be able to see patients Monday – Friday however, if the ZBA decides on three days a week she would accommodate those days. Major asked if the hours of operation were to be imposed 10 am – 12 pm and 4pm to 6pm would this condition be acceptable. Johnson replied she would prefer to have one

day per week until 6:30 pm to accommodate patients work schedule. West asked if the number a vehicles were limited to 4 per day would this condition be acceptable. Johnson replied yes.

No Further Questions from the Board and none from the floor – hearing portion of the case closed.

DELIBERATION AND DECISION

Case ZBA 2018-006

The discussion of the application of Amanda Johnson, property owner, for a Special Exception to Section XXII, Home Based Business, Paragraph 3, Home Occupation of the Zoning Ordinance to permit the operation of a Chiropractic Business known as “Synergy Chiropractic, LLC” located at 50 Long Hill Road (Map 062, Lot 045-011) in the Residential/Agricultural Zone.

MacMillan stated properties values may be impacted with a business next door. This neighborhood is not a medical park and MacMillan is not in favor of granting the special exception. Mason stated the application meets the ordinance and in Masons opinion there is no reason to deny the application. McGhee stated the business would have no effect on the neighborhood based on the number of vehicles. The proposed number of vehicles could be visitors or family members. The decision needs to be based on what was presented not what could happen. MacMillan stated the business with its proposed conditions would be unenforceable. Condra stated if a written complaint was submitted an investigation would occur and action would be taken if the business does not comply with conditions set by the ZBA. Durham asked Setaro if the ZBA had granted any other home based business on Long Hill Road. Setaro replied yes. Belanger stated the residents of Hollis voted on the home based business ordinance which allows home based business within the residential agricultural zone. The Long Hill road neighborhood should not be treated any different than neighborhoods. If the residents of Long Hill wish they could submit an ordinance change to the Planning Board for their consideration.

Belanger stated home based businesses are an allowed “use” and with the appropriate conditions. The abutters concerns would also be considered.

Belanger moved for the following conditions of approval;

- 1. There shall be no signs indicating the business on the premises.*
- 2. There shall be no more than 2 client cars at the home at any one time.*
- 3. There shall be no classes with multiple attendees.*
- 4. Practice shall be limited to no more than 4 patients per day. (“patient” meaning an individual or and individual and his immediate family)*
- 5. No non family employees are permitted on the premises.*
- 6. No product sales on premises.*
- 7. Hours of operation shall be Monday – Friday 9:00am to 5:00pm and 1 day until 6:30pm per week.*

Seconded by Major.

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
Brian Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Cindy Robbins-Tsao	Yes	Yes	Yes	3	0
Rick MacMillan	Yes	No	Yes	2	1
Susan Durham	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING CONDITIONS OF APPROVAL;

- 1. There shall be no signs indicating the business on the premises.**
- 2. There shall be no more than 2 client cars at the home at any one time.**
- 3. There shall be no classes with multiple attendees.**
- 4. Practice shall be limited to no more than 4 patients per day. (“patient” meaning an individual or and individual and his immediate family)**
- 5. No non family employees are permitted on the premises.**
- 6. No product sales on premises.**
- 7. Hours of operation shall be Monday – Friday 9:00am to 5:00pm and 1 day until 6:30pm per week.**

Other Business

B. Mosley recused himself from both motions for re-hearing since both applications are current Planning Board cases.

Motion(s) for Re-Hearing

ZBA Case 2018-006 - The application of Leo and Rita Cormier, for a Special Exception to Section VII, Zoning, Paragraph D.1.xi, Lots Divided by a Zoning District Boundary, to permit regulation of the Agricultural Business Zone over the entire lot, property owned by Kenny Family Trust, located at 451 Silver Lake Road, Map 046, Lot 005, in the Agricultural Business Zone and Residential Agricultural Zone.

*Belanger moves to grant the re-hearing of case 2018-006 and urged the ZBA members to vote no.
Seconded by MacMillan.*

Discussion

Belanger stated in his opinion the Zoning Board of Adjustment (ZBA) has heard the case thoroughly. The case was presented in detail and sees no reason to rehear the case. Mason stated the letter received by Prieto Law states a potential process issue concerning the 3 special exception questions that were asked. The ZBA handbook is used as a guide, not the law. Mason stated in his opinion there is no procedural issue with the questions asked by the ZBA. The request submitted technical is only asking for the regulations from one zone to be applied to the entire lot it is not for any type of use. Major stated the questions asked by the ZBA are the identical questions noted within the Prieto letter in his opinion. In the past the ZBA has granted a special exception with the same questions as it pertains to a lots divided by two zones. Major felt that the minutes also reflects the ZBA’s did in fact, consider the 3 questions during deliberations appropriately. West stated the motion for re-hearing mostly discussed the issue of the Aquifer Protection Zone (APOZ). During the testimony the ZBA heard the area was used for a parking lot with a lot of trips per day with the potential of oil leaching. With the approval granted the parking use will be gone. The new use would be less traffic and less impact than the current use.

No Further Discussion.

The ZBA voted on the re-hearing request and the results are as follows;

Board Member	In-favor of re-hearing ZBA Case 2018-006	Not in-favor of re-hearing ZBA Case 2018-006
Brian Major	No	Yes
Jim Belanger	No	Yes
Cindy Robbins-Tsao	No	Yes
Rick MacMillan	No	Yes
Susan Durham	No	Yes

The result of the vote was 5-0 not to rehear case 2018-006.

Motion(s) for Re-Hearing

ZBA Case 2018-007 - The application of Leo and Rita Cormier, for a Variance to Section X, Agricultural Business Zone, Paragraph A.1, to permit the operation of a repair shop and the sale of snow removal equipment with outside storage, property owned by Kenny Family Trust, located at 451 Silver Lake Road, Map 046, Lot 005, in the Agricultural Business Zone and Residential Agricultural Zone.

*Belanger moves to grant the re-hearing of case 2018-007 and urge the ZBA members to vote no.
Seconded by MacMillan.*

Discussion

Major stated during the original hearing no one brought up the APOZ, no testimony was given by the applicant or the abutters. Belanger stated the ZBA did ask question concerning hazardous materials and fuel storage. These questions would have been asked if the APOZ was brought to our attentions. West agreed with Belanger. Belanger stated the concerns brought up within the motion for re-hearing dealing with the APOZ. The ZBA asked questions and received answers to the petitioners concerns. Major asked was the issue with impermeable surface addressed appropriately during the hearing. Belanger replied in his opinion yes. Questions were asked concerning the types of floor within the buildings and satisfying answers where received. Durham asked if gravel was considered an impervious surface. MacMillan replied gravel is not an impervious surface, water runs through gravel. Questions were asked concerning hazardous materials, storage of fluids. MacMillan agrees the case should not be re-heard. Major asked should the ZBA consider the petitioners opinion on diminished property values. Belanger disagrees with the opinion. Belanger is aware of the uses on the abutting properties and the approved use would not diminish property values in his opinion.

The ZBA addressed the remaining concerns of the petitioner such as; property buffers and hours of operation. The ZBA agreed those issues should be considered by the Planning Board during the site plan process and the Planning Board could impose additional conditions.

Mason asked if it was clear that a snow plow repair/sales business was not considered an automotive repair shop. Belanger replied yes during the testimony it was stated welding and repairs to the plows would be done off site. Major stated limitation were imposed on the amount of fluids to be stored and the testimony was that they may be added hydraulic oil to the plows in small amounts.

The ZBA members agreed there is no reason to rehear case 2018-007

No Further Discussion.

The ZBA voted on the re-hearing request and the results are as follows;

Board Member	In-Favor of re-hearing ZBA Case 2018-006	Not in-favor of re-hearing ZBA Case 2018-006
Brian Major	No	Yes
Jim Belanger	No	Yes
Cindy Robbins-Tsao	No	Yes
Rick MacMillan	No	Yes
Susan Durham	No	Yes

The result of the vote was 5-0 not to rehear case 2018-007.

Review of Minutes

Belanger moves to approve the minutes of May 24, 2018.

Seconded by Tsao.

Motion unanimously approved.

Meeting Adjourned

The ZBA meeting adjourned at 8:30 pm.

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