



BOARD of ADJUSTMENT
Town of Hollis
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Minutes of April 27, 2017

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Cindy Robbins-Tsao at 7:00pm.

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

Tsao explained the policies and procedures.
Tsao appointed Durham a voting member for the cases tonight.

Case ZBA 2017-002

The application of Ruth and Harvey Lawner, 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 an 782 Square foot Accessory Dwelling Unit, located at 136 Worcester Road, Map 002, Lot 008, in the Residential and Agricultural Zone.

Ruth and Harvey Lawner approached the ZBA. H. Lawner explained they are seeking approval for the 782 square foot attached Accessory Dwelling Unit (ADU). The unit will be attached to the rear of the home and will have 1 bedroom, kitchen and a living area. The unit would be occupied by his mother-in-law. Tsao asked would the current septic system accommodate the additional bedroom. Lawner replied yes the home originally had four bedrooms and one of the bedrooms has the closet removed and was converted to an office. Tsao asked was there confirmation that the bedroom was removed. Setaro replied yes, Chief Towne inspected the property prior to the meeting and confirmed that the home had 3 bedrooms and the current 4 bedroom septic system would accommodate the additional bedroom.

Belanger asked if there was a common wall between the primary and ADU and how would units be accessed. R. Lawner replied there will be a heated stairway connecting the units with access from our kitchen. Belanger asked if both areas were heated. R. Lawner replied yes. Belanger asked how the ADU could be reincorporated back into a single family home if the ADU was not needed. R. Lawner replied the area could be used as an extra bedroom and the kitchen could be removed. Belanger asked after the construction would the home still look like a single family home. R. Lawner replied the construction would be in the back of the house and would not change the look of the home from the road.

MacMillan asked how the stairway would be heated. R. Lawner replied a vent will be installed. Major asked why the ADU couldn't be directly attached to the primary dwelling without using a stairway for the only touch point to the primary dwelling. R. Lawner replied the topography of the land made it impossible to directly attach the ADU to the primary dwelling while maintaining a ground level entrance. Major asked if the ADU was ~~visually~~ physically attached to the existing home. R. Lawner replied yes. Tsao asked if the ADU was directly behind the home. H. Lawner replied the ADU is located in the middle of the back of the home. MacMillan asked if the stairway terminates at the slider. R. Lawner replied the current slider would be replaced with a French door. (see plan in file) Moseley asked how large the primary dwelling was. H. Lawner replied roughly 2,400 and 2,500 square feet.

Mason asked how the existing deck would fit into the construction plans for the ADU. R. Lawner replied the deck will be taken down. Mason asked when the deck is removed the actual ADU living area would be a level down and is there a door at the upper level used for access. MacMillan replied the applicant will be reconfiguring the deck with a door at the top of the stairway and another door which would access the kitchen. R. Lawner replied yes. Mason asked what type of area was above the ADU. R. Lawner replied a small storage area. Mason asked if the attic area was calculated into the total square footage of the ADU. Major replied traditionally an unfinished, unheated attic area does not need to be included in the square footage calculations.

Belanger noted the State law requires that the ADU and primary dwelling have to be connected by a common heated

wall. If he was to go to the ADU, what was on the other side of the common wall? H. Lawner replied the kitchen of the primary dwelling.

No one spoke in favor or in opposition of the application

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

Case ZBA 2017-003

The application of Hollis Montessori School, property owners, for a Special Exception to Section XG, Residential & Agricultural District, Paragraph 2e, public and private schools provided they are located adjacent to an arterial street of the Zoning Ordinance to permit the use of the existing bunkhouse for classroom space and approval for exterior property improvements such as; playground space, shed, greenhouse, basketball court as required by condition #20 on the previously approved Special Exception (Case 2016-014), located at 9 South Merrimack Road (Map 036, Lots 032) in the Residential Agricultural Zone.

Kari Hedddington, Head of School of the Hollis Montessori School (HMS) explained the HMS is seeking approval to use the existing bunkhouse building on the property for classroom space and approval of future exterior improvements such as; playground space, shed, greenhouse and basketball court as required by condition #20 on the previously approved Special Exception (case 2017-014, December 22, 2016).

HMS currently operates as a private school under the condition of the special exception approved on December 22, 2016. The use of the bunkhouse as classroom space (located on the south side of the property) impacts how we utilize the interior of an existing building on our property for educational purposes and therefor meets the condition for criteria one. Additionally, other developments of the exterior portions and improvements to the site that relate to the operation of the School at the site (as required by condition 20) will be located on the south side of the property limiting the effects to the abutters and will be completely within the guidelines of the town inspection and permitting. If approved, these items will be added to the site plan for Planning Board (PB) approval as well. These additional improvements include; access road to the bunkhouse, playground equipment, play area, relocation of the basketball court, shed and a greenhouse.

By granting the previous special exception it was determined that HMS has met criteria 2 and the proposed changes requested by this application do not affect traffic or physical condition of the town's roads as the number of students arriving and departing the school will not change.

Hedddington noted that included in the application are the septic approval, fire chief information on the road to the bunkhouse, photo showing the location of the bunkhouse, a drawing showing the approximate locations of the play area and the location of the playground equipment.

Hedddington explained in more detail each request; the use of the 1,600 square foot, two-story building (bunkhouse) located on the south side of the property as classroom space. The number of students and staff in this building will not exceed the required septic requirements, fire marshal requirements or the total enrollment capacity for the school as set forth in the previous special exception as private school. The hours of use of this building would be subject to the same requirements as the other school buildings on this property. The building would be used for educational instruction of students.

In order to use the bunkhouse as classroom space it is necessary that the current road be upgraded. The Fire Chief has advised the school and the improvement will be engineered by the requirements needed. The road is currently being used by the school to manage the carpool loads. Parking will be added near the bunkhouse and off the road in order to accommodate the schools parking needs for the anticipated enrolment of 150 student. The additional parking spaces have been approved by the fire department and reviewed by the PB. Hedddington stated she considers the parking spaces as a part of the road improvements as they are tied together.

The playground equipment and play area would be used during outdoor time. The area will incorporate natural playground equipment that will meet all permits and not be higher than the roof line and blend into the natural environment. The area will not exceed 50' in width and no higher than 18'. The school's buildings and apple trees will act as a buffer to neighboring properties and the area is located towards the south side of the building.

The shed is needed on the property to store various outside items and would not exceed 16' x 24'. The shed would be a barn style, match the color of the bunkhouse and be located on the west side of the bunkhouse. The greenhouse will be located on the west side of the bunkhouse and would be used by students to grow plants and vegetables as part of the school curriculum. The greenhouse would not exceed the size of 16' x 24' and will be located on the west side. The basketball court will be relocated to the south side of the building off of the road by the bunkhouse it will be used during the students outside time. The basketball court would not exceed a 32' x 50' paved area. Hayner Swanson has reviewed the plan and there will be no alteration to the existing run off.

In regards to the application, the school is seeking approval based on the prior approval and the requirements of condition 20 which states "*Further modifications to the property, such as additions to buildings, use of the bunkhouse for classroom space, construction of additional buildings, development of exterior portions and other improvements to the Site that relate to operations of the School at the Site, require additional approval from the ZBA and may require nonresidential site plan approval to the extent so regulated and required under the Site Plan Regulations of the Town of Hollis.*" The school has attempted in this request, as advised by town staff to add future improvements in the attempt to decrease the number of applications submitted. The school is requesting clarification as to the size of the site plan change and at what point the ZBA wants to be involved in the process. The schools believes there is a process when making modifications to a site plan which includes working with the towns planning staff. The staff then determines if the change requires a permit or if the change needs to be added to a site plan based on the condition of approval. Items such as a shed or playground are generally done with a permit which meets all the regulations.

Items such as a new building require a site plan and need to be brought to the PB. The school is also requesting the PB and ZBA agree to some terms such as if there would be more future improvements the school would need to come back to the ZBA with only the general location and the PB would actually determine the exact location of any other improvement. The current application shows approximate locations and the exact location may be slightly different based on the PB review process. The school is also is requesting that the minutes from the meeting this evening include the points which clarify their points. This information would be greatly appreciated to alleviate any confusion by the School, PB and ZBA what the process would be moving forward. Major replied the ZBA is not authorized to give an advisory opinion on a case. The ZBA received applications based on the determination made by staff and/or the PB, only at that point does the ZBA acts. Heddington requested clarification on what type and size of site improvements require additional ZBA approvals. Mason stated that there is a conflict based on condition 20.

Major disagreed stating the condition was written in a way to emphasize the procedures already in place and also would not allow a "creep" situation at the location. The proper procedure is that the applicant should submit a building permit application, it's then reviewed by staff and then a determination is made if the application requires additional approvals. The ZBA members agreed.

Belanger asked if the HMS completed all of the conditions specified from the previous special exception approval. Heddington replied the landscaping design review has been submitted to PB for approval and the confusing part of the process is which board we should go to first since all of the improvements need to be shown on the full site plan. Belanger stated in his opinion it is hard for him to grant additional approvals since the prior stipulations have not been met such as approaching the Highway Safety Committee and the State DOT requesting the no left hand turn sign. MacMillan stated the ZBA should require verification that all of the previous conditions have been met. Major stated the decision made tonight can be based on that fact but the ZBA does have a case before them which a decision needs to be made. Heddington stated they have been working with town staff on the procedures. MacMillan asked who has been helping you. Heddington replied Setaro and PB staff including Mark Fougere. Setaro replied the determination was made based on condition 20 which states in part "*states "Further modifications to the property, such as additions to buildings, use of the bunkhouse for classroom space, construction of additional buildings, development of exterior portions and other improvements to the Site that relate to operations of the School at the Site, require additional approval from the ZBA..."*" The items including the playground, relocation of the basketball court and the additional structures all require further ZBA approval. We also had a discussion with the HMS to add all future "wants" to the plan so that they can be handled all at one time, once approved or not the items would be added to the full site plan which will be submitted to the PB. Durham asked if the proposal tonight would in fact be included on the site plan before the PB currently. Setaro replied yes the items approved will be added to the site plan for the PB meeting next month.

Major asked if the ZBA should consider handling each item request on an individual basis. Heddington stated that the process is very important especially the "use" of the bunkhouse. The HMS wants to complete the required steps in a manner that is efficient acceptable to all involved. The HMS is trying to relocate items away from the abutters

property in the effort to be good neighbors.

Major stated for clarification, the new cap for enrollment was set at 150 students and the current cap was 120 students and the increase to 150 students could not occur until the conditions set forth during the February Special Exception are met. Major asked what the enrollment currently was. Heddington replied 120 students. Major asked if the students currently play during recess time within the area noted on the plan with the exception that there is no playground equipment. Heddington replied yes. Major asked would the children playing on the playground equipment make any more noise than they do currently. Heddington replied no. Major asked would traditional playground equipment be installed such as swings, slides and what would the equipment be placed on. Heddington replied the equipment would be swings, slides and monkey bars all made of wood and placed on bark mulch. Major asked if the equipment would be visible from the road. Heddington replied the equipment would barely be seen from the road. Major asked why is it necessary to have additional equipment on the east side of the property why couldn't the structures be placed within the designated area. Heddington replied the second location is towards the bunkhouse and within the existing apple trees. The additional equipment could be put in the designated area but the area near the apple trees is a lovely area and it is not far from the proposed play area. The ZBA reviewed the locations with Heddington of the play equipment and the re-location of the basketball court.

The ZBA discussed whether or not the HMS was required to seek additional approval for all of the requested items or just some. It was decided the landscaping must be implemented to the satisfaction of the PB prior to the increase in the student enrollment and that all of items requested did in fact require additional approval under the previously approved special exception and its conditions.

Tsao asked what size the proposed greenhouse was. Heddington replied 24' x 16'. Major asked to clarify the greenhouse would be used for seedlings and flowers. Heddington replied yes the students sell garden plants within the school community. The greenhouse would be a future improvement to the site. Major asked would the greenhouse replace the current garden boxes. Heddington replied the garden boxes would remain on site.

MacMillan asked would the bunkhouse have bathrooms installed which meet the State requirement. Heddington replied yes. Mason asked would there be any exterior changes to the bunkhouse. Heddington replied yes they may enlarge the entry way for easier accessibility. MacMillan asked does the entry way need to be made handicapped accessible. Heddington replied no. Major asked why does the HMS need to use the bunkhouse as classroom space. Heddington replied they will be offering a second lower elementary class once the enrollment is increased. The HMS wished to move the adolescent students to the bunkhouse and move the upper elementary student in their location within the main building. Major asked how many classrooms are anticipated for the bunkhouse space. Heddington replied the upper level which has been renovated and has one large room which would be used as a classroom and the lower level would have a kitchen, bathroom and an area for projects. Durham asked what the current use of the structure is. Heddington replied the structure is being used for storage only. Heddington noted the other reason for the use of the bunkhouse is to allow the adolescent student to have their own space. Moseley asked what grade levels are considered as adolescents. Heddington replied 6 – 9th graders.

Spoke in favor of the application

Karen Bridgeo, 65 Buttonwood Drive, Hollis

Bridgeo stated as an employee, campus manager of the school it is in her opinion that the Hollis Montessori School (HMS) has brought forth a reasonable application for consideration. The HMS is a fabulous school and beautiful place to educate children. The HMS has listened to all of the concerns and have or are in the process of addressing those concerns. The HMS wants to be good neighbors and a valued part of the community and she hopes the Zoning Board of Adjustment (ZBA) grants the proposal.

Darlene Mann, 29 Nartoff Road, Hollis

Mann stated she is an eighteen year resident of Hollis and has been employed by the school for the past two years as their business manager. While she recognizes the complexity of the issues before the ZBA, the application was brought forth in a way that it would not tax the ZBA and the PB. The HMS is trying to address the needs of the school for the foreseeable future. The proposal before you are items the HMS would like to complete over a period of time and not all at once. While the school is looking forward to institute a landscaping plan and the eventual increase to 150 student. Mann added for an assurance the capacity of 150 student is not anticipated for September. As Kari stated, as the programs mature at HMS additional space would be required. The bunkhouse is a logical

space for the older students it is an existing structure. The “use” of the bunkhouse would not be any more taxing on traffic and the same number of students would be playing outside. The possible enrollment by September could be 120 students and possibly 130. The number of students that would be outside at one time would be approximately 85 students for thirty minutes per day. Mann respectfully asked the ZBA to consider and approve the proposal before them tonight so that the school can operate the same way they have been to date.

Andrea Seddon, 50 Wheeler Road, Hollis

Seddon stated she has two daughters that attend the HMS and is also a teacher at HMS. The most important part of the proposal is the “use” of the bunkhouse so that the HMS can have their adolescent children occupy the space. The “use” of the bunkhouse would actual bring more of the schools population to the other side of the property away from the area the neighbors complain about. The children currently do not have any play structures, they currently make their own area. Having the playground equipment would allow the children to play in those areas and not be all over the property. The same amount of noise will be produced but the noise would be further away from the property lines of the neighbors. The basketball court will be moved to the other side of the property, once again reducing the noise. Seddon asked the ZBA to consider and approve the application.

Kasia Wellington-Grossman, 44 Wood Street, Nashua

Grossman stated she has two daughters attending the HMS the elder daughter was in the first graduating class. Grossman agreed that the HMS should have done more about the landscaping and the HMS is aware of that. The HMS is currently working with the PB on that issue. The HMS is trying to create a program to include an adolescent program with a pyramid structure which does not exists in the entire region. When HMS purchased the property they always had the intention of using the bunkhouse to house the adolescent students. The separation of the older students is necessary so that they can achieve their potential. If there is a longer delay for the use of the bunkhouse HMS will lose students and potentially her Daughter. The Montessori way of teaching needs to be embraced in its entirety or not at all. Grossman asked the ZBA to approve the application in its entirety.

Cheri Birch, 22 Van Dyke Road, Hollis

Birch stated she has lived in Hollis for 31 years. She has been an educator and forester for some time and is currently an employee of the HMS. The property is a beautiful space adjacent to the Town forest. The school tries to be as natural a part of the environment as possible. The people she works for and with are nothing but honest-and forth coming and have the best intentions for the community and the students who attend the school.

Mary Savage, 118 Mooar Hill Road, Hollis

Savage stated she is a recent board member of the HMS. She wanted to join the board to help them with the continued growth of the HMS and supports the philosophy of the school. The proposal before the ZBA is in line with the Town in which we live, with the ambiance of the Town and what we try to promote in the Town. What the HMS is trying to do is to put forth a plan which would allow HMS to grow and expanded in a way the Town wants. The proposal is important and it will allow the HMS to move forward in a sensible way. Savage thanked the ZBA for their time.

Spoke in opposition of the application

Cheri Lynch, 16 South Merrimack Road, Hollis

Lynch stated she is not opposed to the play space area, keeping in mind the plan is not to scale, to the south behind the school, which would not radiate noise throughout the neighborhood. The play structures area will absolutely project sound throughout the neighborhood. This area, is the location where we are trying to move items away from which were put in such as the basketball court without approval which they are moving the basketball court near the bunkhouse, behind the school which is good to hear. The play structure area proposed looks like it extends all the way to the east towards the Papineau lot. The abutters still have an issue which arising with the PB meeting as it pertains to condition 18 within the past approval which states;

“All provisions shown on any site plan approved by the PB in 2017 with regard to plantings and landscaping shall be implemented (and maintained utilizing best maintenance practices) to the satisfaction of the PB as a condition precedent to the increase in the current number of the School students (120, as stated to the PB at the

April 19, 2016 meeting)."

At the PB meeting the school brought up the fact, that Attorney Westgate inquired to the ZBA about a landscape bond it seems to the abutters he, in fact, said that as a covenant so that they did not have to have the landscaping completely installed prior to the increase enrollment. That was not the intention of the condition in her opinion. It is imperative that the landscaping be put in and maintained prior to the increase of students, taking in to account the history of the HMS. MacMillan stated the bond would not relieve them of the condition the bond would be forfeited and someone would be paid to complete it in case they did not execute the landscaping. Lynch stated the driver for the school is the increase of the population not the landscaping. She feels the landscaping needs to be completed to the satisfaction of the PB and the neighbors prior to the increase of students, the bond is not enough it could delay the process even more. Belanger and MacMillan agreed. Belanger stated he understands the concerns regarding the play structures and would Lynch have a problem if the ZBA set a condition of approval that all prior conditions must be satisfied prior to the implementation of the proposed plan. Lynch stated does that mean that the play structure could not be installed until the landscaping is completed. Belanger stated forget about the bond, the applicant would have to complete all of the conditions prior.

Lynch asked the ZBA if they gave them drawing to scale actual where the play structures would be. Major stated they did give us an aerial view. Major asked Lynch to approach the board for verification of placement. Major stated the play area would be confined to the area noted on the plan. Lynch stated if the play area was located away from the Papineau lot and not visible from the road the placement would be agreeable. (see file for location) Heddington approached the ZBA and confirmed the location and stated the equipment would not go past the line of trees shown on the aerial photo. Major asked if a condition was imposed, what would be a reasonable amount of feet from the north property line were the equipment could be placed. Lynch replied 50 feet from the existing loop would be agreeable. Heddington stated her concerns because she is unaware of the actual number of feet and does not want to be limited based on a guess. The ZBA, Heddington, Papineau discussed the location few several minutes and were unable to come to an exact location. Papineau asked since a requirement of the application states the applicant should provide a scale drawing, did the ZBA receive the scale drawing. Heddington replied she was not required to submit a scale drawing at this time. The drawing was created to give the ZBA a general location. Once the application goes before the PB the actual locations will be noted. MacMillan asked Major if he thinks the playground area towards the back would be better than putting it in the front. Major agreed. Mason asked if Papineau had any issues with the play area noted on the plan. Papineau replied no she has an issue with the possible location of the play structure area.

Scott Papineau, 21 South Merrimack Road, Hollis

Papineau stated he has no opposition towards the school. His objection is that the school was before the ZBA and December 2016 and they were asked what the vision for the school was in the future. They replied what is on the application was the vision. Papineau stated he heard testimony tonight that the plans for the school were known and nothing was a secret. Now we are here again, for additional changes all of these changes should have been on the prior application. The biggest problem with HMS is the implementation of their changes and shouldn't the HMS have to comply with all of the conditions imposed on the prior approval before they are allowed to complete-more site improvements. Clearly, the landscaping is not completed and they have not notified the State DOT to ask them for the "no left hand turn sign". At the recent PB meeting the HMS stated they could not put in larger plants towards his property boarder because they did not have the funds. If they did not have the money to put larger plants in, where is the money for the two sheds, greenhouse, play structures etc? It seems to him the HMS has funds to complete what they want but not for the items which they are opposed to such as the landscaping. Papineau asked if the HMS was required to seek PB approval for the items requested tonight, if approved, and do the new items need to be added to the current plan before the PB. Tsao replied they must seek PB approval.

Papineau replied since no plans were submitted for the additional structures and some of the structures would be 18 feet tall he wanted to tell the ZBA that his property has a direct line of sight into the area. MacMillan asked if the majority of the children would be further away with the proposed plan then they are currently. Papineau replied he would be unable to answer the question since the children are all over the property why does the equipment need to be on the east side of the property. The prior Special Exception noted that all items should be on the south side of the property and he is concerned a scale drawing was not submitted. Durham stated moving the basketball court would move the children further away. Papineau replied the basketball court was never approved and they were asked last year by the Code Enforcement Officer to move it to a different location which has not been completed. Is the proposed basketball court an additional court or will the current court be moved.

Applicant Rebuttal

Kari Heddington

Heddington stated because of the complaints concerning noise the ZBA has imposed a condition that any appreciable noise exceeding 60 db shall be conducted on the south side of the building. However, the condition did not say no one can be anywhere else on the property but the south side. The HMS has tested the noise on the property and is unable to reach the 60 db condition because the cars on the road make more than 60 db. The noise is for 30 per day around lunch time the conditions the ZBA imposed limits the school having after school activities to practically nothing. Heddington stated the HMS should not be restricted to a tiny area when the lot is 9 acres. As far as the landscaping the Town does not have a screening ordinance for the entire property they are trying to put in as much screening towards the front as possible and have offered to put in 35 shrubs on the east side which is not a requirement. As far as the basketball court issue the HMS was never told to take it down we were told not to use it again it was an appreciable noise issue and she does not think it went over 60 db. However, the HMS did stop using the court in respect to our neighbors.

In terms of condition 18, landscaping bond, Tom Morin stated the landscaping should not be installed in the summer since that time was not good for growing. Tom Morin stated at the last PB meeting that he guaranteed the landscaping would be installed in September 2017. The HMS had no plans to use the bond to escape the installation of the landscaping. The scale drawing was not a requirement when we submitted the application the PB will receive a scale drawing if the proposal is approved. The bunkhouse was submitted to the ZBA for approval however, when we returned for the alteration of the 5 conditions the ZBA imposed the “use” of the bunkhouse as classrooms as another condition. The bunkhouse has always been on a plan to use it for classrooms, a building permit was applied for the renovations.

The plan submitted was to show future improvements to the property the HMS does not have the funding for a greenhouse at this time. The plan was submitted to obtain approval for items they wish to complete in the future so we did not have to come before the ZBA to obtain additional approvals. The HMS agrees to fulfill all prior conditions prior to the use of the bunkhouse, increase of the student population or the installation of any of the site improvements.

Christina Andriol, 16 Jamie Road, Dunstable, MA

Andriol stated she is the person responsible for the irrigation system being installed on the property. Based on the abutters request that the plantings be installed in June, that time frame is not a good time for planting. The plantings need to be installed at the property to allow the roots to establish and promote growth. Due to this reason the HMS can't put the planting in prior to the opening of school in September.

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

The ZBA recessed at 8:45 and returned for deliberations at 8:50pm

DELIBERATION AND DECISION

Case ZBA 2017-002

Discussion of the application of Ruth and Harvey Lawner, 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 an 782 Square foot Accessory Dwelling Unit, located at 136 Worcester Road, Map 002, Lot 008, in the Residential and Agricultural Zone.

Major questioned whether or not the stairway connection satisfies the common heated wall required by the Hollis ordinance. Moseley stated the ZBA had a situation that a doorway satisfied the requirement. Belanger stated in his opinion, the common heated wall requirement is satisfied because other side of the wall is the primary dwellings kitchen. However, there is no access between the primary dwelling and the ADU. You can't walk between the two but because of the stairway you can walk into the kitchen. So it does share a common heated wall, there is access from the ADU to the primary dwelling. Moseley stated their will also be duct work installed in the stairway to provide heat. Belanger noted the intent of the ordinance was to have access to the primary dwelling and the ADU

threw a common heated wall however, the law does not state that.

Belanger moves for a finding of fact;

1. *The ZBA finds that the heated stairway between the Accessory Dwelling Unit (ADU) and the Primary Dwelling Unit complies with RSA 674:72.III which requires an interior door between the principal dwelling and the ADU.*

Seconded by Major.

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?

Board Member	Question	Question #2	Question #3	Total-Yes	Total-No
Cindy Robbins-Tsao	Yes	Yes	Yes	3	0
Brian Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Rick MacMillan	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING FINDING OF FACT;

1. The ZBA finds that the heated stairway between the Accessory Dwelling Unit (ADU) and the Primary Dwelling Unit complies with RSA 674:72.III which requires an interior door between the principal dwelling and the ADU.

Case ZBA 2017-003

Discussion of the application of Hollis Montessori School, property owners, for a Special Exception to Section XG, Residential & Agricultural District, Paragraph 2e, public and private schools provided they are located adjacent to an arterial street of the Zoning Ordinance to permit the use of the existing bunkhouse for classroom space and approval for exterior property improvements such as; playground space, shed, greenhouse, basketball court as required by condition #20 on the previously approved Special Exception (Case 2016-014), located at 9 South Merrimack Road (Map 036, Lots 032) in the Residential Agricultural Zone.

Belanger stated he has no problem with the application. There is a noise stipulations on the past approval and if the Hollis Montessori School meets the requirement the playground equipment should not be issue. Major stated the ZBA may want to consider a condition that no playground equipment, fields or courts should be constructed within 150 feet of the northeast property boundary line. MacMillan stated there is a 60 decibel noise condition already in place and no one has stated the noise level was above 60 decibels. Belanger noted if the 60 decibel requirement was to be exceeded the approval would be violated.

Tsao stated the ZBA has received a letter from the Fire Department in regards to the Hollis Montessori School. Tsao read the letter;

“In regards to the Hollis Montessori School bunkhouse the only approval that the Fire Dept. has signed off on are the parking revisions we agreed to in September 2016. As far as the building being used for a school of any kind, plans need to be submitted to the State Fire Marshal’s office for review and approval. Once that has been accomplished that are then review by us for approval. When plans are approved by both Fire and Building Dept. it is just like any other project, Inspections are accomplished and a final CO is issued when completed.”

Belanger stated a condition of approval should be added to the approval, if granted, reflecting the Fire Departments letter. The second condition that should be considered stating the HMS shall meet all prior imposed conditions prior to the implementation of this proposal. The ZBA agreed. Major stated the last approval imposed a number of conditions which should satisfy concerns. However, setting a condition on the placement of the equipment and play areas pursuant to the PB direction would alleviate the abutters concerns. Tsao stated the abutters concerns do need to be considered as well. MacMillan stated his main concerns where the landscaping and noise and in his opinion those concerns are addressed. Belanger stated the traffic and safety issues were also a concern and one of the

proposed conditions would alleviate those concerns as well.

Belanger moves for a condition of approval;

1. *The site plan improvements proposed within the April 27, 2017 application shall not be implemented until the conditions imposed within the December 22, 2016 “Notice of Decision” are met in their entirety.*

Seconded by Major.

Motion unanimously approved.

Mason stated is the ZBA more concerned about the bunkhouse, as opposed to the playground areas and equipment and does the HMS have to comply with all of the past conditions prior to the implementation of this proposal. Major agreed the landscape plan, road sign and all the others conditions need to be satisfied prior to implementation.

Mason asked if the landscape bond changes the condition. MacMillan stated the bond most likely has its own set of conditions which the ZBA is not aware of. Belanger stated as far as he is concerned a bond does not look good, landscaping does.

Tsao moves for a condition of approval;

2. *The approval of this application is contingent on the applicant’s compliance with all State and Local permitting requirements.*

Seconded by Belanger.

Motion unanimously approved.

Mason stated since the Special Exception expires after two years, if the HMS does not fulfill all of the requirements would the HMS have to return to the ZBA for an extension. Major replied yes however, if the school continuously does the modifications they could be considered a continued use of the property. MacMillan agreed.

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
Cindy Robbins-Tsao	Yes	Yes	Yes	3	0
Brian Major	Yes	Yes	Yes	3	0
Jim Belanger	Yes	Yes	Yes	3	0
Rick MacMillan	Yes	Yes	Yes	3	0
Susan Durham	Yes	Yes	Yes	3	0

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED WITH THE FOLLOWING CONDITIONS;

1. The site plan improvements proposed within the April 27, 2017 application shall not be implemented until the conditions imposed within the December 22, 2016 “Notice of Decision” are met in their entirety.
2. The approval of this application is contingent on the applicant’s compliance with all State and Local permitting requirements.

Review of Minutes

Major moves to approve the minutes of February 23, 2017.

Seconded by Tsao.

Motion was approved with MacMillan abstaining.

Other Business

Discussion on recusal procedures.

The ZBA discussed recusal procedures and determined that if a board member recuses him or herself they should

remove themselves from the table and not participate as a member of the ZBA. However, they could speak in favor or against an application as a citizen of Hollis.

Belanger stated the conversation was directly at him, he did not recuse himself from the case. He used the incorrect word, he should have said he was abstaining from voting on the case not recusing himself. Tsao stated the discussion was not personal she just wanted everyone to be on the same page concerning the recusal procedures.

Belanger stated he would like to give the ZBA members an update which occurred in the House concerning variance voting. SB 80 has passed the House and the Senate and will be going into committee conference, he has no doubt the suggested change will pass. As you know Hollis votes on all 5 criteria separately, and the same 3 members need to vote yes on all 5 criteria for the variance to pass. Other towns do not vote the same way as we do, some towns vote a majority on all five criteria, other towns only vote once and grant the variance. SB 80 states that each criteria is voted on separately and a majority of three, not the same individual, must vote in favor.

MacMillan stated that he does not wish to be chairman or vice chairman of the ZBA. There are members on the ZBA with more experience and knowledge and would like to defer one of those members. MacMillan stated he support Belanger as Chairman and Major as Vice Chairman.

Belanger stated he does not agree with current rotating of officers, stability is more important than rotating. Each year the voting should be done by secret ballot each year. The members agreed.

Election of Officers

The election of officers were conducted by a secret ballot vote and the result were as follows;

Brian Major, Chairman

Jim Belanger, Vice Chairman

Rick MacMillan, Clerk

Other Business

Belanger noted he would like to discuss the procedures for the election of officers. Setaro had sent him an email asking if all member s including alternates could vote on the election. The rules of procedure state that all members including the alternate can vote on the election of officers. However, he was unsure and requested an opinion from NHMA they referred him to RSA 763:6 V alternate members of a land use board may participate during meetings as a non-voting member. During a discussion with Major he thinks that statement is in regards to cases before the ZBA. There is obviously confusion if alternates in fact can participate in voting for officers. An opinion should be sent to town counsel in regards to voting which he will complete as long as the ZBA agrees. The ZBA agreed.

Meeting Adjourned

The ZBA meeting adjourned at 9:30 pm.

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