



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

Minutes of May 24, 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 stated that there was a typographical error on the notice of hearing and in the efforts of fairness and legal requirements the cases this evening would be heard at 7:30pm. The Zoning Board of Adjustment (ZBA) will conduct other business prior to hearing the cases.

Review of Minutes

Belanger moves to approve the minutes of April 26, 2018 and the minutes of May 3, 2018.

Seconded by MacMillan.

Motion unanimously approved with Tsao and Durham abstaining.

Election of Officers

The elections of officers were conducted by a secret ballot vote and the results were as follows:

Brian Major, Chairman

Jim Belanger, Vice Chairman

The Zoning Board of Adjustment (ZBA) recessed at 7:10 pm.

The ZBA reconvened at 7:30 pm.

Case ZBA 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.

Brett Allard, Esq. presented case ZBA2018-006 on behalf of the applicant Leo and Rita Cormier. Also present were Reggie Ouellette, site designer. Ouellette would be available to answer any site questions the ZBA may have. Allard explained Cormier is under an option contract to purchase the property from Connie Kenny. Cormier intends to live on the property and run a small snow removal equipment sales business including outside storage of the equipment which Cormier is seeking a variance as well. Major asked if Allard would like to incorporate any relevant testimony given during Special Exception case ZBA2018-006 into the testimony for the variance request case ZBA2018-007. Allard agreed.

Allard explained the special exception requested is to obtain the extension of the regulations of the Agricultural and Business Zone (A&B) over the subject lot which is divided between the A&B Zone and the Residential/Agricultural Zone. (R&A) The property is currently zoned 2/3 in the A&B Zone and 1/3 within the R&A Zone. The overwhelming majority of the existing and proposed building would be situated in the A&B zone. The portion of the property situated in the A&B Zone is the portion that fronts Route 122. There will be no material impact to the character, environment, scenic value, health, safety or general welfare of the town if the regulations of the A&B Zone are reasonably applied to the remaining 1/3 back portion of the subject property. There will be no material effect to traffic or physical conditions of the Town road.

Belanger asked would the Flea Market be affected in any way. Allard replied no. The only change if the special exception is granted would be the overflow parking for the flea market would not be allowed.

Tsao asked how many vehicles are anticipated to enter and leave the site. Allard replied approximately 10 per week

or 1 to 2 cars per day. The business is a small Mom and Pop type business not a large commercial business. Durham asked what style of building will be constructed. Allard handed out a depiction of the structure. The structure will be steel with 2 large over-head doors, pass door and a few windows. The structure will be built in compliance to all zoning and building code requirements. Major asked is there going to be a vehicle lift installed. Allard replied no. Major asked what the current uses were for the existing structures. Holly Kenny, daughter of Connie Kenny approached the ZBA and stated primarily the structures are used for storage however, in the past her grandfather had a workshop, the large structure was a chicken coop and the small barn was for horses. McGhee asked how large the property was. Allard replied 2 acres.

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

Case ZBA 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.

Brett Allard, Esq. presented case ZBA2018-007 on behalf of the applicant Leo and Rita Cormier. Belanger asked what type of floor will the new structure have and would there be floor drains. Cormier approached the ZBA and replied cement with no floor drains. Belanger asked what type of floors are in the existing buildings. Kenny approached the ZBA and stated the front 2 car garage is cement, the old chicken coop has a wood floor and the small horse barn has a dirt floor. Belanger asked would there be any hazardous materials stored within the structures with dirt or wood floors which may seep into the ground. Cormier replied no.

Allard explained if the special exception was granted the variance request is requesting approval for a 50 x 60 vehicular storage and minor repair building for the applicant's noncommercial, personal purposes and to allow outside storage and sales of snow removal equipment. The variance will not be contrary to the public interest because there will be no measurable impact on existing traffic patterns. The applicant's proposed use for the property is a mixed residential and business use, which is consistent with the character of the neighborhood in the A&B Zone where both business uses and single-family residential uses are permitted. Granting the variance will not threaten the public health, safety or welfare. There will be no adverse impact or injury to any public rights. There will be no measurable impact on abutters because of the existing fence and wooded buffer shielding sight lines into the property.

The spirit of the ordinance is observed because both business uses and residential uses are permitted in the A&B Zone. The property is adjacent to the flea market and thus the sale of snow removal equipment and proposed outdoor vehicular parking spaces are consistent with the spirit of the ordinance and character of the particular area.

Substantial justice is done because there will be a loss to the detriment of the applicant if the variance is denied. If the variance is denied, the applicant will be unable to use a lot suitable for business purposes in the A&B Zone. The loss to the applicant if the variance is denied is not outweighed by any gain to the general public. There will be no material impact on the public or the abutting properties if the variance is granted.

The surrounding property values are not diminished because there is a wooded buffer between the applicant's property and properties to the north and east that will shield the applicant's property from having any visual effect on the others. There is an existing fence between the applicant's property and the southerly abutting property that will shield the applicant's property from having any visual effect. Further, one of the southerly abutting properties is a flea market, and thus the applicant's proposed use as to the sale of snow removal equipment and outdoor parking is consistent with the flea market's business use. Therefore, the value of the surrounding properties will not be diminished.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because the property is located on Route 122 and directly abuts the flea market. The property has historically been utilized for flea market parking. There is also an existing single-family home and garage/storage building on the property. There is substantial, buildable area on the middle and rear portion of the property.

Owing to the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purpose of the ordinance and specific application of that provision to the property. Both single-family dwellings and business uses are permitted in the A&B Zone. Even though the applicant requires a

variance for this particular proposed uses, there is no substantial reason to prohibit a mixed single family and business use in the A&B Zone where the property is perfectly suitable for the proposed uses and has historically been used in such a mixed nature. There is no fair and substantial relationship between the general purpose of the ordinance in the A&B Zone allowing single family residential uses and business uses separately, but prohibiting a mixed use of the same on the perfectly suitable property in the same zone.

The proposed uses are reasonable because both single family residential and business uses are permitted separately in this zone. The above referenced conditions interfere with the applicant's proposed reasonable business use of the property because his proposal is consistent with the business nature of the neighborhood and there is an existing single family home on the property which is permitted use. The intent of the A&B Zone is to provide an accessible, well planned area for local community shopping functions. This area is lightly populated and the A&B Zone allows for sales but not outside storage. Thus, the actual variance is to allow outside storage of snow removal and equipment.

Major asked is the business relocating to Hollis. Allard replied yes. Major asked Cormier to describe the business in detail. Cormier replied snow plows are purchased, brought back to the property, sent off to a welding company be repaired if needed and would be sold on the property. Major asked what other types of snow removal equipment would be stored and/or sold on the property. Cormier replied 3 personal trucks, 1 flatbed trailer, 1 sander truck, skid steer, backhoe and three fork lifts. The total number of plows on the property at any given time would be 180. Major asked would there be trucks sold on the property. Cormier replied no. MacMillan asked if the plows would be installed on the property. Cormier replied no, the plows would be sold loaded onto a trailer and taken off the property. MacMillan asked would a sign be installed on the property. Cormier replied no. Major asked how large the plows are. Cormier replied roughly 42 inches high and 12 feet long they are commercial plows. Major stated within the application it states hydraulic brake fluid, motor oil and hydraulic oil would be stored on site. Would repairs be done on site? Cormier replied limited repairs primarily on his personal vehicles and equipment. Cormier stated he has a plow truck which he plows with. Major asked how many snow plows have been sold in 1 year. Cormier replied approximately 100. Major asked does the business employ any employees. Cormier replied none. MacMillan asked how many snow plows would be on site at any given time. Cormier replied roughly 100. Moseley stated the application states 180 plows would be on site. Cormier replied the request is for 180 plows. However, there would mostly likely be 100 plows he did not want to limit the application to 100 so that he would have some flexibility. Durham asked would the storage building be visible from the road. Cormier replied partially and Cormier insured the ZBA the structure will not be an eye sore. Major asked how high the storage building would be. Allard replied the structure will be compliant to all building codes and the applicant is required to submit a plan to the Hollis Planning Board (PB) and at that time the PB would review the application including materials being stored within the structure, spill kits requirements and screening. Major stated repairs shops are a permitted use in the zone and the only reason for the variance request is for outside storage of equipment. Allard agreed. In Condra's opinion he had discussed with the applicant the proposal and is Condra's opinion the application is consistent with the ordinance and it would improve the area especially with the reduction in traffic. Major stated he agreed with Condra and the area has been historically a business zone.

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

DELIBERATION AND DECISION

Case ZBA 2018-006

Discussion of 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 stated the application is consistent with the ordinance and is an improvement to the area. Belanger had no objection to either application. MacMillan agreed and added the application is within the spirit of the ordinance. 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 |
|--------------------|-------------|-------------|-------------|-----------|----------|
| 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 | Yes | Yes | 3 | 0 |
| Susan Durham | Yes | Yes | Yes | 3 | 0 |

THEREFORE THE SPECIAL EXCEPTION WAS APPROVED.

Case ZBA 2018-007

Discussion of 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.

Major stated in his opinion, the ZBA may consider imposing a condition which would limit the approval to the scope presented. Major stated his concern is the possibility of expansion such as sales of snow plow trucks and other commercial equipment. MacMillan stated the application should be limited to what was presented and if any expansion outside of the application, the applicant would have to return to the ZBA for additional approvals. McGhee stated the property itself, provides limitations for expansion since the lot is only 2 acres.

Mason asked what the hardship to the property was. Belanger replied if you can find a use for a property which is unique that could be considered a hardship. Most of the allowable uses in the A&B Zone are really not compatible to this property because of the properties uniqueness. Major stated in his opinion the proposed use is reasonable. A determination needs to be made owing to the special conditions of the property how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application. Mason stated the proposal could be considered an individual shop. Major stated the ordinance is written in such a way, if a use is not listed a variance is required. However, some of the listed uses have no definitions, which makes it hard to determine what the use actually means. Major stated he had some concern in regards to the application however, once he heard the testimony he would be inclined to grant the variance. The ZBA members agreed.

Major moves for a condition of approval;

1. *The commercial use of the property is limited to the activities described in the application.*

Seconded by McGhee.

Motion unanimously approved

No Further Discussion.

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 |
|--------------|-------------|-------------|-------------|-------------|-----------------|-----------------|-----------|----------|
| Brian Major | Yes | Yes | Yes | Yes | Yes | Yes | 5 | 0 |
| Jim Belanger | Yes | Yes | Yes | Yes | Yes | Yes | 5 | 0 |

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|--------------------|-----|-----|-----|-----|-----|-----|---|---|
| Cindy Robbins-Tsao | Yes | Yes | Yes | Yes | Yes | Yes | 5 | 0 |
| Rick MacMillan | Yes | Yes | Yes | Yes | Yes | Yes | 5 | 0 |
| Susan Durham | Yes | Yes | Yes | Yes | Yes | Yes | 5 | 0 |

THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITION;

- 1. The commercial use of the property is limited to the activities described in the application.**

Meeting Adjourned

The ZBA meeting adjourned at 8:30 pm.

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