



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

**Minutes of August 25, 2016**

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; Gerald Moore, Vice Chairman; Regular Members –Brian Major; James Belanger and Rick MacMillan, Alternate Members –David Gibson, Susan Durham, Drew Mason, Kat McGhee and Bill Moseley.

Tsao explained the policies and procedures.

Tsao appointed all regular members to vote on Case 2016-009.

**Case 2016-009**

This application was tabled at the June 24, 2016 ZBA meeting-The application of Hollis Montessori School for an Appeal of the Administrative determination per RSA 676:5, II (b), made by the Hollis Building Inspector/Code Enforcement Officer for operating the Hollis Montessori School outside of the conditions imposed by the Zoning Board of Adjustment and the Planning Board. Property located at 9 South Merrimack Rd., (Map 036, Lot 032) in the Residential Agricultural Zone.

Tsao stated in light of receiving the new Special Exception for Hollis Montessori School, Case 2016-014.

*Tsao moves to decline to hear Case 2016-009 as recommended by town counsel for lack of jurisdiction.  
Seconded by Major.*

*Motion unanimously approved.*

Tsao and Belanger recused themselves from Case 2016-010

Vice Chairman Moore assumed the chair.

Moore appointed Gibson and Mason as voting members for Case 2016-010

**Case 2016-010**

The application of Venu Rao, Hollis Brookline Rotary Club, for a Variance to Section XIV, Sign Ordinance, Paragraph H.3 Prohibited Off-Premise Signs of the Zoning Ordinance to permit the installation of four (4)7.58 square foot, Rotary Club Signs, located at the following locations Map 001, Lot 035; Map 027, Lot 004; Map 011, Lot 028 and Map 045, Lot 044, all signs are in the Residential Agricultural Zone.

Moore noted the public hearing for the application was closed during the July 28, 2016 Zoning Board of Adjustment (ZBA) meeting.

**DELIBERATION AND DECISION**

Moore stated the application was tabled so the ZBA could receive information from the Board of Selectman on who was appointed the administrative board. Moore received information from Setaro stating when the Historic District Commission was removed as the administrative board and the building inspector was tasked with the responsibilities the zoning ordinance was not updated to reflect the change. In Moore's opinion the application requires action by the ZBA under section XIV.H.17 "Any other sign not expressly permitted by the Sign Ordinance" is a prohibited sign. Major, McGhee and Gibson had no issues granting the variance. Mason disagreed stating the sign does not require a variance since the organization is not a business. After a brief discussion the ZBA decided the application required a variance under section XIV.H.17.

**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
Gerald Moore	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Brian Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Rick MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Dave Gibson	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Drew Mason	Yes	Yes	Yes	Yes	Yes	Yes	5	0

**THEREFORE THE VARIANCE WAS GRANTED.**

Tsao assumed the chair.

Tsao appointed all regular members to vote on Case 2016-013, Case 2016-014 and Case 2016-015.

*Tsao moves to reorder the public hearing for Case 2016-014 after Case 2016-015.*

*Moore Seconded.*

*Motion unanimously approved.*

**Case 2016-013**

The application of Ingrid Bartzke, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 796 square foot Accessory Dwelling Unit, located at 146 Witches Spring Road., (Map 046, Lot 023) property owned by Nicholas Pisarsky in the Residential Agricultural Zone.

Nick Pisarsky and Ingrid Bartzke approached the ZBA. Pasarsky stated the proposed 796 square foot accessory dwelling unit (ADU) fits precisely within the stated purpose of the Zoning Ordinance, section IX, paragraph K, which allows for the construction of an ADU for the purpose of providing expanded housing opportunities and flexibility in household arrangements. Specifically, the proposed ADU is intended to accommodate his retired mother-in-law. The proposed location of the ADU is not visible from any adjoining properties. Accordingly, the proposed ADU will have an almost immeasurable affect upon the character, environment, scenic value, health, safety or general welfare of the town. The towns road will not be affect since there will all be one individual living in the ADU. The proposed ADU will be attached to the existing structure through a common wall adjoining a climate controlled living space. The rest of the structure will rest between the existing house and the garage, as shown in yellow on the supplied plan. The existing entrance will not be disturbed and will function as a shared entrance to the primary structure and the ADU. Bartzke stated she is a single mom and when she moved to the area one year ago the plan was for her to live with her family. Belanger asked will the home look any different once the construction is completed from the road. Pisarsky replied the existing home is 900 feet from the road and the addition would be barely visible. Belanger asked would home still look like a single family home. Pisarsky replied most of the ADU will be behind the current garage. Belanger asked where the common access point from the primary structure to the ADU was. Pisarsky replied both the primary and ADU will be accessed through a heated attached mudroom. Belanger asked how the ADU would be reincorporated back into the primary structure if the need arises. Pisarsky replied the kitchen could be removed. Moore asked if the ADU was less than 800 square feet. Pisarsky replied the total square footage will be 796. Tsao asked if the current septic system was large enough to accommodate the ADU. Bartzke replied the ADU will have its own system and it was approved by the town and state. Mosley asked what the square footage was for the primary structure. Pisarsky replied roughly 4,100 square feet.

**Spoke in Favor of the application**

**Cindy Hayes, 154 Witches Spring Road**

Hayes stated 49 million families live in multi generational households. There will be no changes to the structure which would be visible from the road and property values may increase. Hayes was in full support of the

application.

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

**Case 2016-015**

The application of Ethan & Rachel Holmes, property owners, for a Special Exception to Section XII, Nonconforming Uses, Structures and Lots, Paragraph 4c, Nonconforming Structure of the Zoning Ordinance to permit the construction of a 40' x 24' Pole Barn Garage and connecting breezeway 20.4 feet from the front yard setback (required 50 feet) located at 106 Mooar Hill Road (Map 042, Lots 019) in the Agricultural Business Zone and Residential Agricultural Zone.

Since the applicant was not in attendance.

*Moore moves to table Case 2016-015 to the September 22, 2016 ZBA meeting.*

*MacMillan Seconded.*

*Motion unanimously approved.*

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

*Belanger moves to deliberate Case 2016-013.*

*Moore Seconded.*

*Motion unanimously approved.*

**DELIBERATION AND DECISION**

**Case 2016-013**

Discussion of the application of Ingrid Bartzke, for a Special Exception to Section IX, General Provisions, Paragraph K, Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of a 796 square foot Accessory Dwelling Unit, located at 146 Witches Spring Road., (Map 046, Lot 023) property owned by Nicholas Pisarsky in the Residential Agricultural Zone.

Belanger stated he has no problem with the ADU application and would urge the board to grant the special exception. The ZBA members 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
CindyTsao	Yes	Yes	Yes	3	0
Gerald Moore	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

**THEREFORE THE SPECIAL EXCEPTION WAS APPROVED.**

**Case 2016-014**

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 operation of a private school, located at 9 South Merrimack Road (Map 036, Lots 032) in the Agricultural Business Zone and Residential Agricultural Zone.

Brad Westgate of Winer & Bennett presented Case 2016-014 on behalf of the Hollis Montessori School. Westgate

stated also in attendance are Kari Headington, Head of Hollis Montessori School and Kevin Dandrade, Traffic Engineer for the Engineering Corp. of Hampton, NH (TEC) to answer any questions the ZBA may have.

Westgate stated Hollis Montessori School is a small non-profit private school that has been operating at 9 South Merrimack Road for the past three years. The school first opened on Proctor Hill Road in 2008. The school has filed the application for a special exception to confirm that the school and its extra extracurricular /academic special events were in fact permissible. Westgate noted for the record the documents including within the submitted application; the application for a special exception dated August 3, 2016, a plan, a signed schematic as required, reservation of rights, covered letter explaining their intentions, summary of enrichment activities, meeting and events at other local schools perform. This document was included to give the ZBA a compressive look and scope of extra activities conducted at other schools in the area. The fundamental question for submitting the special exception is what can happen at the school outside of regular 8:00am - 3:00pm school day. It is important to remember that the prior approved special exception was for a school. A school is not a place where people only come and go from 8:00am - 3:00pm. The Hollis Montessori School is not proposing anything out of the ordinary, nothing different than what other schools with extracurricular activities utilize.

After the application was submitted several other items were submitted for the record to include; a cover letter dated August 17, 2016, a letter dated August 15, 2016 from TEC explaining criteria 2 (traffic) and a proposed findings and determinations letter which we hope will help the ZBA determine the application tonight. We are asking the ZBA to adopt the findings and determinations after the presentation. Traffic counts for certain morning and afternoon time frames were requested by the ZBA and Kevin Dandrade (TEC) supplied those count on August 23, 2016. Also submitted for the record were two letters of support one being from Laurie Hurd, Executive Director of the Independent Schools Assoc. of Northern New England (ISANNE) commenting on what constitutes a school and praises extracurricular activities. The second letter was sent in by Andrew Jeffrey and Jamie Goodman, 164 Farley Rd. (see file for letter)

Westgate stated the applicant preferred that the open questions were answered administratively. The ZBA is aware of that because the ZBA declined to hear the Administrative Appeal under lack of jurisdiction. A determination was made by the applicant that a new special exception application was the only way to address the questions stated in the enforcement letter sent by Dave Gagnon. The application is very detailed and hopes it will eliminate any questions from the code enforcement officer and abutters on what the school can and can't do during and outside of the regular school day. If the proposed findings and determination are in fact adopted by the ZBA they would help with the pending PB (PB) site plan approval, Enforcement Officer, school, parents and abutters.

Westgate stated the background of the case on April 22, 2010 granted a special exception to the Hollis Montessori School (case 2010-04) to permit a private school. The exception was granted with two conditions one really being a recommendation to the PB to consider limitation on the number of students. The second was a true condition which read *"No after school or weekend teaching activities and all main school activities shall occur between the hours of 8 AM and 3 PM, Monday through Friday."* That condition lead to Gagnon's letter in May 2016 the condition did not state that all activities occur in the time frame only teaching and main school activities. After the granting of the special exception the PB granted site plan approval in 2011. In March of 2016 the Hollis Montessori School submitted an application for a modified site plan to increase the number of parking spaces, make access improvements along the gravel drive to the bunkhouse to accommodate an increase enrollment of 200 students and 25 staff. The application has been before the PB for several months and has been deferred to the September 20, 2016 PB meeting. The PB is awaiting the decision from tonight's meeting. The decision will give the PB direction on their actions for the upcoming meeting for site plan approval. Even the letter from Gagnon in May does not say that all activities must happen between 8 am – 3 pm only teaching and main school activities.

Westgate explained why the application meets the criteria for granting the special exception. The criteria are identical from this application to the prior application. Obviously, the ZBA found the Hollis Montessori School met those criteria by granting the special exception in 2010. Criteria one states *"the use shall not be detrimental to the character, environment, scenic value or general welfare of the town."* The second criteria *"the use shall not materially affect traffic or the physical condition of the town roads."*

The 2010 special exception approval has already determined the school is adjacent to an arterial street. The zoning ordinance defines arterial streets to include streets that connect one section of town to the other. The ordinance specifically makes reference to Rte 122 as an arterial street. Obviously, the school is adjacent to Rte 122 and fronts South Merrimack Road. The zoning ordinance has determined the areas where a school should be located as opposed to having a school in a very small local condensed neighborhood road. Criteria one *"the use shall not be*

*detrimental to the character, environment, scenic value or general welfare of the town.*” First and foremost, by its very nature, the school is an asset to the character and general welfare of the town. The school provides a choice in educational opportunities within itself is a benefit to the health, safety and general welfare. The school is also on a large parcel consisting of 9.4 acres. It is modest in size even with the increased enrollment of up to 200 students. The school was an improvement to the existing apple orchard with its dilapidated structures and represents a substantial investment in the town and a substantial statement of support of the nature of Hollis and why Hollis is the proper place to accommodate such a private school. Criteria two *“the use shall not materially affect traffic or the physical condition of the town roads.”* The criteria is evidently met first by the submission of TEC on August 15, 2016 where their engineer, Samuel Gregorio concluded the traffic analysis they did and the observations of the site was that the school does not materially affect the traffic or condition of the towns road. A further submission from Kevin Dandrade, TEC, on August 23, 2016 concludes the same thing. It is worth noting the traffic analysis was based on the proposed increased enrollment of up to 200 students and 25 staff, not a smaller enrollment than that. Furthermore, the analysis noted the operation during regular school hours will not have any diverse change in traffic or a drop in the level of service. Also noted if extracurricular activities were to happen it would further distribute exiting traffic and is expected to result in improved traffic conditions during the school’s peak hour.

Westgate stated while at town hall this morning gathering any further information received pertaining to the case. Setaro gave Westgate an email with an attached traffic report that Paula Papineau submitted relevant to an accident report from December 2105. It was mentioned in the email that this accident was not included in the most recent traffic report done by TEC. Dandrade, TEC submitted a letter this afternoon analyzing and discussing the report. Westgate asked if the ZBA received the report. Setaro replied the report came in after the close of business and was not included in the packet. Westgate gave the ZBA members a copy of the Dandrade’s memo for the ZBA to review. The memo provided the reason why the accident was not included in the report and Dandrade, TEC concluded the newly provided report does not change the findings of our report or our recommendation.

Westgate stated that criteria two of the special exception deals with traffic issue that have been reviewed by the PB and they will be implementing a new queuing plan especially during pick up times. The plan would allow traffic to queue around the loop leading to the bunkhouse avoiding traffic spilling out onto South Merrimack Road. The full TEC traffic report includes this information. Westgate gave the ZBA the queuing plan for their review. The plan shows how the cars can line up down the gravel road loop proceed to the front area for pickup and each block shown is a standard car length. Finally, describing the traffic criteria again, the zoning ordinance requires the school be adjacent to an arterial road to lessen traffic impact. TEC has completed an extensive traffic report, submitted three memorandums on the subject which concluded the use does not materially affect traffic or the physical condition of the town roads, satisfying criteria two. The reasons for the new application is not only to seek approval for the special exception it is also seeking precise definition of what goes on, can go on and should go on at the school during regular school hours and what would be allowed to go on after school hours. That is why the application included the summary of events from other neighboring schools and proposed findings and determination document. Due to the confusion of the 2010 decision he thought it best to provide a detailed list of extra activities and events that would be allowed, in order to assist D. Gagnon and help the PB move forward with their application also. Westgate stated he felt this was the most important part of the application apart from asking if they meet the two criteria and wanted to make sure that the board understands the detail within document named “Proposed Findings and Determinations”. This document was split into two components. The details of this document can be found within the file and Westgate read this to the board. It includes items such as requesting the property to be used for a ‘private school’ *with an enrollment of up to 200 students and up to 25 staff. As such any and all activities associated with a private school for grades Pre-kindergarten through ninth grade.* Also it requested the definition of ‘regular school day activities, drop of and pick up times, teaching staff hours, enrichment and extracurricular activities seven days a week at various times up to 9pm Monday to Saturday and up to 6pm on Sundays. That said, they also asked for up to six enrichment and extracurricular activities or functions, activities and events, to extend beyond 9 pm to 10 pm each school year and the use of the bunkhouse for classrooms and overnight stays four times a year. He also asked that future modification to the property such as additions to buildings, increasing the number of onsite parking spaces and other improvements to the site that relate to operations of a school at the property do not require additional approval from the ZBA but may require non-residential site plan approval by the PB. He summarized by reiterating all the issues as mentioned and emphasized the need for afterschool activities as outlined in a letter from ISANNE received on August 17<sup>th</sup> 2016. Westgate handed the board a handout titled Hollis Montessori Activity Assessment 2015-2016 School Year, and this was a list of activities, both indoor and outdoor, split into columns of purpose, days, times, number of current participants and numbers of maximum participants. The school personnel put this list together showing what had happened at the school the previous year. Westgate noted the enrichment and extracurricular activities after school do not happen on a regular basis as shown.

Moseley asked if the current septic system is adequate for the proposed student/staff increase. Westgate replied yes the new system has been approved for 200 students and 25 staff also the bunkhouse has its own system with a 1,800 gallon capacity. Mosley noted from the ZBA minutes dated April 22, 2010 the applicant envisioned increasing enrollment up to 150 students and currently they wish to increase to 200 students how is the expansion being calculated. Westgate stated the numbers are only a projection. The physical building was built to hold a maximum of 200 students and 25 staff. The school may never reach its goal of 200 students over the next 6 or 7 years the school is projecting 170 students. Moore noted referring to the April 22, 2010 ZBA meeting minutes where Mr. Frank Grossman presented the application on behalf of the applicant. Grossman indicated that the applicant expected to have an enrollment of 150 students and the ZBA relied on the statement. Westgate agreed. Moore stated Grossman also stated the school hours were 8:15 am - 2:45 pm with no after school activities, nor was it indicated that there would be any after school activities. Westgate agreed he did say no after school activities at that time. At that time they had a small enrollment and had been running for only 2 years. Moore asked if Westgate was aware of Grossman's statement that there would only be 5 employees but if the school expanded it would be doubled to 10 employees and the ZBA relied on that statement. Westgate agreed that is the reason for the new special exception. Moore stated the application reflects a 33 1/3 percent higher enrollment from what was approved in 2010. Westgate agreed. Moore stated he also indicated that 150 students would be needed to financially sustain the school. Westgate stated Moskin actually stated that but he did agree. Moore stated the school has a web site which has frequently asked questions one being *do you offer after school care?* answer: *not at this time*. Is it safe to say the school is contemplating after school care? Westgate replied yes, it is noted on one of the submissions and is part of the overall request. Moore noted from the web site another question, *Do you have a summer program?* answer: *not yet*. Westgate stated the summer program is also part of the request. Moore asked if he could supply any counts for the daycare or summer program including vehicle counts. Westgate replied the counts would be less than 200. Moore asked if it was the opinion of Westgate that if the school was to run a summer program or after school program the applicant would not have to return to the ZBA for additional approval. Westgate replied if the ZBA adopts the supplied finding and determinations the school would be allowed to do what is said on the document. Moore stated some of the programs listed on the document named "Hollis Montessori Activity Assessment" are listed N/A, would those be activities the school wishes to do in the future and would you agree the activities would impact traffic to some degree. Westgate replied yes but if a school operation with 200 students does not impact traffic a small summer program would not. Moore agreed but it might impact scenic value when an abutter will now look at cars coming and going for 12 months of the year instead of just a school year. Westgate disagreed the zoning ordinance allows schools by special exception, as long as they are adjacent to an arterial road. Moore stated in his opinion a school of this size would impact criteria one in several ways. Westgate stated the irony of the application is that the school has an application before the PB for a revised site plan, they are hesitant on acting on the application. Part of the application is to enhance the landscaping on the site, the irony is if the special exception is granted the school goes back to the PB which the abutters have a lot to say once the public hearing is reopened. If we are denied the special exception the applicant will remain in limbo. A solution will not exist and the property will remain the same. The best thing is to grant the special exception so that all of the problems can be resolved at the PB level.

Moore asked Setaro if the PB minutes dated; July 19, 2011, August 16, 2011, September 20, 2011, April 19, 2016, June 21, 2016, July 19, 2016 and the draft minutes from August 16, 2016 were they distributed to the ZBA members as requested. Setaro replied yes. Moore asked the ZBA to take judicial notice of all distributed minutes.

Belanger stated he is not opposed to the special exception. However, in 2010 the ZBA was painted a picture and what happened was not envisioned. The operation has exceeded the original approval and has grown much larger than anticipated. At what point does the applicant feel the site would be over loaded, is 200 the maximum. Westgate replied 200 is the maximum and the 200 students can only be accommodated if the bunkhouse was used for classrooms for the older children 7 to 9<sup>th</sup> graders and the rest of the buildings be used for classrooms with internal modifications. Westgate stated for the record that 200 student is the cap of the request. Belanger stated referring to the TEC report dated August 23, 2016 page 2 of 2. The report talks about new traffic, does TEC consider 1 car going in and out 1 car or 2 trips. Kevin Dandrade, TEC, approached the ZBA. Extensive counts were conducted by TEC in 2011 and more recently in May 2016. The counts included morning and afternoon hours and each car for treated as 2 trips. The existing trends are higher than what was projected in 2011 the recent counts are most realistic because the school is in operation currently. The counts were completed based on 120 students to the proposed 200 students and included parents trips and staff trips. TEC evaluated the traffic operations for the site driveway and study area intersections under existing and future conditions. The analysis demonstrates that there is no anticipated change in the level of service between the no-build and build conditions. The change in delays from the expansion during afternoon and evening peak hours is expected to be less than five seconds. Belanger stated the traffic counts provided are not a problem for the road. However, the report submitted states 2016 existing morning

peak (7:45am – 8:45am) counts are 388 and they are projecting to add 80 students, coming and going and that would be 160 trips added not 55 as noted on the document. Dandrade replied the relationship to students and the numbers of trips are not formulated on one-to-one bases. The count considers families and not all students arrive at the same time. Those factors are taken into consideration and the counts are adjusted accordingly. Belanger noted he has concerns with the data supplied in the traffic report. Moore asked Dandrade the traffic counts conducted on what date. Dandrade replied the turning move counts were conducted on Wednesday, May 11, 2016 and the technician also did an automated traffic count for 24 hours which were done on Tuesday May 17, 2016 and Thursday May 19, 2016. Moore asked at what location were the automated counts completed. Dandrade replied the counts were completed on South Merrimack Rd. only. Tsao asked the queuing document showed a capacity of 50 cars if there were over 50 cars would the cars be? Would they be waiting on South Merrimack Rd? Dandrade replied plan shown gives an extreme queuing of cars. It does not take into consideration absent students, staff and car pooling. The plan represents the ability to support the increased of traffic on site if needed. Mason asked why the traffic counts from 2016 existing to 2027 no built are so different. Dandrade replied the counts are done using industry standards, DOT standards. The raw data needs to be increased by those standards we have increased the counts by 1 percent per year taking into consideration a few small developments in the area as well. Major asked during the 24 hour traffic study how do they compare the departure time of the school and rush hour traffic. Dandrade replied the counts were completed at 1 hour increments and shows a 1 car difference between the afternoon peak and the rush hour peak during that time frame. Under existing condition there were 4,452 vehicles per day travelling on South Merrimack Road north of Wheat Lane. Kari Headington, Head of the Hollis Montessori School, stated for clarification on queuing cars. The school has an early childhood program and 32 children actually leave at 11:30 am, reducing the vehicle count for queuing. One other point the ZBA needs to take into consideration concerning the traffic is the school has many parents with multiple children enrolled which in turn will reduce car queuing.

Belanger noted with the proposed finding and determination document there was mentioned a staggered school day one being 8:00am - 3:00pm and the other 7:30am - 3:30 pm it that statement accurate or did it mean to say 8:30am - 3:30pm. Westgate replied the statement is accurate the PB may have a concern with the pickup of all children at one time and the number of queuing cars.

Major stated he is in agreement with Belanger on what was envisioned back in 2010 was not what was present. Major asked if the applicant was in agreement with the ZBA potentially imposing certain conditions on the 9.4 acres parcel such as the number of students or some other conditions. Westgate replied yes as long as the conditions are reasonable. Major stated since the completed school was not what was envisioned prior and this is a new application the ZBA should consider conditions and concerns brought to their attention. The school is only allowed by special exception and how much weight should be considered by the concerns of the neighborhood. The minutes of 2010 did not state how many students but did reflect a concern with the number of students and noise. Westgate stated the application needs to be analyzed based on the criteria and the context that schools are allowed on arterial roads. With that in mind, do we meet both criteria and does the ZBA need to impose conditions to the approval.

Mason asked if there was any intent to have a before school program. Headington replied serving families with young children we currently do not offer such a program. If the program was needed we would consider it but the start time would be no earlier than 7:30am. Mosley stated in the determination document provided # 9 there is a limitation of 9:00pm and also includes overnight stays. In theory since no limit was attached, would there a limited number of activities which happen up to 9:00pm. Westgate replied yes we had set no number on how many events could happen up to 9:00pm. Mosley has concerns about how many events happen up to 9:00pm and the ZBA needs to consider the abutters if the school intends to have an unlimited amount of events up to 9:00pm. Westgate stated that the provided activity summary lists the frequency of events after 9:00pm and they are not a significant amount. Mosley stated the amount may not be significant to the applicant but the abutters may think differently. Mosley asked if additional lighting for the parking lot was going to be added. Westgate is unaware if lighting would be required or not. Headington stated the supplied activity summary shows current participants, maximum participates and times of events. Last year they only had 3 large events going past 9:00pm. Most of the large events of conducted off site. The school will not expand events beyond what the school and staff can handle. Concerning lighting the current lights go off automatically at 10:00pm. Moore asked if the school permits the use of any buildings on the property for outside use. Headington replied on occasion. Moore asked if any building were rented out for after school hour events. Headington replied no. Belanger noted special exceptions are usually granted with conditions and not prohibitions. It is in the opinion of Belanger that some prohibitions will be set on the application. His vision are things like; staggered start and end times, no outside sound systems of any kind, no flashing or moving lights of any kind since it school is in a residential area. Would there be any type of restrictions that would inhibit the operation or to a point the restriction could not be abided by. Headington replied no. Tsao asked in the proposal it is noted that overnight stays are being requested. Why would there be overnight stays at a school.

Headington replied the school sometimes goes on trips and do team building activities where a overnight stay may be required. The bunkhouse towards the back of the property will be used for such activities. Westgate stated that event parking came up as an issue and we are currently working with PB to come up with a plan to add additional gravel parking spaces towards the back near the bunkhouse and have the ability to park on some of the grassy areas which will accommodate the additional cars. This information was not added to the plan submitted to the PB but will once we go back to the PB for a revised site plan approval.

**Spoke in Favor of the application**

**Stephen Ostermiller, 25 Wright Road, Hollis**

He has lived in Hollis for a year and has two daughters attending the school. He is in full support of the school stating it is a fabulous resource for the family especially the afterschool activities.

**Gerrilyn Moriarty, 1 Rebeccas Way, Hollis**

She has one daughter attending the school for 7 years and detailed how remarkable the school is as it has achieved AMI recognition. This is a rigorous standard to achieve with AMI certified teachers. It is the only AMI School in Northern New England. They also, with their nonprofit budget, offer a more affordable option to as many people as possible. To restrict it would put it at a disadvantage. She is in full support of the school and wants the board to consider approving this special exception.

**Shannon Welsh, 128 Sagamore St., Manchester**

She is a guide in the upper elementary part of the school and also her children attend the school. She detailed part of her job, Montessori Model Unit Nations. She said that the opportunities offered to the students are not just after school activities at the school but really powerful programs that can affect student's career choices.

**Sarah Ellickson, 24 Mill Road, Hollis**

She is parent of two children attending the school and a neighbor. They love living close to the school and often walk through the apple orchard. Both her and her husband volunteer in clubs at the school as they operate outside the 3 O'clock timeframe. She is passionate about Hollis and equally passionate about the school and is in full support of the school and everything they offer.

**Stephen Silvestro, 41 Fletcher Road, Hollis**

A long time resident in Hollis, he grew up here and he has one son attending the school. He stressed the importance of having these dialogues and conversations as a community and they remember the principal point that is being addressed is the quality of life for families, children and neighbors. It is about investing in the children and he is in full support of the school.

**Kaddiz Silvestro, 41 Fletcher Road, Hollis**

She is in full support of the school also, and wanted to express her delight at all the opportunities the school has offered her son.

**Cormac Cullen, 164 Ridge Road, Hollis**

He has three children attending the school. He wanted to express in his opinion the importance of afterschool activities in a school and how they benefit the town. He detailed a few examples that have been offered to the children both in the school and outside the school. He is delighted that children who don't attend the school are allowed to take part in musical opportunities alongside the Montessori children.

**Andrew Jeans, 164 Cyprus Lane, Nashua**

He is an adolescent guide at the school serving students from 7<sup>th</sup> to 9<sup>th</sup> grade. He also has a son attending the school. He explained his part in the investigation of the water quality in Dunklee pond behind the school and the findings were presented the Conservation Commission. He is excited on the potential move to the bunkhouse as this will give them the space they need for their program to continue to develop.

**Eliza Lecours, 4 Pine Hill Rd, Hollis**

She is a member of the community and wanted to express her 100% support of the school and all they do for the community.



**Eitan Zeira, 31 Mill Road, Hollis**

A resident of Hollis, and a neighbor to the school he has no children attending the school but he is passionate about education and he joined the board at the Hollis Montessori school. He urged the zoning board to support the school.

**Melinda Willis, 40 Wright Road, Hollis**

She wanted to get across three things. First the fabulous opportunity of choice of schools for the community within Hollis and secondly the importance of afterschool activities and what the children get from these activities. And thirdly also how working with the community is important to both the teachers and students.

**Tom Byrne, 6 Empire Circle, Hudson**

He has one son attending the school and he wanted to explain the exceptional program the school offers and how it helps make Hollis community special. The enrichment activities happen for the students, the parents and the community. He wanted to encourage the board to support this proposal.

**Spoke in opposition of the application**

**Scott Papineau, 21 South Merrimack Rd, Hollis**

He stated that the original approval was for no after school activities. He was for the school at first based on what was told. The original application was portrayed completely different from what is actually going on and he believes that the ZBA feels the same way. The school in his opinion feels they can do whatever they want at any time even if it goes against the approval given. He asked the ZBA if the current special exception supersedes the last approval. Belanger replied yes. In regards to the current special exception the applicant supplied a reservation of right addendum request. The document seems to be interpreted by me as such, the school can revert back to the original special exception and go back to the PB since they have an application before them currently or they can choose to follow the decision that is made tonight. The document seems to say that they do not have to follow any decision that is made tonight. Major stated the application will be acted on by the board and a decision will be made based on the testimony received. The legalities of letters back and forth are the lawyers concerns not the concern of ZBA. However, the 2010 approval will not go away. Belanger stated the ZBA can impose more restrictive conditions then the prior approval that is the chance the applicant is taking. If conditions are imposed the PB can't supersede them. Papineau stated the applicant stated that the PB did not set a condition on the number of students. So, why are they going back to the PB requesting an increase of the number of students? The school is not following the original conditions of approval as it pertains to no after school activities, hours of operation. Major asked how is the school impacting his family and the use of his property. Papineau replied the landscaping is the most objectionable part of the school they presented a plan to the PB with a gorgeous building and beautiful landscaping. What we got is a larger building with landscaping that is an eye sore. Major asked if noise was a concern. Papineau replied yes his wife works at home on occasion and initially we were told recess would be limited to 1 ½ hours. During recess time it is extremely loud and the children are playing outside after school as well. The school has double in size from its original 52 student and they are currently asking for 200 students. They say that it would take seven years to reach 200 but the testimony from the parents say different. Everyone loves the school. He also had to create his own buffer between his property and the schools by allowing his vegetation to overgrow because the school will not complete the approved landscaping. If the school is allowed to operate year round it would have a substantial impact on the abutters. If approved the ZBA should impose condition and they should have to abide by them. He stated the school testified they may have daycare which defiantly has nothing to do with the operation of a school. The reality of the situation is that everyone who spoke in favor of the school goes home at night and we have to deal with an operation. The school does what they want because there is no enforcement we have responsibility to watch what is going on.

**Cheri Lynch, 16 South Merrimack Rd., Hollis**

She stated her home is directly across the street. She has several concerns regarding the school's proposed request and the lack of adherence to the original approval granted by the ZBA and PB. She would like it to be known that we don't object to the school as a neighbor. We object to the lack of consideration for us exhibited over the past 4 years. As abutters the visual and auditory impact has already been detrimentally impacted our quality of life. If the scope, hours and population were expanded as requested, the negative impact on us would be magnified. The students and staff go home at the end of day. We live here, these are our homes, and for some of us our homes are also a place of work. Also, in relation to these issues, our property values are at risk. Our view is the same as the view of the ZBA that what was original proposed was not what actually happened. We are aware the ZBA was prescient and attempted to prevent these problems prior to the initial approval as the minutes from the April 22, 2010 ZBA meeting has shown. The schools request to expand hour of use to 7:00am – 10:00pm, Monday through Friday and from 8:00am – 10:00pm Saturday and 8:00am to 6:00pm on Sundays would be unacceptable to the

abutters and the expansion of a summer program should not be approved. Also worth noting the school is not located on an arterial road to reside totally on South Merrimack Road which is a historic road in a residential area. The landscape plan which the PB approved, depicted full screening from the road, to date still has not been adequately implemented. In addition, dangerous traffic condition, inaccuracies in the traffic study completed this summer. She strongly objects approval of a 65% student population increase given the issue surrounding the current operations and non-compliance to zoning and PB stipulations. We have communicated our concerns directly to the school. The school appears uninterested in addressing our concerns around landscape visual and auditory impact, so we are asking you to protect our property rights, quality of life and property values in any decision you make. We also ask that the zoning board upholds the cease and desist administrative actions sent to the school on May 4, 2016.

**Chris and Kelly Lewis , 4 Wheat Lane, Hollis**

Lynch was asked by the Lewis's to read in their letter in for evidence this evening since they had a personal emergency this evening. Lynch asked the ZBA for permission to do so. The ZBA agreed.

Dear Zoning Board members,

Thank you for your service to the town. We are unfortunately unable to attend tonight's meeting, but would respectfully request that our concerns below be read into the minutes on our behalf.

We are participating in this meeting today because we are concerned however, regarding the expansion as it relates to the increased traffic in the area surrounding the school and specifically as it relates to Wheat Lane. If the new traffic study performed by TEC which was provided to the board is off by the same percentage that it was originally, (according to the June 21 PB meeting minutes (page 3, 1st paragraph) ) it states the traffic volumes were 30% and 65% higher for morning and afternoon than originally estimated in 2011. According to TEC, the new traffic study shows the AM increase from 14 to 28 cars turning right from Wheat to South Merrimack and PM increase from 13-24 turning left from South Merrimack to Wheat Lane. So this could mean that if we apply the same percent increase that the original study was off by traffic in the mornings would increase to 36 cars and in the afternoon an increase to 40 cars. Even if we just use the TEC estimate, our concern is that Wheat Lane is approximately 365 feet long, and according to the TEC study, they allow for approximately 20 feet per car for queuing. Based on that calculation, it would mean that there could be 18 cars lined up on Wheat Lane in the morning with another 6 cars waiting to turn onto Wheat Lane from 122. In the afternoons again, 18 cars at the stop sign on Wheat Lane, with another 8 cars trying to turn Left onto Wheat Lane from South Merrimack. However if the same inaccuracy occurs in this study, the stacking numbers would jump to 36 and 40 cars respectively.

The TEC report states that there is little to no impact on the traffic in the area in general, however I struggle to see how that is possible. According to the Schools own estimates there will be 160 drops offs and 160 pickups daily. Vendors are estimated to be only 1-2 per week. However, the estimates used in the Traffic Study, Table 4, reflect at most 132 morning trips and 98 afternoon trips. This represents a 21% and 63% increase in volumes. Between the discrepancies in the original study and what the school states presently also not being reflected in the new study it leads to us to believe that there is still uncertainty how big the impact will be.

We understand Wheat Lane is a public street, but ask that you take into consideration the traffic impacts to us at 4 Wheat Lane. (our property is on both side of Wheat Lane)

Thank you , Chris & Kelly Lewis

MacMillan asked if Lynch would like her notes and the letter she read entered into the formal record. Lynch replied yes.

**Paula Papineau, 21 South Merrimack Rd., Hollis**

She expressed her concerns;

- Initial TEC study grossly inaccurate.
- Dangerous turning and merging both on Silver Lake Road and South Merrimack.
- Wheat Lane not adequate for increased traffic.

The expansion would be detrimental to the neighborhood and scenic value because;

- Increased noise from student population increase.
- Increased paving to increase parking area.
- Inadequate landscaping.

The school should not be allowed to operate 7 days a week, convert the bunkhouse into classrooms and have overnight stays at the bunkhouse. The school has also requested a new athletic field and the installation of solar panel all over the roof. When we attended the first PB meeting the school presented a plan for a 1 story building but

a 1 ½ story building was actually built. The school has not been forthcoming and plans seem to change with no further input from the abutters. As stated, any change to capacity, activities and events would further the negative impact felt by the abutters and their quality of life.

The ZBA recessed at 10:15 pm and reconvened at 10:25 pm.

**Michael Bates, 26 South Merrimack Rd., Hollis**

He doesn't object to school being here. He wants them to be successful. What their neighbors and the Hollis community have seen, have been continued broken commitments, false statements and non-compliance by this school. Case in point, the landscaping or rather lack of landscaping seen in Exhibit #1 (see file for picture) shows the original plan submitted by the school and approved by the town of Hollis. The approved plan looks good, approx. 50 trees along the road, lush trees, a solid landscaping plan. Exhibit #2 (see file for picture) this is what the Hollis community and neighbors got 5 yrs. later looks disgraceful. They planted the cheapest trees planted (crabapple), in a parched, weed infested lawn. No watering, fertilizer, weed killer a total slap in the face of their neighbors and the community. He has seen better landscaping at a Wal-Mart or a Dollar store. The school actually stated "the last 3 yrs. have been diligent with our landscaping." Exhibit #3 (see file for picture) the picture is a rendering of what the landscaping should have looked like after 5 years. Currently the neighbors have no buffering from noise and extremely poor maintenance.

Paula Papineau stated that the school is also planning on installing solar panels on the property.

The testimony tonight eluded that the school has reached out to the abutters on the issues. The only time they ever reached out to any abutter is when the issues started and they were instructed by a town employee to do so. The solution to the issues is to have the school follow the original approval. Replace those cheap, stick crabapple trees with deciduous and evergreen trees. Plant them and this time, don't starve them or let them die. This would solve numerous problems. Traffic issues are speeding on Silver Lake Road it is very hard to determine if cars on Silver Lake Road will be continuing on or turning on Wheat Lane or South Merrimack Road to enter the school. The skid marks on those roads will back up the statement. The area is a safety and liability issue, maybe a right turn lane cut into the orchard would be appropriate in handling the traffic turning into the school and getting it safely. He believes that the traffic study is inaccurate and the estimates are under estimated. Student enrollment numbers are inaccurate, the school should be aware of the capacity and the growth of future enrollment. The school will hit the 200 students sooner just because of the testimony tonight stating the school is the only accredited one of its kind in the area. So, when they reach 200 what then, come back to increase the count to 250. The school has a past record on saying one thing and doing something else. In closing, the school did not even follow the original approval with its restrictions and mostly will not follow any other approval granted to them. The past record speaks for itself the proposal should not be granted unless limits are made.

**Applicant rebuttal**

Westgate asked the ZBA if they would allow Kevin Dandrade, TEC to speak in rebuttal on the traffic issue and Headington speaks to the school operation elements and he will talk about the application elements.

Dandrade stated he is a professional licensed traffic engineer. While completing the studies we do keep in mind the technical merits, safety and the area. The accuracy of the 2011 study was based on projections from the best data available at the time. The June 6, 2016 study was done by counting driveways, intersection, counting actual cars and using the most recent data available from DOT and the Hollis Police Department. That data was summarized and determination and recommendation were made. Over the past 4 years there were 8 accidents report which is very low. The accident not included in our report was not given to us by the Hollis Police Department, once that information was supplied he submitted another report dated August 25, 2016 reflecting the accident and coming to the same conclusion that the proposal will not materially affect traffic or physical conditions of the road. Belanger asked could a no left turn sign be install. Dandrade replied the sign would have no impact on the school but would require State DOT approval. In closing, the study was based on fact and was reviewed by the Hollis Planner.

Headington stated she agrees with the neighbors that the school should have reached out to them. We are trying to run a Montessori School and perhaps we did not have all of our ducks in a row at all times but the intent was good. The traffic pattern around Silver Lake, South Merrimack and Wheat Lane has been discussed with the Hollis Police Department and their recommendations were passed on to the parents. If a parent does not go by the recommendations they are not responsible for their actions. Headington apologized for the noise, it was not the

schools intent to be noisy. Typically the children are outside during recess time from 11:30am – 1pm. In her opinion most of the noise is from the children's lunch period. The school will make an effort to lower the noise. The school was built with a maximum capacity of 200 students and 25 staff we have no intention to increase the number further. The school has no intention of paving any more of the property we wish to keep the rural look in place. Headington stated the ZBA should review the activity work sheet supplied. It shows all of the activities the school is currently doing and what they wish to do. If an after school activity is thought to be beneficial to the community the event is open to the public. MacMillan asked if the school intends to offer after school daycare at any time. Headington replied if families are in need of after school daycare they would like to provide it in the future. We also are requesting a summer program if approved, we would agree to limitations. If not approved there would still be people at the site during the summer for maintenance. We have families that volunteer for building and ground maintenance.

Westgate stated he has been a land use attorney for 35 years. He tries to address each application as it pertains to the zoning regulation and he also tries to take the abutters concerns in mind. Mr. Bates made our point, originally the landscaping plans was approved by the PB, inspected, signed off by the board and the bond monies were released. However, the landscaping did not turn out as expected to anyone's satisfaction. The PB has received a revised site plan but is hesitant on acting on it. Morin's landscaping has been hired to make a new landscaping design. However, if the application is not approved tonight a solution regarding the landscape will not happen. MacMillan asked if the application is not approved tonight the landscaping will not be done as originally approved. Westgate replied no we have the original approval that has to be met but it seems to him that plan was not good enough. The main reason for the application is to determine what can happen at the school during and after school hours. Even the letter from Gagnon states some things can be done after school and some can't. The PB will not, or is hesitant on acting on the site plan due to the fact they think it is an expansion of use which requires further ZBA approval.

#### **Abutter rebuttal**

##### **Michael Bates, 26 South Merrimack Rd., Hollis**

He stated that another thing to consider is the development down the street at Woodmont Drive which may increase the traffic by 40 or 50 cars. The landscaping should have been done as approved, it was not. If the ZBA denies the application the school should have to plant the landscaping as designed and approved originally.

##### **Paula Papineau, 21 South Merrimack Rd., Hollis**

If the application is not granted tonight and the school reverts back to the original approval. How will the restrictions of 8:00am-3:00pm and no after school activities be enforced? MacMillan replied the building Inspector. Belanger noted that the town does not an official code enforcement officer in town. The building inspector is tasked to respond to complaints. Papineau asked could the ZBA impose a condition that would not allow the school to come back and modify the approval. Major replied no, if an application was received the abutters are notified and can participate at a public meeting. Papineau stated the abutters were not notified of changes to the site plan after the public hearing was already concluded.

##### **Scott Papineau, 21 South Merrimack Rd, Hollis**

He stated he disagrees with the traffic study at the engineers own submission that the studies were off by 30% and 60%. The PB application was to deal with the increase of the population and additional parking. He feels there is no substantial reasons why the school can't act go forward with the landscaping as originally approved.

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

#### **DELIBERATION AND DECISION**

*Belanger moves to recess until September 8, 2016 at 7pm to deliberate Case 2014-014.*

*MacMillan Seconded.*

*Belanger withdrew his motion.*

Belanger noted it was brought to his attention by Setaro that the State RSA pertaining to notifications of a table case/recessed case only allows the PB not to re-notify. The ZBA is required to re-notify abutters by certified mail of the new hearing date. He stated he will be submitted a bill to change the re-notification requirement. The ZBA agreed to re-notify the abutters.

Moore stated he would be unavailable on September 8, 2016.

Westgate stated he would be unavailable on September 15, 2016.

The ZBA recessed at 11:08 pm and reconvened at 11:15 pm. to determine an available date.

*Tsao moves to recess until September 12, 2016 at 7pm to deliberate Case 2014-014.*

*Moore Seconded.*

*Motion unanimously approved.*

**Review of Minutes**

*Belanger moves to approve the minutes of July 28, 2016*

*Seconded by MacMillan.*

*Motion unanimously approved.*

**Meeting Adjourned**

The ZBA meeting adjourned at 11:30 PM.

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