



BOARD of ADJUSTMENT

Town of Hollis

Seven Monument Square
Hollis, New Hampshire 03049
Tel. 465-2209 FAX 465-3701

Minutes of December 22, 2016

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Cindy Robbins-Tsao at 7:02 PM.

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

Tsao explained the policies and procedures.

Tsao noted that all regular members would be voting on the case tonight.

Case 2016-014

Rehearing of Hollis Montessori School, property owners, for a Special Exception to Section X.G, 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) The meeting will be limited to conditions 3, 5, 9, 18 and 20 imposed at the 9/12/2016 ZBA meeting. The rehearing is not intended to result in a de-novo hearing of the entire case.

Major asked the applicant's attorney, Brad Westgate, if he wished to incorporate the prior testimony into the record since the case is a rehearing. Westgate stated he would like to incorporate the prior testimony and the prior deliberation session into the record. (see file(s) for prior testimony)

Brad Westgate of Winer & Bennett presented Case 2016-014 on behalf of the Hollis Montessori School. Westgate stated also in attendance is Kari Headington, Head of Hollis Montessori School.

Westgate stated on September 12, 2016 the ZBA granted a special exception with conditions. Five (5) of those imposed conditions will be the topic of discussion during the rehearing tonight. Westgate handed out to the members of the ZBA the decision notice with the five (5) conditions in question highlighted along with the proposed modifications to those five (5) conditions.

Westgate stated, in his opinion, good reasons exist to amend and/or clarify the five (5) conditions. The reasons and rationale for the request are outlined in the motion for rehearing along with the arguments for the proposed modifications of each of the five (5) conditions.

Condition three (3) deals with the dropping off and picking up of students. The requirements in Condition #3 that (i) dropping off and picking up of students shall occur immediately prior to and after Regular School Hours and (ii) starting and ending class times for half of the Applicant's student be staggered by one half hour are each unreasonable for several reasons. A strict reading of condition three (3) results in mandating that the dropping off and picking up of students occur only immediately prior to or after regular school hours and presumably cannot occur during regular school hours. Such a requirement would place an unreasonable restriction on the School and would be contrary to the School's operational needs. The School understands that it would be reasonable to require that if student drop-off and pick-up occurs outside of regular school hours, it shall occur immediately prior to and after those times, but student drop-off and pick-up may also occur during regular school hours.

Drop-off and pick-up of students for enrichment and extracurricular activities, functions or events by necessity occur during or outside of regular school hours and drop-off and pick-up should be permitted.

In imposing condition three (3), the ZBA misinterpreted and misapplied the applicant's statements in the documentation submitted by the applicant in connection with the 2016 application, including the applicant's proposed findings and determinations with respect to the option to stagger the school start and end times. By proposing that the regular school hours be 8:00 am to 3:00 pm, but that if staggering is necessary the regular school hours would be 7:30 am to 3:30 pm, the applicant anticipated that the Planning Board (PB) not the Zoning Board of

Adjustment (ZBA), should have the ability to consider staggering to accommodate traffic concerns, since traffic analysis and details of site plan operations are under the jurisdiction of the PB. Furthermore, mandating a staggered drop-off and pick-up schedule would be an unreasonable burden on the School and, ironically, would result in increased traffic and activity around the school during the drop-off and pick-up times.

A number of logistical problems result from the mandate of staggering under Condition three (3), including the following: Families with two or more students attending the school could have different start and end times for students arriving in the same vehicle; Many families may need to wait for 30 minutes at the school after dropping off one student until the second student was permitted to enter the school at the second start time; Similarly, at pick-up time, one student would be dismissed at 3:00 pm, but the same car would need to wait on school grounds or near the School for another 30 minutes to pick up another child scheduled to be released at 3:30 pm.

Condition three's (3) requirement that the student population be divided in two equal halves for drop-off and pick-up imposes an unreasonable burden and restriction on the school and contradicts the school's operational needs. For example, each classroom has a different number of students, typically with the younger age groups being represented in greater numbers than the older age groups. The division into halves could even conceivably divide the same age group simply to even out the numbers. In addition, determination of halves could vary day to day depending upon early dismissals, sickness, trips and the like. With these logistical difficulties, cars with multiple students would either drive in and out of the school twice in that half hour period, though it is unlikely that many families would find it efficient to go somewhere else for such a short period of time or, more likely, they would linger at or somewhere near the school during the hours of 7:30 am to 8:00 am and 3:00 pm to 3:30 pm; and this result runs directly opposite to the stated desires of the ZBA to minimize the effect of arriving and departing traffic on the adjacent roads and abutter properties.

These logistical problems are eliminated when all students are dropped-off and picked-up at a single time using an efficient carpool drop-off line and established queuing protocol operates. With its queuing protocol and use of the on-site loop road, drop-off and pick-up works quickly and smoothly for the entire school.

To remove the unreasonable burdens imposed on the School under Condition #3, the applicant proposes that condition three (3) be greatly simplified and amended to read as follows:

"The dropping off and picking up of students shall occur (i) during Regular School Hours, (ii) immediately prior to and after Regular School Hours and/or (iii) immediately prior to or after Enrichment and Extracurricular Activities or Functions, Activities and Events, as the case may be."

The second discussion is concerning Condition #5 as written on the Notice of Decision:

"Enrichment and Extracurricular Activities (defined below [in the Decision]) may occur during Regular School Hours [defined in the Decision] and outside of Regular School Hours up to 9:00 pm Monday through Friday."

Extracurricular and Enrichment Activities are essentially clubs and extra academics such as; first robotics operation and destination imagination group - those are the primary types of extracurricular activities that can occur Monday – Friday during regular school hours and up to 9:00 pm Monday – Friday. By their nature, certain of the Enrichment and Extracurricular Activities are of the kind that often or more efficiently occurs on weekends.

It is customary and usual for Enrichment and Extracurricular Activities to occur on Saturdays, in particular on Saturday mornings and afternoons. This is not only common knowledge, but also demonstrated by the applicant as shown in the table submitted with the 2016 application indicating the activities of other schools in the area, including several examples of Saturday events and activities, such as theatrical performance or science fair, in addition to the types of Enrichment and Extracurricular noted above. Often, Saturday activities at the School, like other local schools, involve only a small group of students and are an important part of the education process. For example, preparation for competitions such as or first robotics will set up on a Friday afternoon during the school day, but often on Saturdays as well, especially when closing in on a competition date when the team may hold weekend "practices". The condition as written would not allow the school to prepare and train for competitions. However, the applicant realizes that certain constraints need to be imposed for the weekend activities.

The applicant proposes that condition five (5) be amended to read as follows:

“Enrichment and Extracurricular Activities (defined below) may occur during Regular School Hours and outside of Regular School Hours up to 9:00 pm Monday through Friday and up to 5:00 pm, Saturdays. Enrichment and Extracurricular Activities that occur on Saturdays (other than concerts, musical, theatrical and other performances) shall not involve more than 30 students and shall be conducted within the buildings.”

The amended condition is imposing constraints on the number of students and the nature of ‘use’ for the activities, and expands the hours on Saturdays to 5:00 pm.

The third topic of discussion is concerning condition nine (9). The condition was intended to address the infrequent occasion that the School may wish to hold an event until 10:00 pm, rather than 9:00 pm. Currently under the existing conditions the school has the ability to hold Enrichment and Extracurricular Activities up to 9:00 pm Monday – Friday or functions and events up to 10:00 pm on a weekend on the rare occasion. These rare occasions require prior notification to the enforcement officer which we agreed to do.

If the school does not have the ability to hold Extracurricular Activities on Saturday beyond the allowed number of six (6) Enrichment and Extracurricular Activities or Functions, it would mean, for example, that the school could only have 4 robotic practices on a Saturday and two functions. It is very important that condition five (5) be modified to allow extracurricular activities on Saturdays. If condition five (5) was amended the school could accommodate the limitation of six (6). However, the school would like the number of events to be expanded to nine (9). The idea is to give the school the opportunity to have the school functions on a Saturdays, like other schools do, focusing on extracurricular activities on one hand and functions and events on the other. As you know, many working parents would only have the ability to attend activities on Saturdays. We are not seeking anything substantial; nine (9) out of an entire school year is not a significant number of days. The applicant proposes that condition nine (9) be amended to read as follows:

“In addition to (and not in substitution of) (i) the Enrichment and Extracurricular Activities permitted on the days and during and up to the hours under paragraph 5 above (Monday – Friday up to 9:00pm also, includes Saturdays up to 5:00pm) and (ii) the Functions, Activities and Events permitted on the days and during and up to the hours under paragraph 7 above, (Monday – Friday up to 9:00 pm not weekends) the School may, upon prior written notice to the Town Enforcement Officer, hold up to a cumulative total of nine (9) (i) Enrichment and Extracurricular Activities that occur on any day of the week until 10 pm and (ii) Functions, Activities and Events that occur on any day of the week until 10 pm ”

With the amendments to condition five (5) and nine (9) the school could do the extracurricular activities during the daytime and up to 5:00 pm on Saturdays and have a reasonable number of events, if need be, with some going beyond 9:00 pm or 10:00 pm on the weekdays or weekends.

Condition eighteen (18) dealt with landscaping and reads as follows;

“All provisions shown on any site plan approved by the PB in 2016 with regard to plantings and landscaping shall be implemented (and maintained utilizing best management 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).”

Because the PB at its meeting of September 20, 2016 provided the applicant with only two choices regarding the disposition of its site plan application (denial or withdrawal), the applicant decided to withdraw the PB application. Upon reading the imposed condition and since there was no 2016 PB site plan, the school does not have to implement or maintain any landscaping and therefore, the condition has no meaning. The applicant does not want that and it is not what the ZBA intended. The applicant wants to produce a landscaping plan, and it is being worked on with Mark Fougere and the PB currently.

The school contemplates updating and re-filing a site plan application and agrees that landscaping and planting improvements will be part of that application. Recognizing the applicant can bond for improvements and implement them over a period of time, under PB statutes a PB can't force the applicant to build - they need to give them the opportunity to build or bond. (RSA 74:44.iv) If we are required to build as noted in the condition the right to bond

has been taken away from the applicant. Neither the ZBA nor the PB can impose such a condition. The condition is unreasonable based on the RSA. Accordingly, the applicant proposes that Condition eighteen (18) be amended to read as follows:

“Prior to the School increasing the number of students over 120, the School shall have obtained approval of a non-residential site plan application (which contemplates plantings and landscaping) and that such plantings and landscaping be bonded, all as may be required by the Planning Board.”

The problem with the present language, besides being contrary to the PB statute is that, the condition is too open ended. The notion of implementing the landscaping at a time that may not be the proper planting season and the maintenance aspect does not give a sense of timing. If the condition was to remain as is, it would make it very difficult for the school to ever increase enrollment.

Finally, condition twenty (20) states that:

“Modifications to the property, such as additions to buildings, construction of additional buildings, and development of exterior portions of the Site, increases in the number of parking spaces and other improvements to the Site that relate to the operations of the School at the Site, require additional approval from the ZBA and may require non-residential site plan approval to the extent so regulated and required under the Site Plan Regulations of the Town of Hollis.”

The applicant filed the 2016 application for a Special Exception with the ZBA because of the PB’s reluctance to act on the site plan application. In its presentation on August 25, 2016, it was stated to the ZBA that further modifications to the site plan were in process, including landscaping modifications and additional proposed parking spaces as well as the designation of event parking, widening and improvements to the loop road to the “bunkhouse”, and the request that the PB approve use of the bunkhouse as classroom space and depicted the existing playing field.

Condition twenty (20) leaves ambiguous whether the site plan and the contemplated improvements including use of the bunkhouse as classroom space, as may be finalized through the PB review process, require subsequent ZBA action. Plainly stated, condition twenty (20) should not be interpreted to require that the ZBA must approve the very improvements that were depicted in the site plan and/or outlined to the ZBA prior to its decision, subject to the final PB review. If, after receiving final PB approval condition twenty (20) was read to require that the school file another application for a special exception because of the very same improvements which were the reason for the filing of the 2016 ZBA application, the result would be unnecessarily duplicative and unreasonably burdensome on the School. Furthermore, it would make the 2016 ZBA hearing of August 25, 2016 and the decision superfluous and of no effect. There would have been no purpose for the School to have submitted the 2016 application for Special Exception in the first place. Furthermore, condition twenty (20), as adopted, contains vague and indefinite phrases, such as “development of exterior portions of the site” and “other improvements to the site” which are undefined in the Zoning Ordinance and establishes no standard by which a property owner can comply.

Therefore, to remove the vagueness of, ambiguity of, and unreasonable burden imposed by, condition twenty (20), the applicant proposed condition twenty (20) to be amended to read as follows:

“Modifications to the property that were contemplated in the Applicant’s previously pending Site Plan Application before the Planning Board (in 2016) (to be updated and refiled), as well as improvements further outlined to the ZBA at the public hearing of August 25, 2016, including, without limitation, additional paved parking spaces, improvements to and widening of the loop road to the bunkhouse, additional gravel or unpaved parking spaces, designation of areas for event parking, designation of the so-called soccer or playing field, use of the bunkhouse for classrooms and landscaping modifications and improvements, all of which are anticipated to be incorporated into a re-submission of the Site Plan Application, the final design, layout and details of which are subject to Planning Board approval, do not require additional approval from the ZBA. Such improvements will require non-residential site plan approval by the Planning Board to the extent so regulated and required under the Site Plan Regulations of the Town of Hollis.” Material modifications to the property, such as the construction of additional buildings or additions to existing buildings, will require subsequent approval from the ZBA, which approval may be in the form of a modification of the Conditions of Approval to their special exception.”

Moseley noted on page 4 (motion for re-hearing) see item #20 (a) states “families with two or more student could have different start times.” Moseley then asked how many families have two (2) or more students attending? Kari

Heddington, Head of HMS, approached the ZBA. Heddington replied half the population of the school. The total population is 118. Mosley asked how many families need to wait for 30 minutes at the school after dropping off the first student until the second student could enter the building. Heddington replied she was unable to answer the question but guesses it would be roughly forty (40) students and maybe 30 families. The staggered times would be easier if the school determined them by the age and not by percentage. The main concern of the schools is that a parent would need to pick up one child at 3:00 pm and the other at 3:30 pm. Doing this would actually add more traffic and the need for more parking.

Moore asked if someone was carpooling with two (2) students who started at different times, would the school be able to accommodate the child who starts at a later time inside the building somewhere. Westgate replied that with the current queuing and the requested use of the loop road there is no problem with the vehicles operating the way they have. Moore stated the school does not have a 150 student enrollment as of yet. Westgate stated they do not impose staggered start times but the PB should impose the condition, not the ZBA. Moore stated the original application and approval stated *“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.”* Westgate stated we are past the 2010 approval and currently are trying to analyze if staggering students in and out should be mandated by the ZBA, or is it the PB during site plan review that should determine whether staggering is necessary now or perhaps at a time due to the increase in enrollment of students. Moore stated historically the ZBA wanted the PB to limit the number of students and they did not, that was one of the conditions of approval in 2010. Westgate stated, frankly, that is not one of the issues for the discussion tonight. Moore stated it is an issue for some members and he feels he has figured out a way to accommodate the staggering of start and end times which would eliminate the 50% split.

Heddington explained how the school operates currently. The school has 17 students that start at 7:45a.m to 8:00 am, between 8:15 am to 8:30 am the lower schools starts (3 year old – 6th grade). At 11:30 am 33 students are picked up and the percentage staggers currently. At 3:00 pm the remaining students are picked up, the understanding between the school and the town is that there should be no backups on South Merrimack Road. The queuing around the bunkhouse was put into place so backups on the roads do not happen. The agreement made with the PB when the enrolment increases was if a traffic issue was to arise the staggered start times would be put into place. The school would like to have the ability to work with the PB on this issue, if it happens, and not be mandated by the ZBA. MacMillan asked if the school was planning on offering daycare at a later date. Heddington replied not in the near future. Westgate noted condition eleven (11) would not allow daycare.

Belanger stated he does not have any issues with the applicant's proposed language to condition three (3) since the testimony was no problem in fact exists and no problem is anticipated once the school increases enrollment. Belanger suggested adding to the end of the proposed language *“Should traffic from student vehicular trips cause traffic backup on the Town roads, the School shall implement remedies to eliminate the traffic problem, including, staggered class start/end time.”* Westgate agreed. Major suggested adding a statement to the above *“as determined by the Hollis Police Department” (HPD)* since the HPD would be the best place to determine a problem if it exists.

Moore noted he has drafted language for each condition and he will be proposing them during the deliberative session.

Belanger noted his issue with the application. The issue is the ZBA granted approval with conditions, the applicant has submitted a request to modify those set conditions. In Belanger's opinion each item is more like a negotiation, and he would like to hear each item, hear in-favor and opposed, enter deliberative session with Westgate at the podium having input. Having the deliberative session without input from Westgate seems to be counterproductive since this application in many ways is different from a normal application submitted. Moore noted having Westgate take part in the deliberative session would be unfair to the abutters. Major stated perhaps the ZBA should discuss any alternate language prior to entering the deliberative session. Moore disagrees and feels, it is unilateral to share his language since the ZBA has not seen or had the chance to decide whether they agree, disagree or modify the language. In fact, the proposed language has already been modified based on the testimony received tonight. MacMillan and Tsao agreed.

Tsao asked if the ZBA had any questions on condition five (5). Belanger stated he has no problem with the proposed language for condition five (5) as presented by Westgate. Major agrees and feels the limitation of thirty (30) students is reasonable inside the building. Mason noted the main concern is allowing Saturdays. The ZBA agreed. Moore stated the issue on allowing Saturdays should be discussed in the deliberative session. Tsao asked Westgate would all of the activities be conducted inside. Westgate replied yes. Mason asked would the school allow more than one activity to occur at a single time. Westgate replied yes, however the cumulative number of 30

students would still apply. Belanger asked what was the school trying to accomplish from receiving prior written notice from the enforcement officers. Westgate replied the statement was in the original condition and he did not remove it.

Tsao asked if the ZBA had any questions on condition nine (9) concerning changing the number of Enrichment and Extracurricular Activities from six (6) to nine (9). Belanger and MacMillan stated they have no questions on condition nine (9). Major asked Westgate if the proposed change to condition nine (9) was approved, is the change to condition five (5) necessary. Westgate replied the proposed change to condition five (5) would be needed less, if the extracurricular activities were allowed on Saturdays. Condition nine (9) would have less meaning if condition five (5) was adopted.

Tsao asked if the ZBA had any questions on proposed changes to condition eighteen (18). Major stated in his opinion, it would be cleaner if condition eighteen (18) stands as written by the ZBA. The intent of the condition was to eliminate the applicant coming back to the ZBA for additional approval for such things as the landscaping. The ZBA wanted to see screening along the front but if the PB wanted the front to be a field the applicant would not have to return to the ZBA. However, if the plan has changed completely from the original approval, the ZBA should require additional approval. Westgate replied the condition states the planting and landscaping shall be implemented and maintained to the satisfaction of the PB as a condition precedent to the increase in the number of students. The ZBA gave the authority to the PB to determine the planting and landscaping, however, there is still no finalized landscaping plan to date. If the condition is required, a certain plan date should not be referenced and the bonding option should also be added. Moore stated if the “2016” date was changed to “2017” and the PB determines that bonding is a satisfactory implementation, a site plan could be approved. Westgate agreed, however, he did not want people to think that implementing meant planting and maintenance means something has been planted and kept up prior to the enrolment increase. If the applicant went to the PB and condition eighteen (18) was not changed, the PB would have to determine if bonding was OK and meet the condition. The uncertainty should be cleared up before the application is submitted to the PB. Moore stated there is certainly no intent within the language for condition eighteen (18) that would not allow bonding. Westgate stated frankly, the proposed wording should be adopted. Moore stated the primary issue with the condition is the lack of maintenance. Westgate stated the issue of tonight’s discussion is not the past circumstances, but how the special exception can go forward and how should the conditions govern the special exception. If the ZBA thinks bonding can be a substitute for implementation and maintenance the record should reflect the statement. Moore stated Westgate’s point is noted and would be discussed during the deliberative session. Mason asked how the applicant intends to address the maintenance issue, once the landscaping is implemented and completed and the bond is released. Westgate replied the issue should be left to the PB - the ZBA is not equipped to deal with site plan maintenance and analysis, with all due respect. MacMillan stated the ZBA is always allowed to determine the character of the neighborhood and make a judgment on what is best for the neighborhood. The area is residential and the residents have a right their property values, ability to enjoy their property and the quietude of their life. The function of the ZBA is to consider the application and also determine the effects of the application on the abutters. Westgate stated with all due respect, the character of the neighborhood is not the issue tonight. The issue is the functionality of the five (5) conditions imposed by the ZBA. MacMillan disagreed. Westgate stated the character of the neighborhood was already decided when the special exception was granted and was not part of the motion for rehearing request. Major stated the character of the neighborhood was a concern and the conditions that were imposed were taking that into consideration along with the testimony of the abutters. Major added what is presently on the site was not what he envisioned when the application was approved originally. Mosley asked how the applicant would guarantee that the landscaping maintenance will be done, since it is an ongoing issue. Westgate stated they would do whatever is required by the PB, since that is their function and expertise and would have to abide by the requirements. Belanger agreed.

Tsao asked if the ZBA had any questions concerning condition twenty (20). The ZBA members had no questions.

Westgate stated he appreciates the role of the ZBA and how the members take their roles very seriously. He has the ultimate respect for those roles.

No Further Questions from the Board.

Spoke in opposition of the application

Scott Papineau, 21 South Merrimack Rd, Hollis

Papineau stated the conditions imposed at the last meeting were acceptable. However, any additional adjustment to the condition will have an impact. The original request (2010) listed the operating hours were 8:00 am – 3:00 pm, no activities after school, weekends or summers. Currently, they are requesting Monday – Friday until 10:00pm, Saturdays until 5:00 pm, and until 10:00 pm and Sundays. The landscaping is one of the main issues, the ZBA already delegated this issue to the PB and the delegation did not work. Requiring additional approvals from the ZBA will insure the intent of a residential area. Allowing additional events will certainly impact the neighborhood and the abutters.

The applicant has shown they can't maintain the landscaping and it does not make sense to him that they should be able to bond the landscaping. They had many opportunities since April to come up with a plan and they decided to do nothing. Major asked if Saturdays were allowed inside with 30 students would that impact him. Papineau replied no however, the applicant has shown, they do not abide by the conditions already imposed on them. Belanger asked what his main concern with the operation of the school. Papineau replied the large building and the lack of screening. Belanger stated if condition three (3) was modified to include; *"Should traffic from student vehicular trips cause traffic backup on the Town roads, as determined by the Hollis Police Department, the School shall implement changes to eliminate said traffic problem, including, but not limited to, staggered class start/end times."* would the provision be something he could live with.

Paula Papineau, 21 South Merrimack Rd., Hollis

Papineau stated the traffic backups are not only on South Merrimack Road they also exist on Wheat Lane which should be considered. Most of the parents use Wheat Lane as a cut through. Belanger stated if all of the conditions are put into place the problem on Wheat Lane would get worse. The proposal is not to allow a left turn onto South Merrimack. Papineau stated enforcement is a main issue, conditions are imposed, not followed and nothing happens with enforcement. Belanger stated enforcement is always a concern so the ZBA needs to implement approvals with limited restrictions so that no enforcement is required. Papineau asked were the two letters sent in by the abutters received by the ZBA. Tsao replied yes and the letters would be added to the record. (see file)

Major asked if the increase to the numbers of events would impact them. Papineau replied outside events are a concern. It was her understanding that all of the events were to be inside if they were to happen after a school day. The school already had three events since opening, outside with kids screaming and running around until 7:00 pm outside. The noise is a big issue, children are still playing along our border, still using the non approved soccer field and they still have not taken down the basketball hoop which they were told to do. The esthetics is also a big issue, the building is larger than what was anticipated and screening from the side of the building was not even discussed. If side screening was required the noise and visual impact would probably be less. MacMillan stated the ZBA can and should make a determination keeping in mind the character of the neighborhood and he feels that will happen tonight. Papineau stated she opposes the extended hours and Saturdays as proposed.

Papineau also stated the school had an approved landscaping plan, even though the school stated they did not. The plantings were done, the bond was released and they just did not maintain the landscaping. They have had plenty of time to replace and maintain the landscaping. For whatever reason, the school will not do anything until an approved site plan is in place, even though they always had an approved site plan.

Cheri Lynch, 16 South Merrimack Rd., Hollis

Lynch stated she had no opposition towards the school based on the scope, hours and scale presented to her during the original 2010 approval. What has happened is the scope and scale of the school has changed dramatically such as hours of operation, expansion of Saturday hours, and Sunday hours should not be allowed. All activities after 3:00 pm should be conducted inside the building which would limit noise. Front and side screening should also be a requirement. Lynch stated she hopes the ZBA considers the impacts to the neighborhood and the abutters while making a decision.

The ZBA took a recess at 8:20 pm returned at 8:35 pm

Applicant Rebuttal

Westgate noted the subject of the hearing is to modify and/or clarify the five (5) conditions of approval. We are not

here to discuss the size of the building that was approved and built to the footprint submitted. The building has received a certificate of occupancy, which to date, has not been challenged. We should also not be discussing complaints or enforcement concerns. There is a complaint process in the town which everyone understands.

The focus should only be the five (5) imposed conditions. Relative to the five (5) conditions since October the children playing on the schools grounds after 3:30 pm are not students attending the school, they are children from the neighborhood. The issues tonight are as follows; the ability to have functions and events up to 10:00 pm on weekdays or weekends; increasing the number of events to nine (9) and have the abilities to have indoor extracurricular activities on Saturdays until 5:00pm. Contrary to the notion, the applicant is not trying to find loop holes, work around approvals and avoid conditions of approval. We have accepted a special exception granted with twenty (20) operational conditions, we had proposed ten (10) conditions.

We are not seeking to have all of the conditions amended, only the ones that need clarification or slight changes so that the school can operate with clarity. We have an approval that has a significant amount of conditions which frankly, is more conditions the ZBA imposed in most cases when it grants a variance or special exception. We also have the overlay of the PB. We have attended a lot of meetings before the ZBA and the PB to try to come up with a plan that works.

Relative to condition three (3) the additional language that Belanger proposed is acceptable. It is important that the language includes a statement which would allow students to be picked up during the school day as well. We have discussed that 9:00 pm is already the allowed hours of operations and the focus on condition five (5) is to allow Extracurricular Activities, in a limited manner as stated, to occur inside on Saturday up to 5:00 pm. We are requesting nine (9) events up to 10:00pm. Condition eighteen (18) needs to have the bond alternative clarified. Condition twenty (20) is to make clear that what was told to the ZBA thus far would not require additional ZBA approval. However, any further expansion would require ZBA approval.

Kari Headington, Head of HMS, stated the HMS is perceived to operate outside of the approval granted by the town. Respectfully, it is our main focus that everything we have done on the site we have gone to the Town, if there was an occasion something was not done, it was not done intentionally. The school's intent is to be a good neighbor, we hear loud and clear that the landscaping is an issue and we are currently working with the town on an acceptable landscaping plan. The school is tuition run so in order to complete the landscaping we need to have the ability to bond.

In terms of the basketball court, we were told not to use the basketball court and we are not. However, the town did not tell us to remove the court. As an independent school we need to have open houses which happen on Sundays from 12:30 pm to 3:30 pm inside. Sounds meters are being used and the children are playing towards the back of the building to limit the noise. The soccer field is not an unapproved piece of grass it is a flat piece of land that the children play on during the day. Headington stated there is a parking problem, especially if we have a parent coffee in the morning. We are aware of the problem and so is the Town. One of the reasons we are returning to the PB is to increase parking in the hopes to alleviate any issues. The school is trying their best to follow the requirements and regulations of the town.

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

DELIBERATION AND DECISION

Moore stated counsel has reminded the ZBA to focus only on his motion for rehearing but counsel also acknowledges at the outset that we are incorporating by reference all the evidence and testimony of the prior hearings. In Moore's opinion it would also include the entire history of the Hollis Montessori School. Moore stated he is mindful of the history and will be considering it since the history is part of the record.

Condition three (3)

Moore handed out his proposed changes to the five (5) conditions for the ZBA's review. In order to accommodate counsel's request regarding condition three (3) within Westgate's brief a reference was made that the condition didn't allow someone to pick up students during the day, it didn't accommodate kindergarten students and it was hard to stagger the students due to car pooling. To accommodate condition three (3) Moore added a statement to

the end of condition one (1) “, or such time as emergencies (e.g., weather, power outages, pipe bursts.) may dictate.” to eliminate any confusion as stated within the applicants request.

Moore read his suggested change to condition three (3); *“The dropping off and picking up of students shall occur immediately prior to and after each classes Regular School Hours. In order to minimize the effect of arriving and departing traffic, starting and ending class times, with the exception of prekindergarten class times, shall be staggered so that approximately half of the remaining student body will arrive and depart one half hour prior to and after the remainder of the student body. The dropping off and picking up of students attending Enrichment and Extracurricular Activities or Functions, Activities and Events, as the case may be, shall also occur immediately prior to and after such events.”*

Discussion

Moore felt the proposed change would completely deal with all concerns the applicant has. The condition basically is dealing with traffic which was discussed during the previous meeting and dealt mainly with traffic counts on a highway which is only one aspect. Traffic impacts also deal with the quality and the spirit of the town. There is visual blight, environmental blight and noise issues to also consider. Traffic is more than just how many cars fit on a roadway. Belanger agreed with Moore’s suggestions prior to the testimony tonight. The testimony heard was the school has problems with staggered hours and Belanger feels the changes were being made to deal with a potential problem that may not occur. If the change is imposed the ZBA would be imposing a condition on the school which is unnecessary. Belanger suggested the use of the proposed language submitted by the applicant and with additional language added at the end such as; *“Should traffic from student vehicular trips cause traffic backup on the Town roads, as determined by the Hollis Police Department, the School shall implement changes to eliminate said traffic problem, including, but not limited to, staggered class start/end times.”* Added the statement would allow the town to solve a traffic problem if one happened. MacMillan asked if the ZBA has the authority to add *“as determined by the Hollis Police Department”*. Major stated if there was an accident or cars backing up on the road it would be the Police Department responding and would have to access the problems. Major agrees if a traffic problem does not happen a condition should not be imposed. However, there needs to be something put in place which would make the applicant resolve the traffic issue if was to occur, including staggered times if necessary. Major asked Gagnon if he would have a problem with the Police Department making the actual decision and then he we be in charge of the enforcement of staggered times. Gagnon replied no. Moseley suggested adding language to include Wheat Lane for potential road backups as well. Belanger noted the condition is not limited to South Merrimack Road.

Moore disagrees with Belanger’s proposed change - the school already staggers classes and the ZBA is not asking them to do something they are not already doing. The ZBA had delegated issues in the past to the PB such as; as limiting the number of students which the PB totally ignored. Moore stated he does not want to delegate this issue to anyone else.

The original approved condition three (3) reads as follows;

“The dropping off and picking up of students shall occur immediately prior to and after Regular School Hours. In order to minimize the effect of arriving and departing traffic, starting and ending class times shall be staggered so that half of the student body will arrive and depart one half hour prior to and after the other half of the student body.”

Belanger moves to modify condition three (3) as follows;

The dropping off and picking up of students shall occur (i) during Regular School Hours, (ii) immediately prior to and after Regular School Hours and/or (iii) immediately prior to or after Enrichment and Extracurricular Activities or Functions, Activities and Events, as the case may be. Should traffic from student vehicular trips cause traffic backup on the Town roads, as determined by the Hollis Police Department, the School shall implement changes to eliminate said traffic problem, including, but not limited to, staggered class start/end times.

Moore seconded

Motion passed 3 – 2 with Moore and MacMillan against.

Condition one (1)

Moore questioned if the change to condition one (1) was included in the motion. Belanger replied no, a new motion would have to be made. Moore noted the reason for amending condition one (1) was to make it consistent with the change to condition three (3).

The original approved condition one (1) reads as follows;

“The property at 9 South Merrimack Road (Map 36, Lot 32) may be used as a "private school" as permitted under Section X, Paragraph G(2)(e) of the Zoning Ordinance, with an enrollment of up to 150 students and up to 20 (FTE) staff. Any and all Regular School Day Activities (defined in the following paragraph) for grades pre-kindergarten through ninth grade, may be undertaken at the property during Regular School Hours. "Regular School Hours" means 7:30 am to 3:30 pm Monday through Friday.”

Major moves in the interest of clarification, to the ZBA previous decision and in consideration of points raised by the applicant with respect to condition three (3) that condition one (1) be amended to include; "Regular School Hours" means 7:30 am to 3:30 pm Monday through Friday, or such other times as emergencies (e.g., weather, power outages, pipe bursts) may dictate.

The amended condition one (1) would read;

“The property at 9 South Merrimack Road (Map 36, Lot 32) may be used as a "private school" as permitted under Section X, Paragraph G(2)(e) of the Zoning Ordinance, with an enrollment of up to 150 students and up to 20 (FTE) staff. Any and all Regular School Day Activities (defined in the following paragraph) for grades pre-kindergarten through ninth grade, may be undertaken at the property during Regular School Hours. "Regular School Hours" means 7:30 am to 3:30 pm Monday through Friday, or such other times as emergencies (e.g., weather, power outages, pipe bursts) may dictate.”

Tsao seconded.

Motion passed 4-1 with Belanger abstaining.

Belanger stated his reason for abstaining, he was unsure if the ZBA has the authority to modify the condition based on the decision made to only discuss and consider the items within the motion for rehearing.

Condition five (5)

The original approved condition one (1) reads as follows;

“Enrichment and Extracurricular Activities (defined below) may occur during Regular School Hours and outside of Regular School Hours up to 9:00 pm, Monday through Friday.”

Moore stated he has no changes to condition five (5). Most of the ZBA member agreed.

MacMillan moves that condition five (5) remains as written previously.

Moore seconded.

Discussion

Mason asked for confirmation Saturdays are not included in the condition. Moore replied correct. Major asked if the ZBA should consider limiting Saturdays to 30 students as proposed by the applicant. MacMillan stated an assessment was made previously by the ZBA, taking into consideration the abutters testimony and the condition should not be changed. Major stated the applicant's request is not unreasonable. Moore noted this condition was voted on twice, once in April 2010 and again in 2016 and should not change.

Motion passed 4-1 with Major against.

Condition nine (9)

The original approved condition nine (9) reads as follows;

“Notwithstanding the days (Monday through Friday) and time limitation of 9:00 pm in paragraphs 5 and 7 above, during each school year, upon prior written notice to the Town Enforcement Officer, up to six (6) Enrichment and Extracurricular Activities or Functions, Activities and Events, may occur during Regular School Hours and outside of Regular School Hours on Saturdays or Sunday until 10:00 pm.”

Moore stated he has no problem increasing the six (6) events to nine (9) events as requested by the applicant. Belanger stated he would like to add additional language to the condition.

Belanger moves to modify condition nine (9) as follows;

*Notwithstanding the days (Monday through Friday) and time limitation of 9:00 pm in paragraphs 5 and 7 above, during each school year, upon prior written notice to the Town Enforcement Officer, up to nine (9) Enrichment and Extracurricular Activities or Functions, Activities and Events, may occur during Regular School Hours and outside of Regular School Hours on Saturdays or Sunday until 10:00 pm
Notwithstanding any provisions or ZBA conditions all school student activities occurring after 4:00 pm shall be conducted in doors.*

Discussion

Major asked if the addition to the previously approved condition was fair to the applicant. Belanger replied yes the additional language would not allow any outside activities after 4:00 pm on any day of the week. The abutters testified the noise is a major concern and ZBA needs to consider the impact on the abutters. Durham noted condition seventeen (17) already states that outside activities shall be conducted on the south side of the main school building and is that still current. Belanger replied yes the school can still have outside activities but not after 4:00 pm.

Moore seconded.

Motion unanimously approved.

Condition eighteen (18)

The original approved condition eighteen (18) reads as follows:

All provisions shown on any site plan approved by the PB in 2016 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).

Moore stated for the record he has no intent with the language contained in condition eighteen (18) to deny the applicant any rights to bond. Moore asked if any ZBA member has the intention to deny the applicant any bonding rights they should indicate such at this time. No ZBA members spoke.

Moore moves to modify condition eighteen (18) by changing “ all provision shown on any site plan approved by the PB in 2016” to “all provisions shown on any site plan approved by the PB in 2017”

The amended condition eighteen (81) would read;

“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).”

Discussion

The ZBA members discussed changing the date “2017” to the most recent, latest or current site plan and ultimately decided on changing the date to “2017” due to the fact, the testimony of the applicant was they have been working diligently with the PB on a 2017 site plan. Mason stated there is no guarantee that a 2017 site plan will be completed. Moore stated if the applicant does not file a 2017 PB site plan and obtain approval the applicant would be required to return to the ZBA. Mason stated should the ZBA consider a condition to the PB that the site plan must

include a landscape maintenance plan. Major stated an additional finding could be added stating, it is the ZBA's hope that the PB addresses the abutters concerns for adequate screening and maintenance. Moore stated the existing language already relegates the implementation and maintenance of landscaping to the satisfaction of the PB. The ZBA agreed.

Tsao seconded.

Motion unanimously approved.

Major stated so there is no confusion, should the ZBA consider a finding of fact concerning the applicants' bonding rights. The ZBA members agreed.

Major moves for a finding of fact;

The ZBA finds that nothing contained within the language of condition #18 would preclude the applicant from exercising its right to bonding provisions as provided by statute.

MacMillan seconded.

Motion unanimously approved.

Condition twenty (20)

The original approved condition twenty (20) reads as follows;

“Modification to the property, such as additions to buildings, construction of additional buildings and development of exterior portions and other improvements to the Site, increases in the number of parking spaces 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.”

Moore stated the applicant noted in the application they were confused on what types of changes to the site would require additional ZBA approval. To eliminate any confusion on further site modification;

Moore moves to modify condition twenty (20) as follows;

“Further modifications to the property, such as additions to buildings, use of the bunkhouse for classroom space, construction of additional buildings and development of exterior portions of the Site, including the construction and use of athletic field(s), increase in the number of parking spaces 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.”

Discussion

Major suggested changing the proposed language by adding further modifications to the property above and beyond the site plan application brought forth to the PB in 2016. The applicant's concern is they should not have to return to the ZBA concerning items already on the 2016 site plan. Moore stated the flavor of the condition is not just a site plan; it is dealing with additions to buildings, construction of new buildings, the 'use' of the bunkhouse for classrooms and expansion of exterior portions of the site. Major stated are the items noted, an expansion beyond those approved by the PB in 2016. Moore stated the applicant does not have an approved 2016 site plan, they withdrew the application.

Moore stated the reason for the condition. In 2010 the plans shown did not include the bunkhouse and now the bunkhouse is being used. Moore stated in his opinion he did not contemplate the bunkhouse "use" and they never requested the bunkhouse in the original ZBA application. The PB should not have approved any type of 'use' without having the applicant return to the ZBA. This condition will eliminate further expansion of the site without obtaining approval from the ZBA prior. Major agreed.

Major seconded the motion to adopt Moore's language for condition twenty (20).

Belanger asked what the difference was between the applicant's proposed language and Moore language for the condition. Belanger added as a former PB chairman some of what is included in the language he feels falls under the jurisdiction of the PB not the ZBA. The ZBA usually does not propose this specific of a condition such as the

construction and use of an athletic field. However, he understands that the request is a special exception and expansion should come before the ZBA because the changes might affect the neighborhood. . On the other hand, the ZBA needs to have faith in the PB to make these decisions and have the same concerns that a playing field would have impact on the neighborhood.

Moore stated the applicant's proposed language refers to the previous pending site plan application and he has no idea what that plan was. Mason asked what types of changes in his opinion should the applicant seek further ZBA approval. Moore replied he feels the proposed language encompassed the type of expansion which would require further approval. Belanger stated the construction of a playing field should be dealt with by the PB. Mason asked Belanger what changes in his opinion would require additional ZBA approval. Belanger replied changing the bunkhouse into classrooms would be a change in use. Major stated does the ZBA agree that the items approved at the prior ZBA meeting would not require additional approval. The applicant is concerned that when they submit the PB application, the PB will not accept the application because they did not receive ZBA approval given condition twenty (20). Belanger stated the last line in the applicants proposed language deal with the concern "*Material modifications to the property, such as the construction of additional buildings or additions to existing building, will require subsequent approval from the ZBA, which approval may be in the form of a modification of the Conditions of Approval to their special exception.*" Major stated he has no issue with the applicant's proposed language for condition twenty (20). However, he questioned if the bunkhouse was constructed for classroom space. Durham replied the bunkhouse was an existing structure used by the apple orchard for workers. The PB approved the use for activities such as, art projects and events but not classrooms. Moore noted without a public hearing the applicant went to the PB after the ZBA granted the approval in 2010 and the PB gave approval for the use of the bunkhouse. Under the *Sklar* case, the PB should have told them to return to the ZBA to seek approval since it was not on the plan received in 2010 by the ZBA. Mason agrees with the proposed language from Moore with the exception of the increase to the number of parking spaces. Durham suggested using the applicant wording but adding "further" in front of material modifications including the use of the bunkhouse for classrooms would require additional ZBA approval. Mason added the proposed language from Moore also includes the development of exterior portions of the site, including the construction and use of an athletic field which is a change in use, that would material affect the abutters.

Major stated he thinks the ZBA agrees, as operated currently or as operated at 150 students the site may be approaching the limits on which it can handle and restraints need to be put on the site. Obviously, the applicant has the right to use the property as constructed and approved for. However, there are things that were contemplated that the applicant was going to present to the PB on the 2017 site plan, which are known to the ZBA and reasonable. The applicant does not want to return to the ZBA for approval such as; additional parking spaces and the reconfiguration of the road. The ZBA seems to agree that any exterior changes to the buildings, increase in space and any conversion of a building on the property to a different use would require the applicant to seek additional ZBA approval.

Moore asked what would prevent the applicant to simply submit a letter to the ZBA along with the proposed 2017 site plan and asking the ZBA to make a determination if there was anything on the site plan requiring additional ZBA approval, would the request have to be a full public hearing or could we act on the request only. Major stated the request would have to be posted and included at a public hearing. Belanger stated the first portion of the applicant proposed language for condition twenty (20) is self serving and seems to be an insurance policy not requiring them to return to the ZBA, only the last statement starting at material modification have any merit.

The previous Motion was withdrawn.

Belanger proposed changing condition twenty (20) to read as follows;

"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."

Mason stated the construction and use of athletic field in his opinion should not be taken out of the condition. Belanger stated the athletic field would be included in "*other improvements of the site.*" and would require additional approval.

MacMillan move to adopt condition twenty (20) as stated by Belanger.

Tsao seconded

Motion unanimously approved.

Major suggested a finding that there were site plan requirements proposed to the Planning Board on the 2016 site plan which were not completed, and the Zoning Board granted approval contemplating that these improvements would be done. Belanger noted that the Planning Board would deal with site plan issues in conjunction with a new plan to be submitted some time in 2017, and a finding would not be necessary the other 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
Cindy Robbins-Tsao	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 with the following original conditions and modifications to conditions #1, 3, 9, 18, 20 and FINDINGS OF FACT;

1. The property at 9 South Merrimack Road (Map 36, Lot 32) may be used as a "private school" as permitted under Section X, Paragraph G(2)(e) of the Zoning Ordinance, with an enrollment of up to 150 students and up to 20 (FTE) staff. Any and all Regular School Day Activities (defined in the following paragraph) for grades pre-kindergarten through ninth grade, may be undertaken at the property during Regular School Hours. "Regular School Hours" means 7:30 am to 3:30 pm Monday through Friday, or such other times as emergencies (e.g., weather, power outages, pipe bursts) may dictate.
2. Regular School Day Activities (defined in the next sentence) shall only occur during Regular School Hours. "Regular School Day Activities" means and includes teaching activities, student/guidance counselor meetings, group guidance meetings, guest instructors, multi-classroom or multi-grade assemblies and recess. In this context, teaching activities involve formal, in-class subject matter teaching to a group of students, including standard subjects customarily taught at particular grade levels.
3. The dropping off and picking up of students shall occur (i) during Regular School Hours, (ii) immediately prior to and after Regular School Hours and/or (iii) immediately prior to or after Enrichment and Extracurricular Activities or Functions, Activities and Events, as the case may be. Should traffic from student vehicular trips cause traffic backup on the Town roads, as determined by the Hollis Police Department, the School shall implement changes to eliminate said traffic problem, including, but not limited to, staggered class start/end times.
4. The School's administrative and teaching staff are not restricted to working only during Regular School Hours, but may work outside of the Regular School Hours, as may the custodial and cleaning staff. Administrative and teaching staff activities, outside of Regular School Hours, may also include teacher professional development days, teacher workshops, as well as normal teaching preparation and grading.
5. Enrichment and Extracurricular Activities (defined below) may occur during Regular School Hours and outside of Regular School Hours up to 9:00 pm, Monday through Friday.
6. "Enrichment and Extracurricular Activities" means and includes activities for students that are currently or typically offered by private schools including, band and music (group practices and performances, all to be conducted within the buildings), book clubs, computer clubs and activities, clubs focused on mathematics, technology, robotics, art and/or science, including preparation for competitions (e.g. Destination Imagination or FIRST), drama and theater clubs, including rehearsals, plays and performances, game clubs,

garden and environmental clubs and activities, dances, athletic activities (including team practices, games, meets or other competitions, and open gymnasium, all to be conducted within the buildings), chorus rehearsals and performances and remedial tutoring.

7. Functions, Activities and Events (defined below), in addition to Enrichment and Extracurricular Activities, may also occur during Regular School Hours and outside of Regular School Hours up to 9:00 pm, Monday through Friday.
8. "Functions, Activities and Events" means and includes functions and activities open to the entire school community and on occasion for the community at large (e.g. open houses or fundraisers for the School), including theater performances, band or chorus concerts, science fairs, student dances, book fairs, art shows, talent shows, field days and back to-school or end-of-year picnics. Functions, Activities and Events also includes alumni events, meetings for parents of current students (such as parent/teacher conferences, curriculum night, anti-bullying presentations and mandatory meeting(s) prior to a class trip), parent/teacher organizations, boards and committee meetings, presentations and open houses for parents for prospective and incoming students, pizza nights, ice cream socials, lectures, graduation ceremonies, and fundraising activities for the School.
9. Notwithstanding the days (Monday through Friday) and time limitation of 9:00 pm in paragraphs 5 and 7 above, during each school year, upon prior written notice to the Town Enforcement Officer, up to nine (9) Enrichment and Extracurricular Activities or Functions, Activities and Events, may occur during Regular School Hours and outside of Regular School Hours on Saturdays or Sunday until 10:00 pm
Notwithstanding any provisions or ZBA conditions all school student activities occurring after 4:00 PM shall be conducted in doors.
10. Activities involving overnight stays are not permitted.
11. Day-care activities are not permitted.
12. Summer school activities are not permitted.
13. The applicant shall submit an application to the Hollis Highway Safety Committee requesting their support for a "No Left Turn" traffic sign on NH Route 122 southbound at the intersection with South Merrimack Road. Should the Hollis Highway Safety Committee support this application the applicant shall pursue the placement of this traffic sign by application to the Hollis Board of Selectmen and the appropriate State Highway agency.
14. Outside speakers for music or announcements are not permitted.
15. With the exception of timed parking lot lighting for safety purposes, exterior lighting is not permitted.
16. All exterior lighting shall be extinguished after 10:00 pm except for a lighted entry door.
17. All outside student activity generating appreciable noise shall be conducted to the South side of the main School building. "Appreciable noise" is defined as any sound exceeding 60 db at the property boundaries.
18. 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).
19. The School buildings and Site shall not be rented or offered free of charge for any activity other than those associated with the functions or activities of the School.
20. 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.

Additional Finding of Fact;

1. The ZBA finds that nothing contained within the language of condition #18 would preclude the applicant from exercising its right to bonding provisions as provided by statute.

Original Findings of Fact;

1. The property at 9 South Merrimack Road (the "Site"), the location of Hollis Montessori School (the "School") is adjacent to an arterial street.
2. There is a direct relationship between the size of the student and staff population and the hours and manner of operation of the School that adversely affects the character of the Site, adversely affects the abutters' previously enjoyed visual and auditory enjoyment of their respective properties in this R&A zone, and the scenic value of the Town.
3. Nevertheless, if developed and operated in strict compliance with the conditions imposed herein and any imposed conditions of the Hollis Planning Board (the PB) regarding landscaping, screening and/or plantings, the operation of the School on the Site is not detrimental to the character and environment or scenic value of the Town, nor does it materially affect traffic or the physical condition of the Town roads.

Review of Minutes

Moore moves to approve the minutes of November 17, 2016.

Belanger seconded.

Motion unanimously approved with Tsao, Durham and Mosley abstaining.

Other Business

Durham requested a status on the potential zoning changes that were submitted to the PB. Belanger stated Mason and he went to the PB meeting last night and they considered the changes submitted. The only item they had an issue with was the housing for older people. We wanted the PB to eliminate the acreage requirement or at least reduce it to 15 acreages as requested. The PB said they would reduce the minimum acreage from 30 to 20 and add the suggested change to the March ballot.

Meeting Adjourned

The ZBA meeting adjourned at 10:00 PM.

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