



**BOARD of ADJUSTMENT**

**Town of Hollis**

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

**Minutes of October 25, 2018**

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Brian Major at 7:00 pm.

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

Major explained policies and procedures.

Major stated all regular members would be voting on the cases this evening.

**Case ZBA 2018-020**

The application of Athletic Tumbling Allstars, for a Variance to Section X, Zoning District, Paragraph C.1, Permitted Uses of the Zoning Ordinance to permit the operation of an instruction and training facility for cheerleading, tumbling and similar activities, property owned by Hollis Hampshire, LLC, located at 17E Clinton Drive (Map 004, Lot 074) in the Industrial Zone.

Mark Kanakis, Attorney, presented case 2018-020 on behalf of the applicant and Hollis Hampshire, LLC.

Melissa Morales, owner/operator, explained Athletic Tumbling Allstars (ATA), is a family owned business started in 2013 that offers instruction and training to youths for cheerleading, tumbling and other similar programs for children 3 years and up. The business is currently operating in Hudson NH. ATA promotes a positive, safe environment and follows the rules and safety guidelines dictated by the US Allstar Federation (USASF). The programs are targeted to meet the needs of youths from area schools that wish to develop team and individual skills. ATA was voted 2017 & 2018 Best of Greater Nashua in the category of Gymnastics/tumbling.

Morales stated she had met with the other occupants of 17 Clinton Drive and nearby business and was welcomed. Attached to the application was a signed petition from 10 neighboring businesses stating they fully support the application. (see file)

ATS operates during after school hours Monday-Friday and Saturday morning with fully supervised structured training sessions. There are currently five employees that train and supervise the operation with all staff having completed background checks, training and testing to get accredited and certified to teach tumbling/cheer. The operating hours for ATA would be Monday-Friday 4 pm – 9pm and Saturday 9 am – 12 pm.

Mark Kanakis stated the applicant is requesting a use variance to allow for an instructional training facility for cheerleading, tumbling and other similar activities in the industrial zone. The application needs to meet the 5 criteria for the Zoning Board of Adjustment (ZBA) to grant the variance.

The application is not contrary to the public interest. To be contrary to the public interest, a variance must duly and in a marked degree conflict with the ordinance such that it violates the ordinances basic zoning objectives. The industrial zone is intended to provide for the location of industry and light manufacturing; office, storage, training schools, and activates that do not cause objectionable noise, odors, fumes, etc. This use will not threaten the public health, safety and general welfare of the Town of Hollis in any way. The use will not alter the essential character of the neighborhood. Businesses, located within the Clinton Drive neighborhood include Operation Delta Dog (19 Clinton Drive), a training facility for service dogs and veterans. (granted a use variance in 2017); Bodies Defined Fitness Studio (4 Clinton Drive), a personal training facility; and Young Minds Preschool (formerly at 26 Clinton Drive) Granting the variance in this case will allow the property to be used in a manner which is safe, reasonable, promotes local business and is consistent with other uses in the area.

The spirit of the ordinance is to ensure a reasonable and compatible use of the property while ensuring the Town's

health, safety, convenience and general welfare. The proposed use of the property will not result in any negative effects on the surrounding properties or the area as a whole. The proposed use will not generate significant traffic, noise, odors or cause other detrimental effects within the surrounding area. There will be no exterior changes to the building or site.

Granting the variance does substantial justice when the benefits to the applicant are not outweighed by the harm to the general public. The benefits of this variance by allowing the applicant to operate an instruction and training facility for cheerleading, tumbling and similar activities will be positive overall to the community and allow for a functionally obsolete warehouse structure to be reused after enduring years of continued vacancy. Here, granting the variance would not result in any appreciable harm to the public. The proposed use is significantly more benign and creates a lower environmental impact than other permitted uses in the industrial zone such as, trucking terminals or a manufacturing plant. Therefore, the benefits to the applicant are not outweighed by the harm to the general public.

The requested relief will not diminish the values of the surrounding properties because it is a low environmental impact business that produces negligible traffic, creates no noise, operates primarily during non-business hours and will not alter the exterior of the building or site in anyway. Granting this variance will not produce any significant traffic, noise, odors or other detrimental impacts to the surrounding area. Thus, the values of the surrounding properties will not be diminished. Attached to the application was a letter of “opinion of value” from Deane Navaroli. The letter indicates the proposed use will not impact the value of surrounding properties. The letter reflects just how these large industrial building are becoming obsolete and that varied uses will need to be allowed to keep the building vibrant, useful and productive. The last document in the application are noting the types of business allowed in other neighboring towns which have similar types of buildings.

Literal enforcement of the ordinance would result in an unnecessary hardship. The property at 17-19 Clinton Drive consists of two buildings comprising approximately 51,000 square feet. The larger building at 17 Clinton Drive contains a 12,000 square foot vacant space that has been vacant for many years despite significant marketing efforts. The considerable size of the space, the fairly limited allowed uses and being overlaid by the Aquifer Protection Zone (APOZ), a lack of municipal water and sewer, distance from the highway network, the site configuration, all contribute to the clear difficulty experienced attracting a suitable business to occupy what is, in essence, a functionally obsolete facility.

The subject building has very limited access to the rear warehouse overhead doors (dock-height loading/unloading doors) that open on to a fairly narrow paved area approximately 30 feet. This limits trucks from maneuverability, restricting many uses that require shipping and distribution. There is a fire pond/cistern owned by the Town of Hollis located on the property which prevents a full circular traffic flow around the site. These factors cause this property to be unique from the others within the industrial zone and limit its appeal to area “industrial” users, resulting in an exceptionally long and persistent vacancy.

If the variance is denied, and the property is held to strict conformance with the ordinance, the applicant will be unable to open for business and the property would continue to remain vacant and unproductive until a business that can satisfy the zone restrictions for strict industrial proposes can be found. An industrial user that could bring with it certain health and safety risks, increased traffic, noise, odor, dust and air pollution that are more likely to occur with industrial uses than would the proposed use.

Lastly, hours of operation as stated would not impact the working hours of any of the industrial business. ATA runs after normal business hours and until noon time on Saturdays. Non industrial uses already exist within the building and the building within the Clinton Drive complex.

Major asked how large the property was. Brad Vear, owner of 17-19 Clinton Drive, approached the ZBA. Vear replied 6 acres. Major asked how long Vear owned the property. Vear replied 2 years however, he was in charge of renting the buildings since 2001. Major asked if the building has been vacant and for how long. Vear replied approximately 3 years. Major asked what difficulties had Vear encountered in regards to renting the building. Vear replied the building does not have a suitable loading/unloading dock because there is limited access for trucks to turn around; due to this fact 11 potential tenants could not rent the space. There have been several others interested in the space, however, since the property is located within the APOZ with its own restrictions the space could not be rented. Major asked would an industrial use be more economic for the space. Vear replied probably but the allowed uses in the industrial zone are limited and the APOZ restrictions further limits potential businesses.

Major asked if it was a fact the restrictions of the APOZ limits potential businesses from renting in the area. Vear replied yes.

Belanger stated the intent of the industrial zone is to provide a location for industry and light manufacturing. How does this proposal meet the spirit of the ordinance? Kanakis replied the spirit of the ordinance is to provide space for industrial uses, but due to the restrictions either by zoning or property constraints the uses are extremely limited.

Major asked how many vehicles were anticipated coming and going per day. Morales replied classes have 5-9 children per class and approximately 30 to 35 cars per day. Since the operating hours are outside of normal business hours of the other tenants in the complex the traffic would be barely noticed.

MacMillan asked if there was town water on the site. Kanakis replied no which also limits industrial uses. West asked if the document with similar uses from other towns spells out allowable uses or was ZBA approval required. Kanakis replied he was unsure. The document was presented only to show the types of uses located in similar buildings allowed by neighboring towns.

Belanger asked if lunches were served. Morales replied no. Belanger asked would a sign be installed. Morales replied yes. Belanger asked would first aid products be available in case of an injury. Morales replied yes. Belanger noted the application states 5 employees. Would 5 employees be sufficient in case of expansion? Morales replied yes.

**No further questions from the Board and none from the floor - hearing portion of the case closed.**

The ZBA decided to hear Case ZBA2018-021 and ZBA2018-022 together. However, the ZBA would vote on the cases individually.

#### **Case ZBA 2018-021**

The application of Michael & Beth Coulombe, for a Variance to Section X, Zoning District, Paragraph G.1, Permitted Uses of the Zoning Ordinance to permit the operation of an mixed use storage facility, property owned by 145 Runnells Bridge Rd., LLC, located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

Beth Coulombe stated Mike and I are both born and raised in the neighboring city of Nashua and we currently reside there with our children and dogs. Mike is the proud owner of United Roofing & Remodeling LLC, a business he began back in 2001 and we have grown together over the years.

We would like to purchase this property and use it as a storage rental facility for contractors and small business' to provide a safe, weatherproof, and clean solution for their storage needs. We feel that we will absolutely find success in this venture as we know first-hand how beneficial having a storage solution can be for a contractor.

Tonight, we are requesting variances be granted to allow us to move forward with this plan despite the property being in the Residential and Agricultural District and the Aquifer Protection Overlay Zone. We understand the awesome responsibility that would be awarded to us as a town of Hollis business and APOZ property owner if our variances were to be approved, and will see it as our personal duty to be certain our affairs on the property do not harm that of our surrounding neighbors or the community.

As you have read in our applications, we feel our proposed storage facility would be in keeping with the decades of the lot being used commercially and we do not feel that it would be a threat to public health, safety, or welfare, as we will maintain the highest standards in selecting the tenants we choose to rent our spaces to.

After sending out an open invitation to discuss our plans with property abutters, we had the pleasure of meeting with Mr. Jim Pitarys of Pitarys Homes Inc., and representatives from the town of Pepperell, Town Engineer Mr. Ken Kalinowski and from the Water and Wastewater Division Mr. Joseph Jordan. The outcomes of our meetings were positive with proactive conversations and advice, and we are aware of the water sources and the effect on municipal wells these parties are concerned with and that we will need to safeguard.

Michael Coulombe explained the proposed use of property would be to use the majority of the property for a storage rental facility geared towards contractors and small business, to provide a safe, weatherproof, and clean solution for their storage needs. The other portion of the property will remain in the same use as a residential home and we will

continue to use that as a rental property. Upon approval of our variance applications with the town of Hollis zoning and planning boards, we would like to follow through with the purchase of this property. We plan to lease out storage spaces immediately upon ownership after a few slight improvements to include cleaning out old contents of some buildings and replacing wooden shelving with metal as suggested by the town of Hollis fire inspector. We have attached a list of business' we would be marketing the storage units to and examples of items they would potentially store inside of the buildings on the lot. (see file)

We feel our proposed use as a storage facility for the property will not be contrary to public interest. The existing structures of Holt Lumber on the lot have been there for quite some time and used commercially, virtually adding to the character of the neighborhood, not altering it. Our plan is to use the existing structures as they stand today, and changes we would like to make in the future will only serve to enhance those existing structures, not detract. Our storage facility and its users will not be a threat to public health, safety, or welfare as we will maintain the highest standards for the tenants we choose to rent our spaces to.

The spirit of the ordinance is observed; While we fully understand and appreciate the intent of the R&A ordinance is to encourage farming in town, we feel that our proposed storage facility will be reviving a lot that has been sitting vacant for many years back to its historical commercial use and preserving the character residents have come to know of this state line parcel. We feel the physical, existing site conditions are favorable to helping us grow and develop this lot into a productive business. Also, we fully intend to continue to maintain the rented use of the home located at the front of the property for residential purposes.

Substantial justice will be done because the property will continue to be used commercially as it has been historically, which did not pose a threat or harm to the general public. We anticipate our storage business generating far less traffic coming and going than when it housed Holt Lumber for many decades as they were open to the general public for lumber sales. As the property stands now, we have 6 units to rent out in the existing structures, including one we will rent to our personal roofing business, and our rental tenants will not be conducting retail business from their storage spaces. We understand the responsibility that would be awarded to us as a town of Hollis business and property owner if this variance were to be approved, and see it as our personal duty to be certain our affairs do not harm that of our surrounding neighbors or the community.

Our proposed storage rental facility will not diminish the value of surrounding properties as we feel we will be breathing life back into an existing commercial lot that has been vacant for the past few years. We are extremely cognizant of the fact that this is the first structure a motorist will pass when entering into Hollis from Pepperell, therefore giving the first impression of the town. Over time, and of course with the proper permissions and due diligence, we plan to improve the cosmetic and functional appeal of the lot by maintaining the landscaping and replacing some of the older, more run-down buildings with neat and clean new structures. We feel this will not only help add to the value of this property but to those of surrounding properties as well.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The property has been used for business purposes for many years. The property is unlike other lots in the area as it has large, existing commercial structures on concrete slabs used to store over-sized building materials and equipment. It also has an office building built on it and water and septic set up to service it. At the front of the property is a large dirt parking area and base for a roadside sign. It is surrounded by a highway, the backyards of residential homes, and the town of Pepperell, Massachusetts.

According to our understanding of the ordinance, the lot as it sits does not have enough road frontage to sub divide and build a second residence and not enough acreage for a back land lot. One of the purposes of the R&A ordinance is to encourage farming in the town. The buildings and their slabs and footings are in good condition and have been used commercially for many years. Also, it is in very close proximity to many homes whose owners may not appreciate the smells, sounds, and round the clock care raising animals on this property would require. We feel because of these reasons and the special conditions we listed above, the lot would not be able to be used for agricultural purposes.

United Roofing will be using 5,100 square feet of area within one of the large buildings for storage of their own equipment. The remaining area/buildings would be rented out. The proposed hours of operation are Monday-Saturday 6am-7pm with occasional operations until 10pm and the occasional Sunday. The anticipated number of vehicles per day entering the property would be 5 – 12 per day. A 6' x 5' sign will also be installed toward the road side of the property. In the future we may install the second building (12,000 square feet) which is noted on the supplied plan and approved by the Planning Board previously.

Major asked how long the property was vacant. Coulombe replied Holt Lumber closed in 2015 however; there is still a tenant renting out one of the small structures. During the site walk conducted with the Town of Pepperell they had a concern regarding hazardous fluids leaking into the water system and wanted us to install berms at the entrances of the structures that would not allow anything to leach from the building. Coulombe agreed. Tsao asked if there would be any pesticides stored on the property or other potential hazardous materials. Coulombe replied a limited amount a gas would be stored in approved containers. Moseley asked if the lease could incorporate that no hazardous materials can be stored on site. Coulombe replied yes.

Major stated the property could be used for a permitted use such as a residential lot. Coulombe agreed however, the lot does not have enough road frontage to be subdivided. The historical uses of the property have been commercial in nature. MacMillan asked were any of the existing structures currently rented for a commercial purpose. Coulombe replied yes. Belanger asked how much hazardous fluids were anticipated to be stored on the property. Coulombe replied 5- 5 gallon cans of gasoline. Belanger asked would potential hazardous material storage be monitored. Coulombe replied inspections would be completed by myself to insure the tenants are complying with all lease terms. Belanger asked if month to month rentals were anticipated. Coulombe replied no. The tenants would have to sign a 1 year lease.

Belanger stated he had received a concern from the Hollis Cemetery Commission. Their concern was pertaining to RSA 289:3.III which restricts any construction, excavation or building within a 25' setback from the cemetery boundary. The commission also requested that the existing berm and the fence around the cemetery not be removed. Coulombe replied there are no structures present or future planned to be placed within 100' of the existing cemetery. Belanger asked if a condition of approval was imposed "No disturbance of earthen surface shall be permitted within 100 feet of the Lawrence Cemetery property without a restoration plan submitted and approved by the Hollis Cemetery Commission" would the applicant agree. Coulombe replied yes.

Major asked if Planning Board approval was required. Condra replied yes. Major asked if paint would be stored on the property. Coulombe replied no. The storage is primarily for equipment not fluids of any type. Major asked if there would be any exterior lighting. MacMillan had concerns about outside lighting as well. Coulombe replied the structures have an overhang and if lighting was installed they would be placed under the overhang and be downcast. Major asked if there was to be any outside storage of heavy equipment. Coulombe replied no.

### **Spoke in favor of the application**

#### **Paula Terrasi, Town of Pepperell, MA.**

Terrasi stated she and the Town of Pepperell appreciated the applicants contacting the town and having a site walk with the Town Engineer, Water/Sewer Super Attendant, DPW Director and herself. While walking the site they were encouraged the structures had no floor drains. Notable concerns were: a large diesel storage tank on site and no containment berms in front of the doors of the proposed storage structures. The berms would prevent any potential fluid spillage from entering the Aquifer.

Belanger asked if the applicant was planning on using the storage tank. Coulombe replied no. Major asked if a condition of approval was imposed to remove the 275 gallon storage tank would he agree. Coulombe replied yes.

### **Spoke in opposition**

#### **Jeffrey Katchbrenner, 48 Emerson Circle, Pepperell MA**

Katchbrenner stated concerns about the hours of operation. A number of abutters have young children and starting up at 6am is too early. Lighting especially if there are motion sensors, which could potentially wake people up at 10pm. Major asked how far the nearest home was from a structure which would be used for storage. Katchbrenner replied approximately thirty feet. Hazardous material storage is also a concern since the property is in an aquifer zone. One of the other issues is that Massachusetts (MA) residents do not get notified of meetings. The question has been asked in the past. The answer was because the abutters live in MA. Major explained under the State RSA abutters across state lines do not have to be notified. Katchbrenner would also would like the area behind the fence to be cleaned up since it has not been taken care of for a very long time.

### **Applicant Rebuttal**

Coulombe explained if he acquires the property the areas in NH would be cleaned up. However, he believes the stockade fence is located in MA. Major asked if lighting or car headlights could be seen by the abutters. Coulombe replied since the property slants down headlights would probably be seen by the abutters.

**No further questions from the Board and none from the floor - hearing portion of the case closed.**

**Case ZBA 2018-022**

The application of Michael & Beth Coulombe, for a Variance to Section XI, Overlay Zoning District, Paragraph A.5, Permitted Uses in the Aquifer Protection Overlay Zone of the Zoning Ordinance to permit the operation of an mixed use storage facility, property owned by 145 Runnells Bridge Rd., LLC, located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

The testimony above reflects this application as well.

**No further questions from the Board and none from the floor - hearing portion of the case closed.**

ZBA recessed at 8:35 pm.

ZBA resumed at 8:40pm.

**Motion for re-hearing Case 2018-016**

**Case ZBA 2018-016**

The application of Patricia Panciocco, for a Variance to Section XXI.1, Housing for Older Persons, Paragraph e, Minimum lot area & Section VIII Lot Definition of the Zoning Ordinance to permit the construction of a Housing for Older Persons Development on a noncontiguous 20 acre lot (contiguous lot required), property owned by James Prieto, located at 436, 441, 443, 445 and 447 Silver Lake Rd. (Map 045, Lot 041 and Map 046, Lots 007-010) and property owned by James Seely, located at 449 Silver Lake Rd. (Map 046, Lot 006) in the Agricultural Business Zone and Residential Agricultural Zone.

Major stated a motion for a re-hearing was received concerning Case 2018-016 by Attorney Bret Allard, representing 451 Silver Lake Rd., LLC. (Leo Cormier)

First, the ZBA needs to determine if the proposal is of Regional Impact. A Superior Court decision 2 months ago determined a ZBA is required to make a determination of Regional Impact on all cases before them. The opinion of the Superior Court in Major's opinion is reasonable.

Secondly, does the re-hearing request have substance? Major's opinion based on notifications not being sent to the appropriate town for regional impact would be grounds in of itself, to grant the re-hearing along with additional points raised by the motion.

MacMillan asked how would regional impact be determined and what is the criteria. Major replied things to consider are traffic impacts, proximity to neighboring communities, effects on transportation network, impacts on schools and town facilities.

Major stated in his opinion the procedure going forward should be at the beginning of each case, a determination of regional impact should be made. If regional impact is determined by vote the case is tabled to the next ZBA meeting so that the proper notifications can be done. If no regional impact is found a vote is taken as such and the case proceeds.

The ZBA discussed whether or not regional impact could be decided prior to a meeting so notification could be sent out which would eliminate tabling an application of Regional Impact to a future meeting. Setaro stated she had contacted Michael A. Klass, Principal Planner, New Hampshire Office of Strategic Initiatives – Division of Planning. The question was asked if a determination could be made prior to the hearing and could notices be sent out prior even though a determination was not made during a hearing. The response was a determination could not be made prior to a hearing. The process contemplates a finding of regional impact by the board then notice to affected municipalities and the RPC (in that order). This is highlighted by the fact that the statute, in part, requires that a copy of the meeting minutes be furnished to the RPC and affected municipalities. See RSA 36:57(II) for details. Major asked if notices could be sent to the affected municipalities regardless of a determination being made. This would eliminate the possibility of tabling future applications. Setaro replied no unnecessary notices should be

sent to municipalities or RPC. Klass agreed the process should be better and the only way to change the process was to submit a bill to the RSA. It was Major's opinion regional impact should be determined by the Planning Board seeing they have the expertise not the ZBA. The ZBA members agreed.

*Mason moved for a vote to determine if case 2018-016 has a regional impact.*

*Tsao seconded.*

*Motion unanimously approved.*

Mason stated based on the criteria 1 – 6 described by the information guide published by the New Hampshire Office of Energy and Planning presented for the determination of regional impact. Case 2016-016 does have a regional impact because the application is close to the borders of a neighboring community and the application is close to aquifers or surface waters which transcend municipal borders.

The ZBA members voted as follows;

Board Member	Yes
Major	Yes
Belanger	Yes
Robbins-Tsao	Yes
MacMillan	Yes
Durham	Yes

Therefore Case 2018-016 was determined to have a regional impact.

*Mason moved to re-hear Case 2018-016*

*Belanger seconded.*

*Motion unanimously approved.*

Major stated the re-hearing of Case 2018-016 will be held on November 29, 2018 and the applicant is required to notice all abutters.

### **DELBERATION AND DECISION**

#### **Case ZBA 2018-020**

Discussion of the application of Athletic Tumbling Allstars, for a Variance to Section X, Zoning District, Paragraph C.1, Permitted Uses of the Zoning Ordinance to permit the operation of an instruction and training facility for cheerleading, tumbling and similar activities, property owned by Hollis Hampshire, LLC, located at 17E Clinton Drive (Map 004, Lot 074) in the Industrial Zone.

West stated the ZBA may want to consider adjusting the ordinance to reflect the changing times as it pertains to industrial uses which are allowed.

Belanger had no issues with the application and would vote to approve. The problem he is encountering is "hardship". In the past, Hollis kept allowing industrial uses on Rte. 111 which is a residential area but not suitable anymore as a residential area. The PB tried to change the zoning from residential to a business zone and it failed the town meeting. The industrial area within in Hollis is changing, the only way to adjust the ordinance is to change it or keep allowing uses by variance. When it comes to a point there is no more industrial area left, the town would have to find another location for industrial uses. The hardship to this particular property should be the inability to rent to a business which is allowed. The hardship can't be financial. Major stated the testimony was they have been trying to rent the area for quite some time and could not find anyone suited for the property design or which met the zoning requirements.

MacMillan stated the hardship to the property is the industrial zone is overlaid by the APOZ and no city water. These restrictions to the property extremely limit the ability to rent to a permitted use. The ZBA agreed.

*Belanger moves for a condition of approval;*

- 1. The days and hours of operation shall be Monday – Friday 4pm – 9pm, Saturdays from 9am – 12pm. and the number of employees is limited to 5.*

*Tsao seconded.*

*Motion unanimously approved.*

*Major moves for a finding of fact;*

- 1. Due to the restrictions imposed by the APOZ and the physical layout and conditions of the property; the ZBA finds that the property is not suitable for a traditional industrial use. The proposed use is a reasonable in light of these facts.*

*Tsao seconded.*

*Motion unanimously approved.*

#### 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
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Robbins-Tsao	Yes	Yes	Yes	Yes	Yes	Yes	5	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	5	0

**THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITION AND FINDING OF FACT;**

#### Condition:

- 1. The days and hours of operation shall be Monday – Friday 4pm – 9pm, Saturdays from 9am – 12pm. and the number of employees is limited to 5.**

#### Finding of Fact:

- 1. Due to the restrictions imposed by the APOZ and the physical layout and conditions of the property. The ZBA finds that the property is not suitable for a traditional industrial use. The proposed use is a reasonable in light of these facts.**

#### Case ZBA 2018-021

The application of Michael & Beth Coulombe, for a Variance to Section X, Zoning District, Paragraph G.1, Permitted Uses of the Zoning Ordinance to permit the operation of a mixed use storage facility, property owned by 145 Runnells Bridge Rd., LLC, located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

Moseley appreciated the fact the applicant sent out letters to the abutters and met with the abutters initially to explain the proposal. Major stated his concern that the property has been used for a commercial purpose for many years. The commercial use was discontinued for a few years, which leaves the lot as a residential tract of land. MacMillan stated the property was used commercially for 60 years, buildings were constructed and designed for a commercial use. West stated the applicant testified one of the structures is still being rented as commercial storage space. The ZBA had a short discussion and decided that due to the fact, the property has ongoing rental of commercial storage, property proximity to the industrial zone and the existing commercial type structures located on the property, the ZBA members have no issues with the variance requests.

*Belanger moved for the following conditions of approval;*

- 1. Any building storing hazardous liquids or other spillable materials will be equipped with a berm to prevent spills from leaving the impermeable floor surface of the building.*



2. No disturbance of earthen surface shall be permitted within 100 feet of the Lawrence Cemetery property without a restoration plan submitted and approved by the Hollis Cemetery Commission.
3. The current 275 gallon fuel storage tank presently on the premises shall be removed and no such tank shall be allowed.
4. Any exterior overhead lighting shall be operated by motion sensors.

*Tsao seconded.*

*Motion unanimously approved.*

Major suggested a condition of no outdoor storage of heavy equipment. Belanger disagrees with the condition since the property will be used for industrial commercial storage. If a tenant brings a truck to the facility and does not put it inside that would violate the condition. Major stated the site should not turn into a construction heavy equipment storage lot.

*MacMillan moves for a condition of approval;*

5. No exterior storage of heavy equipment.

*Tsao seconded.*

*Motion unanimously approved.*

#### 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
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Robbins-Tsao	Yes	Yes	Yes	Yes	Yes	Yes	5	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	5	0

#### **THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS:**

1. Any building storing hazardous liquids or other spillable materials will be equipped with a berm to prevent spills from leaving the impermeable floor surface of the building.
2. No disturbance of earthen surface shall be permitted within 100 feet of the Lawrence Cemetery property without a restoration plan submitted and approved by the Hollis Cemetery Commission.
3. The current 275 gallon fuel storage tank presently on the premises shall be removed and no such tank shall be allowed.
4. Any exterior overhead lighting shall be operated by motion sensors.
5. No exterior storage of heavy equipment.

#### **Case ZBA 2018-022**

The application of Michael & Beth Coulombe, for a Variance to Section XI, Overlay Zoning District, Paragraph A.5, Permitted Uses in the Aquifer Protection Overlay Zone of the Zoning Ordinance to permit the operation of an mixed use storage facility, property owned by 145 Runnells Bridge Rd., LLC, located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

No discussion on this application see discussion for Case 2018-021.

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
Major	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Robbins-Tsao	Yes	Yes	Yes	Yes	Yes	Yes	5	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	5	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	5	0

**THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS:**

1. Any building storing hazardous liquids or other spillable materials will be equipped with a berm to prevent spills from leaving the impermeable floor surface of the building.
2. No disturbance of earthen surface shall be permitted within 100 feet of the Lawrence Cemetery property without a restoration plan submitted and approved by the Hollis Cemetery Commission.
3. The current 275 gallon fuel storage tank presently on the premises shall be removed and no such tank shall be allowed.
4. Any exterior overhead lighting shall be operated by motion sensors.
5. No exterior storage of heavy equipment.

Review of Minutes

*Belanger moved to approve the minutes of September 27, 2018.*

*Durham Seconded.*

*Motion unanimously approved.*

Discussion on proposed zoning change

Mason stated a few months ago, we received and approved a variance request to allow the placement of an historic site marker to locate the site of the Peter Powers homestead. I would like to suggest that the ZBA propose to the Planning Board the following change to the zoning ordinance:

Amend second XIV: Sign Ordinance, Section L. Exemptions, Paragraph 4 to insert after the second sentence:

Historic site markers approved by the New Hampshire Department of Transportation, Bureau of Traffic are exempt from the restriction on sign surface area.

The purpose of this change is to support the placement of state-approved historic site markers in appropriate locations.

The ZBA discussed the change and decided the change should be submitted to the PB for review. Setaro stated since the change includes the Historic District Commission the ZBA should consider their input as well. The ZBA agreed.

Discussion on Industrial Zone Ordinance Changes

Mason asked if the ZBA should consider adding allowed uses in the industrial zone or add a different section for uses allowed by special exception. Belanger suggested the PB should review the ordinance and determine if any changes should be made. Major sated the PB would require like a list of changes the ZBA would like. Based on past approvals the ZBA has already allowed other uses within the zone and if we need to provide the PB with a list,

it would be extremely hard to come up with complete list. The ZBA determined they would not seek PB review on the ordinance and continue to hear cases and make their decision on an individual basis.

**Meeting Adjourned**

The ZBA meeting adjourned at 9:35 pm.

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