



**ZONING BOARD of ADJUSTMENT**  
**Town of Hollis**  
Seven Monument Square  
Hollis, New Hampshire 03049  
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**Minutes of December 17, 2020 Meeting**

The meeting was held via Zoom and called to order by Chairman Brian Major at 7:00 pm.

*Due to the Coronavirus crisis, and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, the Zoning Board of Adjustment used the Zoom platform to conduct this meeting electronically. The public was encouraged to listen and/or participate via Zoom.*

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

Major explained the policies and procedures.

Major said the voting members tonight's cases are Major, Belanger, Tsao, MacMillan, and Mason.

**Case ZBA 2020-015**

The application was tabled at the November 19, 2020 meeting. **ZBA Determined There May Be Regional Impact.** The application of Contractor Storage Solutions LLC, property owner, for a Variance to Section X, Zoning District, Paragraph G.1, Permitted Uses of the Zoning Ordinance to modify its 2018 variance approvals (Cases ZBA 2018-021 & 022) to remove Condition #5 "No exterior storage of heavy equipment" to allow outside storage at the property and to expand its the hours of operations set by the Planning Board (PB) to allow 24-hour access. The property is located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

**Case ZBA 2020-016**

The application was tabled at the November 19, 2020 meeting. **ZBA Determined There May Be Regional Impact.** The application of Contractor Storage Solutions LLC, property owner, 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 modify its 2018 variance approvals (Cases ZBA 2018-021 & 022) to remove Condition #5 "No exterior storage of heavy equipment" to allow outside storage at the property and to expand its the hours of operations set by the PB to allow 24-hour access. The property is located at 143+145 Runnells Bridge Rd. (Map 004, Lot 064) in the Residential Agricultural Zone.

Attorney Andrew Prolman, Prunier & Prolman, presented Cases ZBA 2020-015 & ZBA 2020-016 on behalf of Michael Coulombe, the property owner. Prolman said Holt Lumber was located on the property before Contractor Storage Solutions. Coulombe came before the ZBA in October 2018 and was granted two variances with conditions to operate the business at the property. Condition #5 in both variances prohibits outside storage of heavy equipment. Coulombe also received site plan approvals from the PB which set the hours of operation. The PB included the ZBA's conditions of the two variances in its approvals.

Prolman stated that the business has been operating for two years, which has allowed Coulombe to re-evaluate the business operations to respond to the specific needs of its tenants. To respond to these needs, Coulombe had filed the current applications seeking to modify the prior approvals to remove Condition #5 to allow outside storage of heavy equipment and to expand the operating hours to allow 24-hour access to the property.

However, Prolman submitted a letter from Prolman dated December 15, 2020, stating that the applicant requested the following amendments to the applications to reduce the scope of its requested modifications.

1. **Hours of Operation.** The currently approved business hours are 6:00 am to 7:00 pm with an occasional operation until 10:00 pm, Monday through Saturday. The pending applications seek to remove limitations on business hours, thus

allowing 24/7 business operations at the site. Per Prolman's letter, the applicant is now asking for business hours from 5:00 am to 9:00 pm, Monday through Saturday with the following exemptions from business hour restrictions:

Winter/Plowing Services: During plowable snow events, tenants that provide plowing services must work outside of the hours of operation to provide overnight and early morning service. There is currently one tenant that offers plowing services.

Landscaping Operations: Landscapers often work from sunrise to sunset during the summer, and thus may occasionally return to the property at or after 9:00 pm to unload and close up for the night.

Deliveries by Third Parties: Third parties occasionally deliver equipment or supplies outside of the hours of operation, and tenants have no control over these delivery times.

2. Outdoor Storage of Heavy Equipment. Currently, Condition #5 prohibits exterior storage of heavy equipment. The applicant originally sought to remove the condition entirely. Per Polman's letter, the applicant is seeking to modify Condition #5 to allow outdoor storage of heavy equipment subject to the following restrictions:

Storage Area: Center of the property between the existing buildings to reduce visibility by neighbors. The applicant provided a plan depicting the proposed storage area.

Storage Time Limit: Maximum of four days per piece of equipment.

If the Board grants the applicant's requests as amended, the applicant will then apply to the PB to amend its site plan. Prolman said he had reviewed records of filed complaints and letters from neighbors and the Town of Pepperell, MA (Pepperell) expressing concerns. Pepperell's concern focused on its well and the water supply and the possibility of fluid spillage from the heavy equipment. Coulombe stated he and the tenants are aware of the nearby aquifer and well, and there have been no issues to date. The abutters were concerned about the visibility of the heavy equipment and the request for 24/7 business hours. To address these concerns, the applicant amended its applications to limit heavy equipment storage to the center of its property between existing buildings as shown on the submitted plan and to reduce the hours of operation to 5:00 am to 9:00 pm with the small exceptions for the landscapers, snowplow businesses and third-party deliveries.

Major asked what types of heavy equipment are on site for the plowing and landscaping businesses. Coulombe replied the landscapers mostly carry their plows and they have a few Bobcats, but these are not stored on the property. A site contractor has some loaders stored on-site that are taken to the job site each day. The loaders are stored inside, except when they get dropped off at night after a job. Then the loaders may stay outside overnight until someone can put them inside. Major asked whether the plows are commercial-grade trucks and plows or pickup trucks with plows. Coulombe replied pickup trucks with plows. The site contractor has a Ford F450, which is a pickup truck with a 10 ft. utility body. The site contractor also has a few large excavators/loaders which primarily stay on the job site. However, at times, the equipment would be on the property for repairs or during a gap between its jobs. In these cases, a trailer would drop off the equipment, and it may be outside for a few days until someone is available to put it back inside for storage. Major asked if the F450 was the only diesel truck onsite. Coulombe replied no as he owns a backhoe used for site maintenance and a roofing tenant has three 3500 diesel trucks. These trucks are registered as commercial vehicles, but they are not considered commercial by weight. Major asked if the trucks were parked inside. Coulombe said the trucks are rarely onsite as the employees take them home. Prolman said regarding the hours of operation, that from time to time, there are deliveries of equipment or supplies brought on flatbeds; and the timing of these deliveries cannot be controlled. For example, the solar panel installer may get a delivery on Sunday or odd hours. The point is those types of deliveries might not meet the proposed 5:00 am to 9:00 pm hours of operation, and some flexibility should be considered.

Coulombe said he and the tenants do not work at the site. While on occasion a piece of equipment breaks down and requires repairs, the site is not used for manufacturing or other work and is not a 24-hour operation. The tenants come to the site in the morning to get the equipment they need, and then they leave. The landscapers do not store materials such as dirt, mulch, or sand on the site.

Moseley asked what type of surface was on the proposed heavy equipment storage area. Coulombe replied it was compacted recycled asphalt. Moseley asked if there were spill mitigation materials on the site, such as Speedy Dri or PIG damming equipment. Coulombe replied all units have been supplied with Speedy Dri due to the nearby aquifer. The units have also been inspected by the Hollis Fire Department and have fire extinguishers and emergency lighting. Moseley asked if Speedy Dri was the only spill mitigation material. Coulombe replied yes, but if there were a substantial spill, such as ten gallons or more, a

mediation company would have to handle the mitigation and clean up. There are also insurance riders on the heavy equipment for potential spills, which Coulombe keeps on file. Moseley asked if there was something in place on the site to contain a substantial spill. Coulombe replied that in addition to the Speedy Dri, there are buckets of sand and a backhoe on site that could be used to place dirt or other materials around the spill to contain it.

Belanger asked whether the requested modifications were due to an expected expansion of use. Prolman replied no, the modifications are being requested to fulfill the needs of existing and future tenants. If an additional building is requested later, the PB would need to approve a new site plan. Belanger asked if a tenant needed more than the requested modifications, whether a new application be submitted for that tenant's needs. Coulombe replied that a potential tenant would not be allowed if they needed more than the requested modifications, and they would have to find a different location. Coulombe stated he has turned potential tenants away that did not fit within the existing approvals and conditions.

Belanger asked whether any current tenants are having issues conducting their businesses with the current conditions. Coulombe replied the site has had a few complaints. It was Coulombe's opinion that many of the complaints are minor, such as tenants getting to the site 5 to 10 minutes early, but that one tenant has been onsite at 5:45 am. He said an individual complainant is not showing common courtesy by discussing the concerns with him, and instead is repeatedly calling the town. The requested modifications are being made to provide leeway for the tenants, which would, in turn, take the pressure off him and off the town having to respond to the repeated complaints. Belanger asked if Coulombe would lose tenants if the requests were not granted. Coulombe replied there was a possibility of this when certain leases come up for renewal.

Belanger asked if there would be a problem with paving and installing a berm around the area designated for heavy equipment storage to contain potential spills in the area. Coulombe replied he was not opposed to the idea and added he has had a good relationship with the town, fire department and even has an open bathroom which the Police Department can use.

Tsao asked if the landscaping operations store any pesticides or herbicides stored inside or outside of the buildings. Coulombe replied no, but in the summer months a few sanders are stored on-site, but they are completely cleaned off-site before being stored.

MacMillan asked if 5:00 am was a reasonable hour to start a business when the site is surrounded by residential properties. Coulombe replied he has had conversations with Mr. Pitarys, owner of the abutting mobile home park, and Mr. Pitarys does not have any issues with the proposed changes. There have been no problems with the business and the property was set up as a commercial site and previously occupied by Holt Lumber. MacMillan asked whether Coulombe was under the impression the ZBA would reverse conditions imposed on an approval based on the types of tenants that would like to occupy a unit. Coulombe replied no. When the approvals were granted, the business was basically a startup with no tenants, and they made an effort to anticipate what would be needed to operate. He said the modification process was started due to one individual's complaints about the 5 to 10 minute early starts and because of the grief being taken by the town, including the building, fire, and police departments.

MacMillan asked if Coulombe was aware of Pepperell's concerns about their water supply. Coulombe replied when the original applications were submitted, Ken Kalinowski, DPW Director, Pepperell, MA attended and spoke in favor of the operation, but unfortunately, he was unable to speak with Mr. Kalinowski prior to these applications. He reiterated that the proposal was not for the ongoing storage of heavy equipment on-site, but to give flexibility to tenants who occasionally need to store their equipment outdoors for short periods. For example, if equipment is delivered on Monday at 3:00 pm and the tenant does not get to the site until Monday afternoon to move the equipment, prior to the tenant's arrival, the town will have already gotten a phone call from the Pepperell abutter stating the operation is violating its approval. Coulombe agrees the tenant may have broken the rules occasionally, but not consistently. The tenants do not want to break the rules. However, there are occasional times when a tenant may slightly exceed the approvals just in the course of its business operations.

West asked for clarification of the proposed four-day limitation. For example, would this be four days a month, four days a week or other? The request seems to be hard to enforce and would add another layer of town enforcement to the site. Coulombe replied there is one tenant with heavy equipment and the outside storage may happen once every two months unless a piece of equipment breaks down and requires repair. Prolman stated the applicant is not requesting full time outside storage of heavy equipment but is seeking only short-term storage due to equipment break downs or out of hour deliveries. If the ZBA is more comfortable with a 2 or 3 day maximum for outside storage, that would be OK. The tenants are only trying to make a living, and they need a little flexibility.

Mason asked how far away the abutters are from the storage area. Coulombe replied approximately 110 feet. Mason asked why the ZBA is discussing the hours of operation since the PB set the condition. Prolman replied town staff directed the

applicant to submit the applications as presented. The only condition technically before the ZBA is the outdoor storage of heavy equipment since that was the condition imposed by the ZBA. The hours of operation were added to the applications because, if approved, the applicant will submit the revised site plan to the PB; and the applicant wanted to make sure both boards were supplied with the same information. Prolman stated that Mason was correct that the ZBA did not need to act on the hours of operation. Major respectfully disagreed noting that the hours of operation were part of the original applications which were acted on by the ZBA. The ZBA did not impose the operating hours as a condition, but the operating hours were part of the decision process. Both the ZBA and the PB would have to be persuaded to change the operating hours.

Swerchesky said the original plan submitted with the current applications showed several different areas for outside storage, but the new one shows the area was moved to the middle of the property. Why was the storage area changed? Prolman replied the original plans were submitted prematurely. Those plans included the areas approved by the PB to store non-heavy outside such as; bobcat trailers, a flatbed trailer, and a landscape trailer. The ZBA would need to consider the proposed area for outdoor storage for heavy equipment because of the ZBA's Condition #5 prohibiting the outdoor storage of heavy area equipment in the 2018 approvals. Coulombe said the outdoor storage location for heavy equipment on a limited basis was added in an attempt to eliminate the Town of Pepperell's and neighbors' concerns.

Swerchesky was in favor of the centralized location for the outdoor storage of heavy equipment. Swerchesky felt the containment system was a PB issue; however, there should be a spill containment plan attached to the tenants' leases and containment kits should be available. Coulombe said he could set up a training class and was open to suggestions from the ZBA. Swerchesky said the tenants need to be informed of the conditions of approvals, and Coulombe should enforce the conditions with his tenants. Swerchesky said it was strange for Pepperell to have concerns about the outdoor storage at the site since there is a nearby property storing several pieces of equipment outdoors such as boats, RV's, and limos. Coulombe replied the applicant's site is connected to Pepperell's water supply, and he has had several conversations with the water department about the site. The person who submitted the second letter may be a Town of Pepperell Selectman who has never been to the site and has no idea what the business entails. Coulombe felt the resident on the Pepperell side may have contacted the Town of Pepperell Selectman. This same person has repeatedly harassed multiple departments in Pepperell and Hollis.

McGhee asked Coulombe for his definition of heavy equipment since there is no formal definition available. Coulombe replied that in his opinion, heavy equipment are excavators, loaders, equipment with heavy hydraulics, and tri-axel dump trucks. The NH DOT defines heavy equipment as anything over 26,000 pounds. Loaders are not registered to run on the road and do not require a CDL to drive. Coulombe said he is concerned about types of equipment that carry a large amount of hydraulic fluid such as large loaders, excavators, and the like. McGhee asked how many pieces of heavy equipment are located on the site. Coulombe replied, if the definition is equipment over 26,000 pounds, there are two or three pieces of equipment. MacMillan said, generally speaking, dual-wheeled vehicles over one-ton are considered heavy equipment.

Major said the ZBA has three options: amend the conditions as requested, make no amendments, or make some of the requested amendments. Major asked whether there is a maximum number of vehicles and/or equipment which could be stored on the proposed pad for a limited amount of time up to 4 days, and would it be reasonable to impose a condition that only 3 vehicles can be parked on the pad at any given time? Coulombe replied yes it was reasonable. Major asked if it were Coulombe's testimony that no vehicles and/or equipment in the proposed location could be seen by any adjoining property. Coulombe replied nothing could be seen on the Pepperell side of the property, except the mobile home may be able to see a minimal amount because the leaves are gone. However, when the leaves return in the spring, the equipment would not be visible. Major, recalling the previous hearing, asked whether there are some units 50 feet from the abutting residential properties, either on the Hollis side or the Pepperell side of the site. Coulombe replied only on the Pepperell side. Major asked if the hours of operation were to be adjusted, how close is a unit to a neighboring house when an engine is idling at 5:00 am. Coulombe replied between 60 and 90 feet since the closest building is set at an angle.

Major said the difficulty with imposing conditions on this site is enforcement. The conditions need to be black and white. If the hours were changed to 5:00 am and a tenant comes earlier, there will be phone calls requesting enforcement. Coulombe replied the contractors really cannot start any earlier. Major asked if there was a site manager onsite at all times. Coulombe replied no.

Major asked if the snow plowing business is operating with lighter duty pickup trucks. Coulombe replied yes. Major asked whether the snowplow trucks go home with the employees when a plowable event is forecasted and so there would be no need to allow 24/7 access to the property. Coulombe replied they would only need 24/7 access if a truck broke down. Major said the site has been operating for two years with some friction with the neighbors, but there has been reasonable use of the property. Coulombe agreed.

Belanger asked if it would be reasonable to impose conditions that no more than three vehicles and/or heavy equipment can be stored in the area at the same time or limiting the amount of time that each vehicle can stay within the storage area. Coulombe said a maximum of four days would be acceptable and a vehicle limit would be considered. Belanger said a tenant could store equipment there the maximum of four days, and then remove and place it there again for another four days. Coulombe replied that would not happen. Major said he agrees with Belanger's scenario, and conditions must be imposed in a way that they do not become an enforcement issue.

Prolman suggested the ZBA continue the cases until the next meeting so Coulombe, himself, and Bill Condra, the Hollis Building Inspector, could meet to determine the definitions of heavy equipment and agreeable hours of operation. If the cases were decided that evening, Prolman felt there may be an enforcement issue.

The ZBA discussed tabling both cases until the January 28, 2021 meeting. MacMillan, Mason, and West felt since the abutters are already "zoomed in" and the case had been tabled previously, the abutters should be heard this evening. Major, Belanger, and Swerchesky felt hearing from the abutters before the meeting between the applicant, his counsel and Condra would not be productive. A meeting will be scheduled with Prolman, Coulombe, and Condra to clarify the definition of heavy equipment and to get Condra's thoughts and/or concerns with the proposed hours of operation. The outcome of that meeting may affect the current applications.

Belanger said since there are pending zoning violations, the site needs to be brought into compliance until the cases are determined.

*Belanger moves to table Cases ZBA 2020-015 and ZBA 2020-016 until the January 28, 2021 ZBA meeting.  
MacMillan seconded.*

*Roll call vote:*

*Major – Yes Belanger – Yes Tsao – Yes MacMillan – No Mason - No*

*Motion passed 3 to 2 with MacMillan and Mason voting against.*

D. Setaro requested that Prolman submit any changes and/or additional information about the cases at least one week before the January 28, 2021 meeting. Prolman replied he would do his best.

### **Review of Minutes**

*Belanger moved to approve the minutes of November 19, 2020, as submitted.*

*Tsao seconded.*

*The motion was unanimously approved.*

*Belanger moved to approve the NON-PUBLIC minutes of December 9, 2020 as submitted and keep them sealed.*

*Mason seconded.*

*The motion was unanimously approved with Tsao abstaining.*

*Belanger moved to approve the minutes of December 9, 2020 as submitted.*

*MacMillan seconded.*

*The motion was unanimously approved with Tsao abstaining.*

### **Other Business**

Major thanked West for putting together the information regarding the predetermination of regional impact. Major said since there is some disagreement on whether a predetermination can occur, Major requested that Mark Fougere, Hollis Town Planner attend the January 28, 2021 meeting to provide his thoughts on the matter.

Mason asked if Moseley would provide a status on the proposed zoning changes. Moseley replied the PB would be further discussing the ZBA's proposed zoning change about side yard setback encroachments during their January 5, 2021 meeting and asks the ZBA to provide the total number of variances requested for encroachments in the past two years. Setaro said she would supply the PB with the information.

Moseley said the proposed change concerning the drainage requirements will require further discussion and will not be added to next year's ballot.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator  
Hollis Zoning Board of Adjustment