



**ZONING BOARD of ADJUSTMENT**  
**Town of Hollis**  
Seven Monument Square  
Hollis, New Hampshire 03049  
Tel. (603) 465-2209 FAX (603) 465-3701

**Minutes of March 24, 2022**

The Zoning Board of Adjustment 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 PRESENT:** Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members – Cindy Robbins-Tsao, Drew Mason; Alternate Members – Kat McGhee, Bill Moseley, Meredith West.

**MEMBERS ABSENT:** Rick MacMillan, Stan Swerchesky.

**STAFF PRESENT:** Bill Condra, Inspector/Code Enforcement; Donna Setaro, Building and Land Use Coordinator; Aurelia Perry, Recording Secretary.

Meredith West attended the meeting via “zoom” all other members attended in person.

J. Belanger led the Pledge of Allegiance.

B. Major explained the policies and procedures.

K. McGhee recused herself from case ZBA2022-002.

B. Major said the voting members for case ZBA2022-002 were B. Major, J. Belanger, C. Robbins-Tsao, D. Mason and B. Moseley.

J. Belanger recused himself from case ZBA2022-004.

B. Major said the voting members for case ZBA2022-004 were B. Major, C. Robbins-Tsao, D. Mason, K. McGhee and M. West.

By unanimous vote, the Zoning Board of Adjustment (ZBA) found no regional impact for cases ZBA2022-002 and ZBA2022-004.

**ZBA2022-002**

The application of Charles Svirk & Evanthia Aretakis, property owners, for an Equitable Waiver to Section XH: Rural District, Paragraph 4.d: Minimum Side Yard Depth of the Zoning Ordinance, to approve the continued use of an existing garage located 30’1” from the side property line (required 35ft) located at 22 Becky’s Pl. Rd., (Map 028, Lot 005) in the Recreational District.

**Applicant:** Randy Haight, Meridian Land Services, for Owners. Explained that in the process of surveying the adjacent lot, it was revealed that the garage was closer than 35’ to the lot line. The owner had used the stone wall as a measure for where to build the garage, in 2009. Both lots are under the same ownership.

B. Major asked if the homeowner had gotten a permit to build the garage at the time, and R. Haight answered yes.

It was determined that there were existing boundary pins marking the lot lines, but they are 900 feet apart and difficult to see “due to elevation changes in the land” A survey, setting stakes, would have been the only way to see the correct lot line at the time of building the garage, and a survey was not required at that time. Additionally, the homeowners didn’t believe that a survey was necessary as there is the existing stone wall, which they thought was on the lot line.

The two lots were created by subdivision in 1998.

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

**ZBA2022-004**

The application of Emalee Trudell, for a Special Exception to Section XG: Residential/Agricultural District, Paragraph 2.c, Day Care for more than six children of the Zoning Ordinance, to permit the operation of a Day Care, property owned by 22 Proctor Hill Rd., LLC, located at 22 Proctor Hill Rd. (Map 052, Lot 012) in the Residential/Agricultural District.

Applicant: Emalee Trudell, and Bennett Chandler, her step father, who assisted with the permitting process. E. Trudell explained that she is asking for a special exception to have 20 children in the building as opposed to six. B. Chandler added that the location is a commercial building, and historically the area has had commercial uses – including a previous Montessori school. E. Trudell pointed out that the square footage of the portion of the building to be occupied by the day care is up to code for 20 children, per the Child Care Licensing Unit. 20 children would be the maximum allowed, per her application; if she decided to expand in future from the first floor of the building to include the second floor, as well, the day care could potentially hold more than 20 children. The day care would include a staff of four adults, including E. Trudell. E. Trudell confirmed that the location is next door to a Karate Academy, and that there is adequate parking. In addition to the building interior, there will also be an outdoor play area accessible via a walking path with ropes from a newly-installed exterior door. E. Trudell confirmed that although the outdoor area is not fenced, there is no vehicle traffic there. Fencing could be added. The day care would be licensed for children from six weeks to six years of age. There would be two teachers per ten children, which ratio is higher than required by the State of NH. E. Trudell has 10+ years of experience in child care, including managerial positions. She has always taken care of children, including more than 20 at a time. The child care where she currently works is licensed for 46 children; she has previously worked at a facility licensed for 96.

B. Major asked about traffic issues, with the Karate Academy presumably holding classes at the same time as the day care would be in operation. E. Trudell answered that she has been in communication with Neil Stone, operator of the Karate Academy; her day care will be based on a 10-hour day, with pick-up and drop-off arranged to be outside of the main hours for incoming and outgoing traffic from the Karate Academy. E. Trudell’s plan for the day care envisioned approximately 40 car trips, in and out, per day.

D. Mason asked about the square footage of the area being considered; B. Chandler answered that it is 864 square feet, the entire first floor of the building excluding the common vestibule. The second floor is currently occupied by private offices, including a holistic business. These other offices will not add to the traffic flow, as one is in use by a single individual and the other operates in the evenings. The day care will close at 6pm. E. Trudell added that the day care is to be completely separated from access to or from the other areas of the building, and will include the use of coded locks. It was confirmed that there is one way in and one way out of the parking lot.

The outdoor play area is to have standard playground equipment appropriate for children up to age 6, including swings, a slide, and a see-saw. The ground surface will be covered in woodchips.

E. Trudell confirmed that day care centers are governed by State standards, and are inspected twice a year – including unannounced inspections. E. Trudell pointed out that there is strong need for day care in the Hollis area.

**Spoke in-favor of the application.**

Christina Hillard, Hollis, NH. Has worked in child care for 20 years, and is currently a safety specialist in the area of child care. She has reviewed the application, and finds it very favorable.

Jack Flanagan, Mason, NH. E. Trudell is his daughter. Spoke to E. Trudell's positive character, commitment to the children she works with, her work ethic to produce a correct application and get proper permitting for this proposed day care, and her attention to detail regarding safety. He is also funding the proposed business as it gets off the ground, and making sure that any construction is done correctly.

J. Belanger, Plain Rd., Hollis, NH. Mentioned that he has been a member of the ZBA for 20 years, and this is the first time he has spoken on a case, for or against. He spoke to the fact that the traffic in the area includes about 8,000 cars a day; even if the day care proposal were for 50 children, the pick-up and drop-off would not add a noticeable difference to the traffic. He stated that the six-child limit had been to prevent day care operations of 20+ children in residential areas; the area of this application may technically be zoned residential but commercial operations in the area have expanded greatly in recent years – this day care would fit right in. Regarding safety issues, J. Belanger pointed out that safety would be the purview of the Planning Board; the ZBA is concerned with use. The Applicant is asking for a Special Exception regarding use, and the use being requested is fine for the area.

**No public speakers opposed the application.**

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

**DELIBERATIONS AND DECISION**

**ZBA2022-002**

The discussion of the application of Charles Svirik & Evanthia Aretakis, property owners, for an Equitable Waiver to Section XH: Rural District, Paragraph 4.d: Minimum Side Yard Depth of the Zoning Ordinance, to approve the continued use of an existing garage located 30'1" from the side property line (required 35ft) located at 22 Becky's Pl. Rd., (Map 028, Lot 005) in the Recreational District.

The board had no issues with the case.

*D. Mason moved to incorporate the findings from RSA 674:33-a as stated;*

- 1. That the violation was not noticed or discovered by any owner, former owner, owner's agent or representative, or municipal official, until after a structure in violation had been substantially completed, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value.*
- 2. That the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, obfuscation, misrepresentation, or bad faith on the part of any owner, owner's agent or representative, but was instead caused by either a good faith error in measurement or calculation made by an owner or owner's agent, or by an error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit over which that official had authority.*
- 3. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish the value of other property in the area, nor interfere with or adversely affect any present or permissible future uses of any such property.*
- 4. That due to the degree of past construction or investment made in ignorance of the facts constituting the violation, the cost of correction so far outweighs any public benefit to be gained, that it would be inequitable to require the violation to be corrected.*

*Seconded by C. Robbins-Tsao.*

*Motion unanimously approved.*

*J. Belanger moved for a finding-of-fact;*

*5. The board finds that the applicant has met all of the criteria set forth in RSA 674:3-a.*

*Seconded by C. Robbins-Tsao.*

*Motion unanimously approved.*

*The board voted unanimously to approve the application with the above findings of fact.*

#### **ZBA2022-004**

The discussion of the application of Emalee Trudell, for a Special Exception to Section XG: Residential/Agricultural District, Paragraph 2.c, Day care for more than six children of the Zoning Ordinance, to permit the operation of a Day Care, property owned by 22 Proctor Hill Rd., LLC, located at 22 Proctor Hill Rd. (Map 052, Lot 012) in the Residential/Agricultural District.

B. Major mentioned that the Board has approved day cares in the past.

K. McGhee mentioned the day care that the Board did not approve, pointing out that that was in an industrial zone and this is not.

M. West commented regarding the day care being next to the Karate Academy. She has two children who attend the Karate Academy, and pointed out that the traffic in and out for those classes is limited to a very discrete period of time.

K. McGhee pointed out that the upstairs tenants of the building appear to present no issues regarding traffic, either, and that this seems like a good use of the space.

B. Major stated that the biggest question he had was whether having this parcel next to the Karate Academy would create a nightmare scenario, but that he is convinced now that it won't.

M. West added that benefits of this application are that we have a young woman who is a long-time Hollis resident who now wants to open up a business in Town – and a business that is truly needed.

B. Major pointed out that there are unconventional aspects to some of the zoning in areas of the Town; the area referenced in this application is essentially a business district, though it may be zoned residential.

D. Mason concurred that this is an appropriate business for the location, and for the Town.

*K. McGhee moved for the following condition of approval;*

*1. The maximum number of students enrolled at the daycare at any given time shall not exceed 20.*

*Seconded by C. Robbins-Tsao.*

*Motion unanimously approved.*

#### **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 with the specified conditions and restrictions?

Board Member	Question #1	Question #2	Question #3	Total-Yes	Total-No
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Major	Yes	Yes	Yes	3	0
Tsao	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
McGhee	Yes	Yes	Yes	3	0
West	Yes	Yes	Yes	3	0

**THEREFORE, THE SPECIAL EXCEPTION WAS GRANTED WITH THE FOLLOWING CONDITION;**

- 1. The maximum number of students enrolled at the daycare at any given time shall not exceed 20.**

**Other Business**

Non-Public under RSA 91-A:3II (c) Reputation

B. Major stated the interview process has not been completed at this time.

*J. Belanger moved not to go into a non-public session.*

*Seconded by B. Moseley.*

*Motion unanimously approved.*

**Review of Minutes**

*D. Mason moved to approve the minutes of February 24, 2022.*

*Seconded by J. Belanger.*

*Motion unanimously approved with C. Robbins-Tsao, K. McGhee and B. Moseley abstaining.*

**Meeting Adjourned**

The ZBA meeting adjourned at 8:00 pm.

Respectfully submitted by:

Donna Lee Setaro, Building and Land Use Coordinator,  
and Aurelia Perry, Recording Secretary.