



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

**Minutes of October 26, 2017**

Meeting was held in the Community Room, Hollis Town Hall, and was called to order by Chairman Major at 7:05pm.

**MEMBERS OF ZONING BOARD OF ADJUSTMENT:** Brian Major, Chairman; Jim Belanger, Vice Chairman; Regular Members –Rick MacMillan, Susan Durham; Alternate Members – Drew Mason, Kat McGhee and Bill Moseley.

Major explained the policies and procedures.

Major stated he would be participating in the discussions for the cases tonight however, he will not be voting on the cases this evening.

Major appointed Mason and Moseley as voting members on both cases this evening.

**Case ZBA 2017-015**

The application of Ruth and Harvey Lawner, property owners, for a Special Exception to Section IX, General Provisions, Paragraph K Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of an 731 square foot Accessory Dwelling Unit, located at 136 Worcester Road, Map 002, Lot 008, in the Residential and Agricultural Zone.

Harvey Lawner explained the proposal is to reposition the Accessory Dwelling unit (ADU) which was previously approved on April 27, 2017. The original approved design had ADU entrance constructed towards the center of the back of the house, the construction of a new deck and ADU needed to have a long steep interior stairwell connecting the ADU to the primary home so that the ADU would meet the zoning requirements. The new ADU design which totals 731 square feet and attaches the ADU on the left side of the primary dwelling. The grade on the left side is better suited for the ADU placement and would make the accessibility easier. Major stated upon review of the application the total living space of the ADU would be 639 square feet. Major asked why 731 square feet was noted on the application. Lawner replied the total square footage includes the connecting stairway. Major asked if the septic was adequate for a 4 bedroom home and if the ADU was not needed anymore could the area be converted into a master suite so the zoning requirement is met. Lawner replied yes. Major stated the proposed addition is very close the required side yard setback of 35 feet. What guarantee, would the ZBA have that the addition will not encroach on the side yard setback. Condra replied the applicant would be required to stake out the location prior to excavation, request an inspection so that the side yard setback can be verified. Belanger asked where was the common heated wall to satisfy the zoning requirement. Lawner replied the access to the ADU would be through the heated laundry room. MacMillan asked what area within the primary home does the laundry room access. Lawner replied the kitchen.

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

**Case ZBA 2017-017**

The application of Operation Delta Dog, for a Variance to Section X, Industrial Zone, Paragraph C1 Permitted Uses of the Zoning Ordinance to permit the operation of “Operation Delta Dog” training facility, located at 19G Clinton Drive, property owned by Hollis Hampshire, LLC, Map 004, Lot 074, in the Industrial Zone.

Lauren Burbridge, Executive Director of Operations for Operation Delta Dog (OpDD). The organization is a 501C3 that rescues homeless dogs and trains them to be service dogs for veterans with Post Traumatic Stress Disorders (PTSD) and traumatic brain injuries (TBI) and other related challenges. The operation is currently home based and we are seeking approval to occupy 19G Clinton Drive. The location currently houses a social service agency and our proposal is somewhat the same.

The reason behind seeking a variance is we applied for a tenant certificate of occupancy and were denied because we were a kennel organization. New Hampshire Title XL, chapter 437:2 defines a kennel as “*any person, business, corporation or other entity that transfers 10 or more litters or 50 puppies or more puppies on any 12-month period*” While initially denied OpDD does not meet the definition of a kennel or sheltering organization. The organization’s activities are better suited in an industrial zone and OpDD could be viewed as an industrial school in which dogs and veterans are trained, or even as a manufacturing organization. OpDD is, in fact, a manufacturer of specialty-trained dogs, not unlike a manufacturer who takes raw products and turns them into a usable or saleable product for an end user.

OpDD proposes to use the space at 19G Clinton Drive in four ways; for staff and volunteer office space, storage of dog-care items and marketing collateral, for veteran training classes and for housing service dogs in-training for a period up to 12 weeks. There would be a small fenced area in the back of the location so that the dogs can relieve themselves under the supervision of our trainers and staff, all other activities will be strictly inside the unit. The location is ideal for our veterans with PTSD, TBI and other injuries. The location would provide a low stress environment that would benefit our veterans and dogs. The organization has looked at approximately 100 different properties within a 25 mile radius and found that most commercial or industrial areas have heavy traffic and are noisy. These areas are not suited for our veterans which have difficulties with a lot of people and noise. The proposed location has a homey feel, low traffic, on a cul-de-sac and has a wooded area surrounding it which would benefit our veterans and dogs.

The variance will not be contrary to the public interest because; The industrial zone is intended to provide for a location of industry such as; light manufacturing, office, storage, training schools and activities that include reasonable noise and waste production and are all permitted under the Hollis zoning ordinance. At its core, OpDD is aligned with the purpose of this ordinance. The organization could be considered a training school or as a manufacturing organization seeing that we do train and produce a useable product. The current tenant is a social service agency and OpDD would continue assisting the community from the location. Public health, safety or welfare would not be impacted by housing dogs. OpDD follows strict standards of care and sanitation pro-calls are in place. While being located in the industrial zone where noise is allowed our dogs are temperament tested prior to admittance into the program normally the dogs are not barkers however, if one was to bark the noise would not be any louder than the industrial use in the area.

The spirit of the ordinance is observed because 19G Clinton Drive is part of an existing industrial park with adequate light and air, limited abutters and ample parking. OpDD is a limited dog training facility that is not open to the general public. Rather, the operations are limited to staff being on premises and two or three weekly veteran training classes and some of the training offered is completely off-site at the veterans home or stores where both the veteran and dogs learn to navigate different situations.

Substantial justice is done because; the benefit of the variance to OpDD is allowing dogs to be housed on-site. All other activities OpDD does are consistent with the spirit of the ordinance. There would be a substantial increase in the quality provided to veteran clients and the welfare of our service dogs by allowing OpDD to keep dogs on the premises. Benefits include a consistent location to complete training and the service dogs will have consistent housing while undergoing training rather than going from place to place. However, the benefits to the organization does not outweigh harm to the general public. Typical concerns about housing animals include barking, public safety for potential loose dogs, waste management and disease. OpDD service dogs are temperament tested long before they arrive at the organization and are screened for behavior such as barking. The construction of 19G Clinton Drive is ideal for noise mitigations. The noise from the construction on manufacturing companies within the complex would be much higher than the noise produced by training dogs. Public safety is not at risk since all dogs will be kept indoors except to eliminate in a fenced yard with direct building access, or to train, where they will be leashed or harnessed. All dogs will be kept up to date on all vaccination and OpDD has a waste management and sanitation protocols in place that are compliant with New Hampshire state laws regulating shelter/rescue groups and we follow the standards of care in animal shelter guidelines.

Surrounding properties would not be diminished in any way since the direct area is industrial with industrial uses and the proposed use is consistent with the area.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. The manifestation of PTSD and TBI have a number of commonalities which are hypervigilant, wary of unknown people, suffer from extreme anxiety and experience panic attacks when a perimeter cannot be searched for perceived threats. 19G Clinton Drive offers a space with a wooded barrier to the side and rear of the building as well as a pond providing

distance between buildings and the road. The complex was designed with good land space between the buildings and the road, ends in a cul-de-sac, giving the area the appearance of a safe residential neighborhood. The present tenants in this industrial park have very low foot traffic, minimizing contact between OpDD's veterans and unknown people. All of these factors are conducive to lowering the stress levels of the veterans while attending training classes. In this program the veterans are not given a fully trained service dog, instead the veterans take part in the training of their dog which helps the veterans and dogs bond early decreasing the stress levels of our veterans as they focus on training their dog. Additionally, the dogs need a controlled, consistent environment for the essential fundamental training offered by OpDD. 19G Clinton Drive offers a non-typical industrial zoned area which would provide the essential environment and meets the needs of OpDD, veterans and the dogs.

The proposed use is a reasonable one because; OpDD was initially denied as certificate of occupancy based on being a kennel, which we are not. If the zoning ordinance is held to the letter of the law in this particular circumstance, the Hollis ZBA would be denying an important social service for our veterans and the proposed use is not that much different from the social service agency presently on the site.

McGhee asked how many dogs would be housed on site at one time. Burbridge replied we have laid out an area for 4 kennels which was approved by the landlord however, we would have a 5 year lease and could not determine growth of the organization at this time. Currently, we house 2 to 3 dogs at a time and once the dogs are matched with a veteran and training has started those dogs would not be staying onsite. McGhee asked would there be evening staff to care for the animals. Burbridge replied typically boarding or kennels do not have overnight staff, we plan to install a state of the art video monitoring system and noise monitoring system. The system will send an alert to staff and the staff would respond to any issues quickly since two of the staff live roughly 10 minutes away.

Belanger asked would you provide boarding for the general public. Burbridge replied no. Belanger asked what happens to a dog if they can't be trained as a service dog. Burbridge replied the shelters we work with are willing to take the dogs back so that they can be adopted as pets. Belanger asked if veterans were the only people in the program. Burbridge replied yes and we do not discriminate for age, sex, religion or what branch of service. All the organization requires is a DD214 discharge papers. Belanger asked how much activity will be conducted outdoors. Burbridge replied primary elimination we need to teach the dogs to go outside and maybe some limited training done in the outside enclosure. Belanger asked if there would be any outside lighting changes. Burbridge replied no. Belanger asked what would be the normal operating hours. Carolyn Barney, Training Director OpDD replied actual hours of operation would be 9am – 8pm with additional hours early morning (7am) and late at night (10pm) for staff to care for the dogs. Belanger asked would the hours be 5 or 7 days a week. Burbridge replied no weekends at this time. Belanger asked would there be any noise generated. Burbridge replied since this is an industrial park with industrial uses the noise create if any from our organization would fall well below the allowable noise stated in the ordinance and the building has sound proofing and in Burbridge's opinion no noise would be heard. Belanger asked what is the source of income for the organization. Burbridge replied the operation is run solely on individual contributions and grants. One thing that does set us apart from other organizations is that we ask for no contributions from our veterans. Belanger asked what would be the minimum and maximum stay for an individual dog. Burbridge replied the maximum stay would be 12 weeks and we have had some dogs complete the training sooner. Belanger asked how the waste would be disposed of. Burbridge replied a dumpster service would be hired and the dumpster would be locked so nothing could access the waste and it would also reduce or eliminate odors. Belanger stated he was concerned with waste attracting bears. Burbridge replied the dumpster would not be able to be opened by bears or other animals and emptied on a regular basis. The dumpsters used by shelters are designed in a way which are heavily lined to reduce odors.

MacMillan asked would there be a run outside for the dogs and would the dogs be outside at night. Burbridge replied there will be a fenced area outside and the dogs will never be outside unattended. Usually, the dogs would be let outside around 10pm to eliminate and brought in for bedtime.

Moseley asked if the operation had a staff veterinarian or a veterinarian that is contracted. Burbridge replied Swan Porter is our veterinarian if something was to happen they would be contacted. Normally, the dogs are taken to the office. Moseley asked if their veterinarian philosophy was preventative or reactive. Burbridge replied preventative they are all up to date on vaccinations and the normal routine tests are completed.

Mason asked what would be the typical class size. Burbridge replied approximately four. Mason asked how the food and medications be stored on site. Burbridge replied the food is stored in bins and there would be no controlled drugs stored on site the only medication being stored would be things such as; heartworm and we would store those in a locked cabinet.

McGhee asked if there was any indication that the business would expand beyond 2 to 4 animals. Burbridge replied not at this time we have doubled our staff in the last 3 months. We are growing but the one thing we pride ourselves on is providing individual attention to our veterans and dogs. At our current funding levels, unless we receive a sizeable grant, the organization is not anticipating extreme growth. The space at 19G Clinton Drive would be able to accommodate small growth. Durham asked where the fenced in area would be, would it be located in the back where loading docks and parking would be. Burbridge replied no the fenced area would be in the grassy area behind the building with an access to the building within the fenced area.

Major asked, even though he is not a voting member tonight, if the ZBA imposed a condition of approval would it be reasonable to set a maximum of 6 dogs that could be housed at one time. Burbridge replied yes however, if additional animals were needed could we seek an additional approval. Major replied yes. Major asked what breeds and sizes dogs are typically used. Burbridge replied lab mixes that are approximately 60lbs. Major stated the difficult part of the application is that Hollis has a limited amount of industrial area and granting this variance would in fact, put a non-industrial use in the space furthering limiting the industrial area. The ZBA did deny a daycare in an industrial zone however, there is an operating baseball academy in the industrial zone. The ZBA should decide each case on an individual basis. Burbridge replied the area is approximately 3,000 square feet and was occupied by a social service agency. Major asked what type of social service agency was the previous tenant. Burbridge replied the agency dealt with developmentally challenged adults and conducted occupational training. Major asked what types of business are located in the industrial park. Burbridge deferred the question to Brad Vear who is the manager of the property.

Major asked how long has the unit been up for rent. Vear replied the unit turned over quickly the social service agency just left a short time ago. Major asked if Vear manages the entire complex Vear replied no, he does not manage the entire complex, just this building. Major asked has there been a problem in renting to unit for the allowed industrial uses. Vear replied yes. Major asked if a 3,000 square foot unit was attractive for a traditional industrial use. Vear replied he has been renting industrial space for 30 years and the current industrial uses are a two person shop using CNC machines, a contractor that has his employees come to the shop and leave for the day or a straight warehouse used for storage. If Hollis wants to preserve the industrial area for things like a large manufacturing company that produces products that type of use is not what the typical industrial use is today. Major asked how many units does Vear have vacant currently. Vear replied one 12,000 square foot unit which has been vacant for some time. Major asked if it was a fact, it has been difficult to find tenant for the unit which would comply with the allowed uses in the industrial zone. Vera replied yes. MacMillan asked if the building had natural gas, city water or sewer. Vear replied no. Mason asked if the property was in the aquifer as well and does that restriction make it more difficult to find an industrial tenant. Vear replied yes the large unit could have been rented to an industrial use however, being in the aquifer the potential use was prohibited.

Belanger asked if all income came in as individual donation and was the operation sanctioned by any governmental agency. Burbridge replied no. Belanger asked how a veteran finds out he/she could receive a dog from OpDD. Burbridge replied we have an informational website, all applications are received are from a case worker from the Veterans Administration (VA), social worker or a doctor. All applicants are required to have a diagnosis of PTSD or TB to qualify for the program. Belanger asked if OpDD receives referrals from the VA. Burbridge replied yes. Belanger asked if the VA approves of the training methods the OpDD uses. Burbridge replied yes. Belanger asked what proof does the ZBA have. Burbridge replied we have received multiply referrals from the same VA for new veterans. Belanger asked how many organizations are there like OpDD in the State of NH. Burbridge replied none however, there is one in Massachusetts. Belanger stated the reason for his particular questions is that OpDD needs to prove a hardship and the hardship can't be that Vear is having problems renting the space. However, there are state statues if there is government involvement with an organization there are leeway's that can be considered such as if the OpDD was sanctioned by the VA, the VA send veterans to OpDD or if the organization was completely funded by the VA. Moseley asked if OpDD's records were audited would the audit find applications from the VA. Burbridge replied yes the majority by large would be from the VA. Mosely asked would the doge be licensed in the Town. Burbridge replied yes however, we would probably apply for a kennel license, even though we do not meet the requirement for the number of dogs for a kennel. A kennel license would allow the dogs to stay for a certain number of days and then they would be licensed in the town where the veteran lives. Major asked if the ZBA imposed a condition that no dogs be left unattended outside would OpDD consider it reasonable. Burbridge replied yes.

Mason asked Condra why the application was denied for a kennel since the operation does not meet the state definition. Condra replied the application was denied by his predecessor however, if the application was presented

to him for the training of dogs. The application would have been denied since the training of dogs in the industrial zone is not an allowed use. Major agreed with the determination Condra made.

**Spoke in favor of the application**

Major read into the record a letter received from the Humane Society of Nashua dated October 25, 2017, signed by Douglas A. Berry which stated;

*“In recent years we have come to recognize as our nation’s age and our wounded warriors return home, that greater need for companion service dogs is evident. These special service animals help save lives by providing the special support that is necessary to help our heroes gain their independence in a changing world. These dogs assist the veteran in their daily lives allowing them to navigate life with dignity and self- reliance. While the wounds of PTSD are not readily visible, they are debilitating.*

*Having an organization in our community that will train and supply dogs to returned veterans whose disabilities are less obvious, at no cost the veteran will be exceptional addition.*

*As a veteran and non –profit executive serving our communities, I look forward to working with an organization like “Operation Delta Dog”.*

Belanger asked if the ZBA could find a way to change the application to a special exception. Major replied the use is not allowed within the industrial zone and converting the application to a special exception would not be justified and the determination that Condra made was the correct one.

Charles Wohr approached the ZBA and stated that almost dog training facilities are, in fact, located in industrial complexes that being said, wouldn’t that make dog training an industrial use. Major stated the Hollis Ordinance is restrictive so if the use is not listed the use would only be allowed by variance. Other surrounding towns may have a different ordinance with allowed uses.

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

**DELIBERATIONS**

**Case ZBA 2017-015**

The discussion of the application of Ruth and Harvey Lawner, property owners, for a Special Exception to Section IX, General Provisions, Paragraph K Accessory Dwelling Unit of the Zoning Ordinance to permit the construction of an 731 square foot Accessory Dwelling Unit, located at 136 Worcester Road, Map 002, Lot 008, in the Residential and Agricultural Zone.

Mason stated the new design was more appropriate than the prior application. The ZBA members agreed.

**Questions/Special Exception**

Question 1 Is the Exception specified in the Ordinance?

Question 2 Are the specified conditions under which the Exception may be granted present?

Question 3 Should the Exception be granted?

Board Member	Question	Question #2	Question #3	Total-Yes	Total-No
Belanger	Yes	Yes	Yes	3	0
MacMillan	Yes	Yes	Yes	3	0
Durham	Yes	Yes	Yes	3	0
Mason	Yes	Yes	Yes	3	0
Moseley	Yes	Yes	Yes	3	0

**THEREFORE THE SPECIAL EXCEPTION WAS GRANTED.**

**Case ZBA 2017-017**

The discussion of the application of Operation Delta Dog, for a Variance to Section X, Industrial Zone, Paragraph C1 Permitted Uses of the Zoning Ordinance to permit the operation of “Operation Delta Dog” training facility, located at 19G Clinton Drive, property owned by Hollis Hampshire, LLC, Map 004, Lot 074, in the Industrial Zone.

Belanger asked what section of the prohibited uses in the industrial zone would this case be similar to. Moseley stated the closest prohibited use is a stockyard and this application is definitely not a stock yard. MacMillan stated the use is not prohibited and questioned why the use is not permitted. Major replied the zoning ordinance is a restricted ordinance meaning, if the use is not listed it would not be permitted. Moseley stated the previous tenant was a social service agency which was permitted and in Moseley opinion the proposed use is a social service agency as well. Durham stated a determination made may have been made that the social service agency was an “industrial school” which is an allowed use. McGhee stated the testimony suggested that our ordinance may be outdated for today’s industrial uses applying a determination to OpDD being an industrial school could be considered and asked what the determination was to allow the social services agency.

Moseley stated bulk services usually present in an industrial zone such as: natural gas, city water and sewer are not present making renting the property to an industrial use would be difficult. MacMillan stated testimony received spoke to the hardship not be able to rent the unit as industrial because of those constraints to the property. Mason stated the ZBA did deny an application for a daycare in the industrial zone. Moseley stated the proposed daycare was on Proctor Hill Road and had an auto restoration business directly across the street and the ZBA took safety into account while making their decision on that case.

*Major moves for a findings of fact;*

1. *The ZBA finds the parcel contains a rental unit of approximately 3,000 square feet and is situated in the industrial and aquifer protection zones. The ZBA heard testimony showing the difficulty in renting the unit for a traditional industrial use and the past permitted use of the property as a social service agency is consistent with the proposed use.*

*Seconded by MacMillan.*

*Motion unanimously approved.*

*Major moves for a findings of fact;*

2. *The ZBA finds the proposed use is not a kennel within the meaning of either the Hollis Zoning Ordinance or State law.*

*Seconded by Belanger.*

*Motion unanimously approved.*

Major agreed with the determination of a kennel made by Condra since the Hollis Zoning Ordinance does not have a definition of a kennel and the ordinance is a restrictive.

*Major moves for the following condition;*

1. *All dogs shall be supervised at all times while they are outside.*

*Seconded by Belanger*

*Motion unanimously approved.*

*Belanger moves for the following condition;*

2. *No more than 10 dogs shall be housed at the facility at any one given time.*

*Seconded by MacMillan.*

*Motion unanimously approved.*

Major asked if the ZBA should consider a condition on waste removal. MacMillan stated maybe the ZBA should consider a condition on best management practices as it pertains to waste disposal. Ultimately, the ZBA decided not

to place a condition for waste disposal and felt based on the testimony the applicant would have measures in-place to deal waste.

**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
Belanger	Yes	Yes	Yes	Yes	Yes	Yes	6	0
MacMillan	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Durham	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Mason	Yes	Yes	Yes	Yes	Yes	Yes	6	0
Moseley	Yes	Yes	Yes	Yes	Yes	Yes	6	0

**THEREFORE THE VARIANCE WAS GRANTED WITH THE FOLLOWING CONDITIONS AND FINDINGS OF FACT;**

**Conditions;**

- 1. All dogs shall be supervised at all times while they are outside.**
- 2. No more than 10 dogs shall be housed at the facility at any one given time.**

**Findings of Fact;**

- 1. The ZBA finds the parcel is approximately 3,000 square feet and is situated in the industrial and aquifer protection zones. The ZBA heard testimony showing the difficulty in renting the unit for a traditional industrial use and the past permitted use of the property as a social service agency is consistent with the proposed use.**
- 2. The ZBA finds the proposed use is not a kennel within the meaning of either the Hollis Zoning ordinance or State law.**

**Other Business**

Major asked the ZBA members to bring their suggestions to the next meeting for adding allowed uses in the Industrial Zone since the permitted uses seem to be obsolete in the changing times.

**Review of Minutes**

*Belanger moves to approve the minutes of September 28, 2017.*

*Seconded by Major.*

*Motion unanimously approved with Mason abstaining.*

**Meeting Adjourned**

The ZBA meeting adjourned at 8:30 pm.

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