

**PUBLIC HEARING AND BUSINESS MEETING
DRAFT**

- A. CALL TO ORDER— 7:00 p.m.:** J. DeLeire called the meeting to order.
- B. ROLL CALL:** J. DeLeire, Chairman, F. Perry, Vice Chairman, S. Bryant, L. Job, P. Young, Alternate, A. Dittami, Alternate, Scott Ameda, Alternate, M. Sikorski, Building Inspector, H. Fazzino, Secretary. Absent: M. Call.

C. PUBLIC HEARINGS

CASE #17-06: Application of **Heronfield Academy** for a variance to the terms of Article III, Section 7.7.1.1 and asks that said terms be waived to permit lot coverage of more than the allowed 15% in Zone A located on 356 Exeter Road, Tax Map 6 Lot 22. Continued from December 21, 2017.

CASE #18-01: Administrative Appeal of **Heronfield Academy** of the Building Inspector's decision regarding the construction of an Indoor Recreational Facility or Gymnasium dated January 16, 2018 for the property located at 356 Exeter Road, Map 6 Lot 22.

CASE # 18-02: Application of **Heronfield Academy** to request a variance to the terms of Article III, Section 4.E.2 and asks that said terms be waived to permit the construction of a building for use as a school gymnasium and other school purposes where an indoor recreational facility is not allowed in Zone A. Tax Map 6 Lot 22.

Chairman DeLeire read a letter from Sharon Somers, Esquire, dated February 16, 2018, to request to continue for variance and other relief for Heronfield Academy/ Map 6, Lot 22, **Case # 17-06, 18-01, 18-02**

Dear Chairman DeLeire:

The ZBA is currently scheduled to hear various requests for relief on the subject property next Thursday, February 22, 2018. After reviewing the posted agenda for the meeting, I determined that the notice did not accurately portray the full scope items to be presented to the Board. I discussed the matter with Attorney Mark Beliveau, and determined that, in order to avoid any challenge to the notice, that I would recommend that the entire matter should be continued to March 22, 2018. My client concurs with this recommendation, and therefore we request that, after the Town issues the proper notice, that the following items to be heard on March 22, 2018 a) request for lot coverage variance b) administrative appeal of decision that the proposal constitutes an indoor recreation facility c) a use variance for the indoor recreation facility if the administrative decision is denied d) a request that the 2006 variance be modified to include approval for the gymnasium/ multipurpose building to serve up to 100 students.

As this is a request for a continuance, no public hearing or discussion with the public will occur on February 22, 2018; the Board will simply make a motion and vote. Accordingly, no one from Heronfield will be in attendance that evening.

Please contact me if there are any questions.

Very truly yours,

Sharon Cuddy Somers

MOTION: Pursuant to a request by Sharon Cuddy Somers (Case # 17-06, 18-01 and 18-02), to continue the matters to March 22, 2018.

MOTION: F. PERRY
SECOND: A. DITTAMI
UNANIMOUS

Chairman DeLeire confirmed that a 4 member Board was present, with three alternates that may participate but not vote. A. Dittami was selected to serve as a full member at this meeting, with 5 voting members.

D. PUBLIC HEARING

Case #18-03- Application of Tammy Allen for a Variance to the terms of Article III, Section 4, Group G, Item 2, and asks that said terms be waived to permit limited hour, appointment only hair salon in Zone A located at Drinkwater Road, Tax Map 4 Lot 53-5.

Ms. Allen presented her application, including responses to the 5 criteria and her application of them. Ms. Allen is caring for her mother who can't be left alone. Her proposed salon would be constructed in the mud room of the house that is yet to be built. She plans to work 2-3 days per week, no weekends, with hours from 8:00 a.m. – 6:00 p.m. She plans for off street parking.

M. Sikorski, Building Inspector, reported that the Zoning Ordinance states that this use as a level 1 home occupation is not allowed. See page 42 of the Zoning Ordinance. The Board reviewed the definition for 12.2.

- A. Dittami confirmed that a variance can be granted for use or dimensions.
- The Applicant confirmed that signage is not needed, and no alterations to the house will be made.
- Chairman DeLeire raised the question of if Ms. Allen were no longer caring for her mother, would she want to continue her home-based hair salon. Ms. Allen confirmed that she would.
- F. Perry discussed how a variance stays with the land, and a permit stays with an individual. There is a concern about traffic in this residential area.

- A. Dittami stated that the Town needs a mechanism for enforcement. Currently, Ms. Allen advertises through word of mouth only. Facebook referrals may be a way to advertise. Mr. Dittami does not have information about the consequences of hair dye on a septic system.
- Ms. Allen stated that she would work one full day and one split day per week.
- P. Young was interested in the RCCD requirements for septic systems. Ms. Young felt that a salon was a unique use of the area, and that there are other businesses on Drinkwater Road. M. Sikorski is not familiar with the effects of hair dye on a septic system, but would refer Ms. Allen to the Rockingham County Conservation District requirements.

The Chairman opened the meeting for public comment at 7:45 p.m.

Dr. Marion Hardy, Nason Road, denied the statement that there is any traffic from local barns. She is concerned about wells and leach fields.

Eileen Piero, Drinkwater Road, requested that the vote be postponed until next month when her husband would be available. The Board declined. Ms. Piero stated that a sign would affect the neighborhood. Ms. Allen stated that there would be no sign. Also, Ms. Piero did not receive notice of the meeting, and was only alerted to it by a neighbor who received her Certified Mail, an hour before the meeting began. In discussion, it was noted that the town procedures only identify the method of notice and timing of notice (certified mail) not enforcement of the delivery. Ms. Piero was also concerned about customers turning around in her driveway.

A. Dittami asked about Ms. Allen's length of time in the business- 32 years. She and her husband purchased the property in November. I think we should also note that the Applicant was asked if they bought the lot knowing a variance was needed to run her business. Also, the Applicant was asked if they intended to build whether or not the variance was granted. The Applicant answered the later question in the affirmative, but did not report whether they knew the variance was required before purchasing. He expressed concern about the lack of notice, but confirmed that the process was in compliance with the law.

At this time the Chairman closed the public portion of the meeting.

MOTION: To deny the request for a variance. A variance must meet all five criteria.

#1- The variance will not be contrary to the public interest.

The lot is not distinguishable- criteria not met.

#2- The spirit of the ordinance is observed. A hair salon has frequent, recurrent services, offered on-site only, and are expressly prohibited- criteria not met.

#3- Substantial justice is done. Businesses with traffic are not currently present. If other businesses with traffic were already on the street, additional businesses would be allowed too. - criteria not met.

#4- The values of surrounding properties are not diminished. Not addressed, criteria not met.

#5- Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. An unnecessary hardship was not presented- criteria not met.

MOTION: A. DITTAMI
SECOND: S. BRYANT
4 IN FAVOR, 1 OPPOSED, PASSES.

E. REVIEW AND APPROVAL OF PREVIOUS MEETING MINUTES

MOTION: To approve the meeting minutes of December 21, 2017 as written.

MOTION: J. DeLEIRE
SECOND: F. PERRY
UNANIMOUS

F. OTHER BUSINESS

Upcoming 24th Annual Spring Planning and Zoning Conference on April 28, 2018 in Concord, register with H. Fazzino.

G. ADJOURN

MOTION: To adjourn the meeting at 8:30 p.m.

MOTION: J. DeLEIRE
SECOND: F. PERRY
UNANIMOUS

The next meeting of the Zoning Board of Adjustment is Thursday, March 22, 2018 at 7:00 p.m. at the Town Hall.