



## Hull Zoning Board of Appeals Minutes

Applicant: Montessori Elementary School, LLC

Property: 11 and 17 Rockland Circle; Hull, MA, 02045

Date: 10-202014

Time meeting began: 7:35 pm

Time meeting concluded: 8:20 pm

Place of meeting: Hull Town Hall, Main Meeting Room

Members present:	Alana Swiec, Chair	<b>Sitting</b>	Attending	Absent	Abstain
	Roger Atherton, Clerk	<b>Sitting</b>	Attending	Absent	Abstain
	Mark Einhorn, Member	Sitting	Attending	<b>Absent</b>	Abstain
	Patrick Finn, Associate	Sitting	<b>Attending</b>	Absent	Abstain
	Phillip Furman, Associate	<b>Sitting</b>	Attending	Absent	Abstain
	Jason McCann, Associate	Sitting	<b>Attending</b>	Absent	Abstain

In Attendance: Walter B. Sullivan, Attorney for Montessori Elementary School, LLC  
Denise McCabe, President, Montessori Elementary School, LLC  
Andrew Boothroyd, Trustee and property owner  
John Marchetti, former owner and abutter  
Christopher Hidell, abutter

**General relief sought:** To appeal the Building Commissioner's decision to deny a certificate of occupancy and, in the alternative, to apply for a use variance to operate a Montessori Elementary school in a Commercial Recreation B Zone pursuant to Hull Zoning bylaw 30-3 and 35-1B.

**General discussion:** Swiec opened the hearing. Atherton asked if he should recuse himself because his daughter works in a New York Montessori School and some might think that would prejudice him. After a short discussion of the Montessori program, Finn stated that he thought Atherton could separate his personal opinions from the zoning analysis. Atherton agreed, but wanted to give others a chance to be aware of his indirect connection. Swiec and Furman also agreed there was reason for Atherton to recuse himself.

Sullivan indicated their position is that they are primarily looking to overturn the Building Commissioner's decision as they believe they are entitled to do this under Hull's bylaws as they are an educational non-profit corporation and the Dover decision. They are also requesting a use

variance as that is what the Building Department told them to do, but are asking for this in the alternative in case the Board agrees with the Building Commissioner. His client, Denise McCabe, seeks to open an elementary school at what used to be an art gallery next to the former Saporito's Restaurant. It will be a small school – there will be two teachers and possibly an assistant. They expect 8 or 9 children. To deal with parking, lighting and safety issues (as this is a busy street), they have proposed a staggered pick up and drop off schedule. The teachers will meet each child at their vehicle and escort them to the class room and back at the end of their school day.

McCabe, 46 Kimball Beach Road, Hingham, President of Montessori Elementary School (MES) indicated she now teaches at the Seaside Montessori School in Hull that teaches pre-school through Kindergarten (ages 3-6). She would like to start a separate school for elementary grades (ages 6-9). She then elaborated on the Montessori program. She added that her contacts with families at Seaside had convinced her of the need for expanding the program for an older group.

Atherton asked why they were arguing the Dover Amendment when the Town's own bylaw clearly states that zoning bylaws should not prohibit use of land or structures for educational purposes on land owned or leased by a non-profit educational corporation. Sullivan responded that he just wanted to show that the Town and the State laws were consistent and complementary. Atherton asked why do we need to pursue the Variance, if the Board agrees with Sullivan's position? Finn responded there are two issues – 1) the appeal of the Building Commissioner's (BC) decision requiring a variance and 2) the variance itself. He continued that it is within the Board's prerogative to look at the site issues and abutters' issues. He thinks that because it is a tight area, he would prefer to explore the other issues and not just decide quickly on the validity of the BC's decision. He added that doing so might lead to conditions that the Board would like to add to the decision.

McCann asked about the number of square feet? The answer was 800. He then asked about the tax-exempt certificate. Sullivan responded that he had that with him and can provide it to the Board. Finn asked if that could have been the reason for the BC's denial – not having that with the application. Sullivan responded that he did not think so; he added that he thinks the BC didn't think it was his job to decide whether it was a non-profit; and that could be a condition of the Board's decision that they obtain a Form 1023 from the IRS. He commented that the State considers this a charitable non-profit educational corporation.

Swiec asked for clarification of the intended use of the former Saporito's Restaurant building. Sullivan answered that were only using the art gallery building. They would also be using a parking space and the yard of Saporito's, but not the building itself, as it is not part of the lease. Swiec asked about the parking and Boothroyd answered that four are on the art gallery property and one is on the Saporito property and there are three driveways, but the spaces behind the buildings (that the driveways lead to) are not part of the lease.

Swiec opened the hearing to public comment. Marchetti, 4 Rockview Road, stated that his property backs up to the property and there is only 7 feet to the property. It is open land and he would prefer a fence between the properties for the safety of the children. Sullivan indicated that his client intends to enclose the property. Swiec added that could be a condition of the decision.

She added that the Board would be doing a site visit and that the fence should be marked off for the Board to see. Sullivan stated he would be speaking to the BC about the fence after they received approval and it would be built to code. Hidell, 9 Rockland Circle, reviewed his notarized and previously submitted letter of support. He stated he is very comfortable with the proposal and he is a direct abutter. McCann asked that the plot plan show the fence and the parking on an 8” by 19” plan. Finn asked for the play area to also be shown on the plan.

Atherton mentioned that the Board will need to decide whether the BC’s decision was correct or not. If not, there’s no support for a variance in the application, not does it provide answers to the variance questions on the application. Finn suggested the Board wait until the next hearing to make that decision. McCann agreed. Sullivan stated he would be happy to file it ahead of time and agreed to fill out all the pages of the application regarding a variance; and will do so by Tuesday of next week.

**Action taken, if any:** A site visit was scheduled for Saturday at 2:00 PM (later changed to 4:30 PM). The hearing was continued to October 16 at 7:30 PM.

Was final vote taken?            Yes            No

Recorded by:                      Roger Atherton

Minutes Approved: \_\_\_\_\_

**All actions taken:**

*All action taken includes not only votes and other formal decisions made at a meeting, but also discussion or consideration of issues for which no vote is taken or final determination is made. Each discussion held at the meeting must be identified; in most cases this is accomplished by setting forth a summary of each discussion. A verbatim record of discussions is not required.*