

ZONING BOARD OF ADJUSTMENT	OCTOBER 10, 2018, 7:30 P.M.
TOWN OF HAMPTON FALLS	TOWN HALL

DRAFT

CALL TO ORDER: The meeting was called to order by Chairman J. DeLeire at 7:30 p.m.

PRESENT: J. DeLeire, Chairman, S. Bryant, Vice Chairman, L. Job, M. Call, F. Perry, Scott Almeda, Alternate Member, Patti Young, Alternate Member, Mark Beliveau, ZBA Attorney, M. Sikorski, Building Inspector, H. Fazzino, Secretary. Alex Dittami, Alternate member, was absent.

The public hearing remained open.

Case # 18-05: Application from Heronfield Academy for a modification to a 2006 variance to the terms of Article III, Section 4E 1, 2, 3, and 5, to construct a multipurpose facility within the existing horse riding arena for school related purposes in Zone A, located at 356 Exeter Road, Map 6 Lot 22.

The Applicant’s members in the audience included Ms. B. Kelly, Head of School, P. Engerhoffer, Chair of the Board of Trustees, E. Weinreib, Altus Engineering, Attorney C. Wyskiel, Attorney A. Sykas Karoutas.

Attorney Wyskiel stated that he wanted to be sure all identified uses would be included in the conditions.

P. Young stated that she is opposed to the condition of not allowing the property to be rented to another group. B. Kelly stated that she would be “so happy” to have the Town use the facility.

Attorney Wyskiel stated that the variance runs with the land, and when the prior owner’s equestrian facilities were sold to Heronfield Academy, the variance was removed. Town Attorney M. Beliveau clarified that the variance goes with the land, not with the current or a future owner of the property. M. Beliveau asked what portion of the 2006 variance are you asking to be modified. C. Wyskiel stated Heronfield Academy’s use of all of the property, shown on Exhibit C. And, Section E, Recreation Facility.

Public comment remained open, but no members of the public were present to comment on the application.

F. Perry distributed a draft of proposed conditions, and those proposed conditions have been added to the file. Discussion followed.

1. None of the areas may be leased or rented to a third-party, group or organization that is not part of Heronfield Academy, the Town of Hampton Falls excepted.

2. No nighttime outside activities that creates excessive noise, odors, significant area outdoor lighting, or excessive traffic or congestion, will be conducted on the property without a Selectmen's Permit.
3. The use variance granted in 2006 and amended by this decision will lapse and be of no force and effect if the academic use of the property ceases for a period of one year or more.
4. The applicant will establish, provide and maintain a public access and maintenance easement from the street to the Pike Cemetery. The easement shall include the area that lies within the 25 foot radius around the cemetery outlined in the August 28, 2018 Heronfield Academy Proposed Site Improvement Plan. Attorney Chris Wyskiel will provide the Board with additional information on State rights.
5. S. Bryant requested edits to the wording, to add no amplified noise. M. Sikorski advised to seek specificity from the Planning Board. He reviewed the steps of an engineering review and site plan review. #5. C. Wyskiel to provide more information on State rights.

Further discussion on various elements of the proposal include:

P. Young was not in favor of #6. She wondered why a fence would not be acceptable. The applicant clarified that neighbors do not want a fence or plantings to block their view.

F. Perry discussed #4, and the abandonment clause. The proposed motion in its entirety will be in the Case file.

MOTION: To grant Case #18-05 Application from Heronfield Academy for a modification to a 2006 variance to the terms of Article III, Section 4E 1, 2, 3, and 5, to construct a multipurpose facility within the existing horse riding arena for school related purposes in Zone A, located at 356 Exeter Road, Map 6 Lot 22 and to clarify to approve that the entire property can be used for school related purposes, subject to conditions.

MOTION: F. PERRY

SECOND: S. BRYANT

F. Perry reviewed the five requirements for granting a variance.

- 1) Modifying the 2006 variance is not contrary to the public interest.
- 2) The spirit of the ordinance will be observed.
- 3) Substantial justice is done- benefit to the applicant is not outweighed by a detriment to the community.
- 4) Surrounding properties will not be diminished. There was substantial discussion and it was determined that there was no decrease in values.
- 5) Eliminate an unnecessary hardship- by defining the permitted uses, Heronfield Academy has overcome several hardships in providing school related services today.

Board members commented on the five criteria as follows:

S. Bryant – Surrounding properties so to not have diminished values, and the Applicant brought an expert to substantiate their position. Not contrary to the public interest- filling a wonderful need in the community. Substantial justice will result from the modification of the variance.

M. Call- Adding clarity to the variance is essential.

J. DeLeire- All activities support Heronfield Academy's mission. A new facility is in keeping with their mission. The new facility will increase their capacity to serve students. Surrounding properties were not diminished, and was supported by appraiser P. Stanhope.

L. Job- The project is in support of the local community, property values were demonstrated. The school will be allowed to advance.

The Variance request is for Article III, Section 4e 1, 2, 3, and 5:

- 1) Variance will not be contrary to the public interest.
- 2) The spirit of the ordinance is observed, will help secure the historical nature of the area.
- 3) Substantial justice to be done- the variance will remove the uncertainty of use of the campus and open space.
- 4) Values of surrounding properties are not diminished- this request satisfies the ability to maintain open space, protect abutters from light and noise.
- 5) Literal enforcement of the provision of the ordinance would result in an unnecessary hardship. The hardship of the school, prominence in the community.

S. Bryant- Substantial justice has been done, provides clarity of essential uses.

J. DeLeire- 1 & 2: The new application substantially changes Applicant's proposal from the pending cases. By accommodating Heronfield Academy's related uses within the existing structure, the essential character of the locality and its visage will not change. The removal of two smaller accessory buildings presently in disrepair will be an improvement.

The proposed Heronfield Academy related uses will, for the most part, not increase the intensity of the 2006 Variance allowed permitted use in terms of population and Heronfield Academy community. The number of students won't increase. Related staff and parent use, for the most part, will remain the same (but for modest increased traffic trips at non-peak times), to be addressed at a further hearing.

Denial of the variance would unduly and to a marked degree conflict with the basic premises of the Zoning Ordinance as now modified by the 2006 school use variance. The proposed uses, as proposed to be limited, would not threaten public health, safety or welfare.

3) Substantial justice is done. This Board's prior deliberations on the pending cases evidenced difficulties in making such a judgement, particularly considering the competing perspectives summarized by Exhibits 1 and J. Granting the variance with appropriate use limitations (Exhibit A and B) makes the scale tipping obvious. The loss to Heronfield Academy would be great. The

public would gain little by denial of the variance. The public is protected by the proposed Conditions of Approval.

5) Special conditions of Map 6, Lot 22 property distinguish it from other properties in the area. Its large size accommodates Heronfield Academy's use, and provides sufficient areas for infrequent, occasional overflow parking occasioned by proposed larger school-related uses.

More significantly, physical improvements to the land by the existing on-site structures distinguish it from most other properties in the zone. The indoor riding arena is rather unique. Its internal modification to a multi-purpose facility as proposed by the Applicant is entirely reasonable, doable, and would be virtually unnoticeable to abutters or the general public passing the site.

M. Call- He is in support of the Motion.

L. Job- We have come to a positive conclusion for the benefit of the community.

J. DeLeire will review the proposed conditions of the Board with M. Beliveau and the Board will resume the public hearing on October 25, 2018 at 7:00 p.m.

MOTION: To continue the hearing until October 25, 2018.

MOTION: S. BRYANT

SECOND: F. PERRY

UNANIMOUS

MOTION: To approve the minutes of September 27, 2018, as written.

MOTION: S. BRYANT

SECOND: F. PERRY

UNANIMOUS

MOTION: To adjourn the meeting at 9:45 P.M.

MOTION: S. BRYANT

SECOND: F. PERRY

UNANIMOUS

The next meeting of the Zoning Board of Adjustment will be October 25, 2018 at 7:00 p.m.