

TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
DRAFT MINUTES
OCTOBER 6, 2022

Note: This meeting was held in-person and virtually on Microsoft Teams.

ZONING BOARD OF ADJUSTMENT (ZBA) MEMBERS PRESENT:

In Person: Nick Martin, Chair; Tom Yandow, Clerk; and Hubert Norton.

OTHERS PRESENT:

Sharon Kelley, Zoning Administrator; John Alden; and Simone Spano.

VIRTUAL: Thomas Hackett was present, but we were unable to hear him. Kelley provided her cell phone number for him to call into the meeting. Kelley shut down the overhead and brought up the Teams meeting on her laptop. Mr. Hackett was present but left the meeting.

Chairman Martin called the hearing to order at 6:06 p.m; took roll call of the Board Members present and noted that Vice-Chair Plageman was not present. Board Member Yandow asked if Plageman provided comments on the applications as he mentioned that he would try to do so prior to the meeting. Kelley said that she did not receive any comments from him and that she could quickly check her email.

Chairman Martin provided the public oath to those in attendance and the late arriver.

AGENDA ITEM 1: UNSPECIFIED USE-CONDITIONAL USE: ACH TOV LLC: Proposal to operate a Short-Term Rental located at 156 Old Stage Road in the Agricultural Residential Zone (AR) Zone. Tax Map 10, Parcel 63, Lot 8.

Board Member Yandow MOVED and Board Member Norton SECONDED a MOTION to open the Fact-Finding/Public Hearing. The MOTION passed 3-0.

Sharon Kelley noted that the ZBA has recently reviewed a few Short-Term Rental applications and noted the current proposal for an Airbnb located at Old Stage Road. Kelley noted that the landowner has been operating an Airbnb for a little while and was told that they were misguided with information when they made inquiry about operating an Airbnb. Kelley reported that she understood there to be a fire at the residence which resulted with the Fire Department going to the residence. Kelley was not sure of the facts on this and suggested the Board ask the applicant for the specifics on this matter. As a result of being informed about the Airbnb by the Fire Chief, she informed the landowner that they needed to come before the ZBA for approval to operate the Airbnb. Kelley reported that they have been very cooperative and promptly made application. Kelley noted that the comments were the same from the departments, however the Fire Chief required upgrades to the private driveway because during the fire call it was difficult to get the emergency vehicles up the driveway.

Board Member Norton asked if the Fire Chief had any other comments other than what is in the Report as the applicants has made changes to the driveway. Kelley stated that he weighed in that the driveway needs to be built up to the current specifications and those were provided to the landowner so that they could make those improvements. Norton asked if the Fire Chief has reexamined the driveway since they made improvements to the drive. Kelley was not aware if the landowner has made any improvements yet, nor was she aware of the Fire Chief doing any further inspections of the driveway. Kelley suggested that the Board ask the applicant this question. Kelley noted that she did not create a condition for the driveway improvements, so if they are not completed, this should be added to the report.

Board Member Yandow asked Kelley if she has done the Certificate of Occupancy inspection. Kelley replied, "no."

Chairman Martin noted that the application was received September 7th and Fire comments were received September on 9/13/22 & 9/28/22 and stated that it appears no further comments were received. Kelley stated that she did communicate via email with the Fire Chief to make sure that she had all the information needed for the driveway repair, including the driveway detail, spec sheet and the portion of Zoning Regulations relating to driveways.

Kelley noted that she did receive an email from Draizy Junik asking why the existing driveway was no longer considered a private drive. Kelley read an email dated 9/28/2022 from Chief Cole to Draizy Junik as follows:

Since this is no longer a private single-family residence, the fire code in Vermont declares this a business. You charge money for someone else to rent your property. As such, the fire codes apply and allow us to enforce the Life Safety Code of NFPA 1. Also, your general risk insurance company would have you do all of this as well since they insure the property and would want to make sure that we can get a fire truck to the house. We cannot reach the home from Old Stage given that the driveway is over 1,000 feet in length.

In response to Chairman Martin's question, Kelley reported that she has not yet gone to the site and will need to do so to issue the Certificate of Occupancy if approval is granted.

Draizy Junik, 80 Summit Street, Burlington, Vermont, noted that the property was in an LLC, owned by her father and she manages and helps with the property. Junik stated that they were misguided by the relator, who told them there was no process to operate an Airbnb when they bought. She noted that they use Airbnb, which they pay taxes with every reservation. She stated they thought they were covered with the use. Junik noted that there was never a fire at the property and suggested a fire alarm may have been set off which triggered the fire call. Junik stated that the driveway is "really long" and certain parts of it got "ripped up" over the year. She noted that the property maintenance company who was hired to maintain the property, did a partial repair by taking away the old chunks of driveway and placing small rocks and gravel in certain areas. She reported that a garbage truck did get stuck in the driveway and had to get pulled out. Junik reported that they have been in touch with "Rocks Asphalt" to obtain a quote for the driveway repairs and have since provided them with the information for the upgrade to the driveway. She is waiting for a quote on the job and noted that they are currently booking out to spring. Junik was confident that the driveway has been fixed for the short term. Junik stated that the Airbnb is geared for families; it is a very large house with 4-bedroom that can accommodate 8-12 people. She noted that in addition to the existing well, they have put in 1800 gallons of reserve water tanks into the basement. She concluded by noting that Essex was a beautiful Town. Junik strongly believes that bringing tourists to Essex will only increase the revenue for the Town. She noted that she reached out to 'Jules on the Green' to ask about what other attractions can they mention with their Airbnb. Junik stated that once people understand that you are 20 minutes from Burlington and 40 minutes to the ski slopes, the area is quiet with the house that you can't see by the road, neighbors that you can't see. Junik believes this will only enhance the Town and bring in more revenue.

Board Member Norton asked the extent of the driveway repairs; would they be paving portions of the driveway or the whole driveway? Junik stated the existing driveway is paved and Rocks will be

repaving the whole thing. Junik reported that the driveway is a little too narrow for a fire truck. Junik noted that there is a rectangle shaped area in front of the house that can park at least 5 cars. Junik noted that will be a very expensive project to repair the drive. Board Member Norton stated that it sounded like they will be tearing out the old pavement, putting down new materials and repaving. He confirmed that they will be more down than just repaving the drive. Junik said yes. Norton confirmed that Rocks got all the construction information that was provided to her. Junik said yes.

Chairman Martin asked if Junik was living in a property close by. Junik said, "20 minutes, in Burlington."

Chairman Martin asked if all the recommendations by the Fire Chief and Staff seemed reasonable. Junik said yes.

Board Member Norton noted a discrepancy with the hand-drawn diagram and the google earth picture that marked where the septic was located, which was in a different location than the hand-drawn diagram. Junik confirmed that the hand-drawn diagram was the correct location. A new google earth picture will be provided.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to close the Fact-Finding/Public Hearing.

Kelley interrupted as she observed that Mr. Hackett was back in attendance.

Board Member Norton withdrew his motion as a member of the public was present.

Chairman Martin provided the oath to Mr. Hackett and asked for his comments.

Thomas Hackett, 174 Old Stage Road, stated that he purchased his house 40 years ago, in March 1981. He noted the area was in an agricultural/residential area. He stated that he had wonderful neighbors for 20 years, but since they left, the peacefulness is gone. He noted there are one-half dozen renters in the rental unit and he has had conflicts with them over excessive noise. He stated this will only get worse in the future.

Chairman Martin asked how many cycles of renters have been seen over the couple of years. Hackett replied that there are substantial trees between the properties and you are not able to see the houses. Hackett stated that voices carry dramatically. He reported that he has been subjected to parties and foul language. Hackett stated the property owners have changed by 180 degrees "since these people took over the property." He recalled three instances where people came into his yard thinking they were on a walking path.

Board Member Norton asked Mr. Hackett if his house was northerly or southerly from 156 Old Stage Road. Hackett replied it was on the same side of the road. Hackett stated that he has a small 3-acre lot. He noted that the neighbors have a 4-bedroom lot and "they will try to cram people in." He felt like the landowners were renting to teenage men, playing soccer or volleyball, with sounds that you would hear at a game. He said, "he doesn't want this in his backyard."

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to close the Fact-Finding/Public Hearing. The MOTION passed 3-0.

Board Member Norton made a personal observation. He noted that the Selectboard is very close to approving a noise ordinance. He is not against however he believes you should not try to measure noise. He noted there soon may be a new ordinance to offer relief.

Kelley noted that landowners can call the police after 10:00 p.m. if there is an issue with noise.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to approve the application for an Airbnb located 156 Old Stage Road, subject to the following Findings and Conditions:

FINDINGS:

- 1) The landowner is Yitzchek Raskin d/b/a ACH TOV LLC. The parcel under review is located at 156 Old Stage Road in the Town of Essex, Chittenden County, State of Vermont. This is an approximate 15.30-acre lot with 400 ft. +/- of frontage. The lot is serviced by a well and a private septic system. The parcel is situated in the Agricultural Residential (AR) Zoning District. The 4-bedroom house was built in 1993.
- 2) The applicant is proposing to use their existing single-family home as a Short-Term Rental and have submitted a hand-drawn diagram of the site, a google earth shot of the parcel, and the attached narrative.
- 3) Pursuant to state statute a 'Notice of Hearing' was provided to the applicant for posting on the property.
- 4) The abutting property owners were notified of this meeting by certified mail.
- 5) The applicants were emailed a copy of this Staff Report prior to the meeting.
- 6) The Planning Commission was informed of this application.
- 7) Draizy Junik, landowner's daughter, was in attendance for the hearing and provided the following comments:

Draizy Junik, 80 Summit Street, Burlington, Vermont, noted that the property was in an LLC, owned by her father and she manages and helps with the property. Junik stated that they were misguided by the relator, who told them there was no process to operate an Airbnb when they bought. She noted that they use Airbnb, which they pay taxes with every reservation. She stated they thought they were covered with the use. Junik noted that there was never a fire at the property and suggested a fire alarm may have been set off which triggered the fire call. Junik stated that the driveway is "really long" and certain parts of it got "ripped up" over the year. She noted that the property maintenance company who was hired to maintain the property, did a partial repair by taking away the old chunks of driveway and placing small rocks and gravel in certain areas. She reported that a garbage truck did get stuck in the driveway and had to get

pulled out. Junik reported that they have been in touch with “Rocks Asphalt” to obtain a quote for the driveway repairs and have since provided them with the information for the upgrade to the driveway. She is waiting for a quote on the job and noted that they are currently booking out to spring. Junik was confident that the driveway has been fixed for the short term. Junik stated that the Airbnb is geared for families; it is a very large house with 4-bedroom that can accommodate 8-12 people. She noted that in addition to the existing well, they have put in 1800 gallons of reserve water tanks into the basement. She concluded by noting that Essex was a beautiful Town. Junik strongly believes that bringing tourists to Essex will only increase the revenue for the Town. She noted that she reached out to ‘Jules on the Green’ to ask about what other attractions can they mention with their Airbnb. Junik stated that once people understand that you are 20 minutes from Burlington and 40 minutes to the ski slopes, the area is quiet with the house that you can’t see by the road, neighbors that you can’t see. Junik believes this will only enhance the Town and bring in more revenue.

- 8) Thomas Hackett, 174 Old Stage Road, stated that he purchased his house 40 years ago, in March, 1981. Mr. Hackett noted the area was in an agricultural/residential area. Mr. Hackett stated that he had wonderful neighbors for 20 years, but since they left, the peacefulness is gone. He noted there are one-half dozen renters living in the house and he has had conflicts with them over excessive noise. He stated this will only get worse in the future. Mr. Hackett stated that there are substantial trees between the properties, and you are not able to see the houses, however voices carry dramatically. Mr. Hackett stated that he has been subjected to parties and foul language. Mr. Hackett stated the property owners changed by 180 degrees “since these people took over the property.” Mr. Hackett recalled three instances where people came into his yard thinking they were on a walking path. Mr. Hackett stated that his house was on the same side of the road as the property under review. Mr. Hackett stated that he has a small 3-acre lot. Mr. Hackett noted that the neighbors have a 4-bedroom house and “they will try to cram people in.” Mr. Hackett felt like the landowners were renting the premises to teenage men, playing soccer or volleyball, with sounds that you would hear at a game. Mr. Hackett said, “he doesn’t want this in his backyard.”

- 9) The Recreation Director has no concerns with the application.

- 10) In an email dated 9/13/22 & 9/28/22 respectively, the Fire Chief stated,

They must fix the driveway. It is not wide enough both the paved portion, and the growth along both sides, and the driveway does not support the weight of our trucks. This driveway is over 1000’ long and there is no turn around near the house for our apparatus. During the spring and early summer, it is very wet near the driveway and supposed parking area which precludes any vehicle from using the grass or sides of the road for travel (which is why it must be upgraded). Since they are using this residence for commercial reasons, it is reasonable that they be made to upgrade the driveway so that it is accessible.

Since this is no longer a private single-family residence, the fire code in Vermont declares this a business. You charge money for someone else to rent your property. As such, the fire codes apply and allow us to enforce the Life Safety Code of NFPA 1. Also,

your general risk insurance company would have you do all of this as well since they insure the property and would want to make sure that we can get a fire truck to the house. We cannot reach the home from Old Stage given that the driveway is over 1,000 feet in length.

11) The Police Chief requested the following requirements for all Short Term Rentals:

- *Maintain working smoke detectors in the residence;*
- *Maintain fire extinguishers in the residence;*
- *Ensure that the address number is clearly displayed on the outside in contrasting colors and the physical street address documented on the inside of the unit so that they can call 911 from their own cell phone;*
- *The landowners must notify the Short Term renters that they are required to follow all applicable state laws, local ordinances, rules and regulations. For example; Noise regulations, Winter Parking Ban, Burning regulations, firearms regulations, Animal regulations (all dogs must have tags and current rabies vaccinations, dogs on leash off owner's property, etc.);*
- *Provide the Police Chief with emergency contact names and phone numbers of the landowners so if there are problems with renters we know who to contact about the property. (Fires, medical emergencies, etc.); and*
- *Notify the State of Vermont Dept. of Fire & Safety of the rental unit.*

12) Public Work's provided a driveway detail plan so the applicant is able to address the concern of the Fire Chief. No other comments were provided.

13) The driveway improvement should be made no later than July 31, 2022, and the applicant should provide the Zoning Administrator with evidence of the improvements.

14) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:

- a. There will be no adverse effect on the capacity of the existing or planned community facilities.
- b. There will be no adverse effect on the character of the area/neighborhood affected.
- c. There will be no adverse effect on traffic on roads and highways in the vicinity.
- d. The proposed use will be in compliance with the bylaws now in effect.
- e. The proposed use will not adversely affect utilization of renewable energy resources.
- f. The proposed use is in conformance with the Town Plan.
- g. The proposed use does not require site plan review.
- h. The proposed use is in conformance with community character.

CONDITIONS:

- 1) The approval for a Short-Term Rental, located at 156 Old Stage Road is granted based upon the operations as noted in the Findings above.

- 283
- 284 2) A Certificate of Occupancy shall be scheduled with the Zoning Administrator upon
- 285 approval.
- 286
- 287 3) The landowners shall adhere to all state and local laws, rules or Regulations and
- 288 ordinances regarding residential units.
- 289
- 290 4) The landowners shall secure and provide any/all State licensing or permits to the Zoning
- 291 Administrator prior to commencement of the Short-Term Rental and/or shall register the
- 292 business with the State of Vermont.
- 293
- 294 5) Pursuant to Finding 13, the driveway improvement shall be made no later than July 31,
- 295 2022; and shall provide the Zoning Administrator with evidence of the improvements.
- 296
- 297 6) Any and all conditions from previous approvals shall remain in effect except as modified
- 298 herein.
- 299
- 300 7) By acceptance of the conditions of this approval without appeal, the applicant confirms
- 301 and agrees for himself and all assigns and successors in interest that the conditions of this
- 302 approval shall run with the land and the land uses herein permitted and, will be binding
- upon and enforceable against the applicant and all assigns and successors in interest.

303 **The MOTION passed 3-0.**

304

305 **AGENDA ITEM 2: DAY CARE FACILITY-CONDITIONAL USE: EOF OUTLETS,**

306 **LLC: Proposed 77-child daycare located at 21 Essex Way, Suite 106 in the MXD-PUD(B1)**

307 **Zone. Tax Map 92, Parcel 1.**

308

309 Sharon Kelley reported that the applicant is proposing to open a new day care facility in the same

310 building that a previous daycare facility existed but recently closed its doors. Kelley pointed out the

311 previous daycare was located at the other end of the building. Kelley explained that the new location

312 would be using the back of the building as the entrance for the daycare, and that there was sufficient

313 parking.

314

315 Board Member Norton stated, for the record, that he was not related to the applicant.

316

317 Ashley Norton stated that childcare is in great demand and people are unable to work due to the lack of

318 daycare availability. Norton noted that she operates an in-house daycare and she has had a waiting list

319 since last November.

320

321 Board Member Norton questioned the parking area, noting the Staff Report stated, in part, “more ample

322 parking for pick-up”. Norton described how the drop-off and pick-ups would operate, noting that

323 parents need to bring the child into the unit and pick up works the same. Norton stated that there was

324 ample parking for drop offs and staff parking.

325

Chairman Martin asked if there would be fencing around the outside play area. Norton replied yes, and that she was still working on obtaining structures, but noted they would not be big fixtures, as compared to Maple Street .

Board Member Norton asked if there was adequate play area for the children. Norton informed the ZBA that not all the children go out at the same time, and usually it would be a classroom taking turns.

A brief discussion ensued regarding the traffic fee, noting that a fee would not be required for this application, but the next application requiring a development review application will be required to submit a traffic study.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to open the Fact-Finding/Public Hearing. The MOTION passed 3-0.

There were no public comments.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to close the Fact-Finding/Public Hearing. The MOTION passed 3-0.

Board Member Norton MOVED and Board Member Yandow SECONDED a MOTION to approve the 77-child daycare application, with up to 12 employees, located at 21 Essex Way, Suite 106, subject to the following Findings and Conditions:

PROPOSED FINDINGS:

1) The landowner is Peter Edelmann d/b/a EOF Outlets, LLC. The applicant is Ashley Norton. The property is located at 21 Essex Way, Suite 106, in the Mixed Use Development-Planned Unit Development (MXD-PUD), Subzone Retail Business (B1), and Business Design Control (B-DC) Overlay Districts,. The parcel, identified as 2:/092/002/001, lies within Chittenden County, in the Town of Essex and State of Vermont.

2) The proposal, as described by the applicant is as follows:

I am writing to the zoning board in hopes for approval of opening a Child Care center at 21 Essex Way in Suite106. I am asking for approval for a center licensed for 77 children with the appropriate number of staff needed in each classroom and administration. The physical space meets the square footage requirements for the State of Vermont's Child Development Division.

Childcare is in dire need across the State of Vermont. After the pandemic several large childcare centers in our area closed due to overwhelming regulation changes and incurred expenses to stay open. I was successful in operating a home center during this time so I know that I can be successful. Almost all programs in our area have wait lists that are years long. I also plan to meet the needs of some of our most in need children by continuing my Protective Service Certification as I have done in my home for years. I will also continue on with my STARS. I have been a 4 STAR program and will keep up with them at the new location.

The suite where my childcare center would be located is in a much better spot than the previous center in this plaza as it has more than ample parking space for drop off and pick up. It has its own door on the parking lot side that will make for easier pick up drop off with less traffic. The main entrance is in the back of the building. It will not be in the front like the other buildings.

My setup will include classrooms, one classroom of each of the following for infants, one year olds, 2 year olds, 3 year olds and a 4-5 pre k and school age. Each classroom will have a head teacher along with any additional help for breaks as need for the ratios in the state regulations for center-based childcare. With the ability to grow into the entire space and add classrooms as the need should arise.

There was a previous program in the same building at the other end. It closed on 8/19/22. With the increased numbers of centers closing it is critical that our community stand behind providers that are working to expand and provide quality education to our children.

I will have a designated play area to the side of the building that will be fenced as per state regulations. Parking will be in the parking lot at the building. There are plenty of parking spots for staff and parents. Drop off and pick up will be at the door entrance at the parking lot. Business hours will not affect other businesses in regards to noise. Business will be from 6:30 am-6:00 pm.

- 3) The application is being reviewed under the *Town of Essex Outside the Village of Essex Junction Official Zoning Regulations, Article 4.5(B) Day Care Facility and Article V, Section 5.7 Conditional Use.*
- 4) The applicant submitted a computer-generated floor plan and a photo of the layout of the Essex Experience complex.
- 5) Pursuant to state statute a 'Notice of Hearing' was provided to the landowners for posting on the property.
- 6) The abutting property owners were notified of this meeting by certified mail.
- 7) The landowner was mailed a copy of this Staff Report prior to the meeting.
- 8) Ashley Norton spoke on behalf of this application and provided the following comments:
Norton stated that "Sharon nailed the description on the head." She reported that childcare is in such a state of need and people are unable to work due to no available childcare space. Norton noted that she has a home daycare and have had people on a waiting list since last November, 2021. Norton described where the unit was located in the building; noted the parking and entrance into the daycare is located in back of the building; confirmed that an adult is required to bring the child into the building and must come in to pick them up; that the fencing would be installed around the play area and eventually play structure be installed, noting the structures will not be big compared to Maple Street park's structures; she

described how the shifts will work when children go to the play area so that they are not all out there at once.

10) No one from the public commented on this application.

11) In an email dated 9/28/2022, Public Work offered the following comments:

The Town of Essex Public Works Department has reviewed the above referenced project and offers the following comments.

Transportation:

1. *Public Works has reviewed an updated traffic impact analysis for this application. The applicant's engineer has provided further clarification regarding traffic generated based on ITE's Day Care Center Category 565. Based on this category of use, the additional traffic generated by the proposed use will be 17 Peak PM trips. An additional traffic impact fee will be required for this project.*

2. *The applicant will be required to pay a traffic impact fee to the Town of Essex for all new traffic impacts created by the increase in traffic generated from the increased capacity at the daycare. The impacts to the Essex Way and Town Center corridors will be mitigated through payment of the corridor impact fee which will be put towards future identified traffic improvements. Public Works recommends the road impact fee be paid prior to issuance of a zoning permit.*

(17 PM peak trips) X (\$277.00 per PM peak trip) = \$4,709.00

3. *In the future, as new development takes place within the Essex Outlets, the Town will require additional traffic analysis of the site as a whole. As existing retail space within the Outlets is converted from retail to other uses or high traffic generator establishments, the site becomes less of a "Shopping Center" and more a "Recreational" and "Service" orientated land use. All future projects proposed for the Essex Outlets should be viewed through this lens. Additional studies and quite possibly traffic counts will be required to provide back –up data to verify the appropriate ITE land use category is being applied.*

Water and Sewer:

1. *The most recent accounting of water and sewer allocation for the Essex Experience has been reviewed and approved by Public Works. The existing location previously had a 55-child daycare approved for this use. The current applicant is requesting to be approved for a 77-child daycare facility at this location. The applicant will not be required to apply for the additional sewer allocation from the Town. The new Daycare use will require the following*

Daycare (89 People, 12 employees and 77 Children @ 15 GPD Ea.)1,335 GPD

After this new change of use, the complex will have 18 GPD of water and 196 GPD of available sewer allocation for future uses.

Further discussions ensued between the Public Works Director and the landowner on the required Traffic fee. On 10/6/22, the Public Works Director reported to the Zoning Administrator that he is agreeable to eliminate the \$4,709.00 traffic fee, in lieu of an updated traffic study to be done prior to a new business coming into any of the units located within the complex. This study will provide a better understanding of the actual traffic numbers generated versus what has been approved in the past. Additionally, this traffic should be tracked by the landowner's engineer in a similar fashion as the water and sewer allocation throughout the complex. All based on current use.

12) The Recreation Director has no concerns with this application.

13) The Police Chief (no comment at the time of this writing.)

14) In an email dated 9//2022, the Fire Chief said, (no comment at the time of this writing.)

15) Section 4.5(B) reads,

Day Care Facility. All other day care facilities as defined in Section 8.1, including nonresidential day care facilities, shall be subject to conditional use review by the Board of Adjustment under Section 5.7, site plan review by the Planning Commission under Section 5.6, and the following:

(1) *In addition to the conditional use criteria under Section 5.7, no day care facility shall be permitted by the Board of Adjustment that:*

- (a) Results in on – street parking.*
- (b) Results in objectionable noise or disturbance to adjoining properties.*
- (c) Does not comply with all requirements of a state certified day care facility.*
- (d) Includes playground equipment and/or play areas within the required front yard setback.*

(2) *In addition to the site plan review requirements of Section 5.6, approval by the Planning Commission shall be contingent upon:*

- (a) Provision of off – street parking allowing for one space per employee and adequate space for the pick-up and delivery of children or adults.*
- (b) Provision of appropriate screening and fencing around playground equipment and/or play areas.*

In response to the above, the applicant will utilize the grassed area next the daycare, which will be fenced. The existing landscaping will remain in place within the play area. The State imposes how much play area is required as part of its licensing process.

As this site is built out and no improvements are made to the outside of the site, except for the outside play area, no further site plan review is required. As the unit is situated in

a commercial area, and located to the rear of the building, noise will not be an issue.
Adequate parking exists on the premises.

16) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:

- a. There will be no adverse effect on the capacity of the existing or planned community facilities.
- b. There will be no adverse effect on the character of the area/neighborhood affected.
- c. There will be no adverse effect on traffic on roads and highways in the vicinity.
- d. The proposed use will be in compliance with the bylaws now in effect.
- e. The proposed use will not adversely affect utilization of renewable energy resources.
- f. The proposed use is in conformance with the Town Plan.
- g. The proposed use does not require site plan review.
- h. The proposed use is in conformance with community character.

CONDITIONS:

1. This approval is granted for a maximum of 77 children, with up to 12 employees, Monday-Friday, 6:30 a.m. to 6:00 p.m.
2. The applicant shall provide a finalized floor plan to the Zoning Administrator for both planning and fire records.
3. The applicant shall secure a Zoning Permit for the use and/or fit-up and a sign permit and pay associated fees. Upon issuance of same, the applicant shall post the notice of permit on-site during the 15-day appeal period and during construction.
4. Pursuant to Finding 11 above, the applicant shall conduct a traffic study to be completed prior to any new business coming into any of the units located within the complex.
5. As new tenants are approved for occupancy of a unit within the complex, the water and sewer allocation, and traffic shall be tracked by the landowner's engineer and submitted with the application.
6. A Certificate of Occupancy inspection shall be scheduled with the Zoning Administrator (ZA) prior to opening the business.
7. Prior to the issuance of a CO, the applicant shall provide the Zoning Administrator with a copy of the State License to operate the daycare.
8. Current after-hours contact information shall be provided to Essex Police Dispatch.
9. All conditions of previous approval(s) not affected by this approval shall remain in effect as they may still apply.

10. By acceptance of the conditions of this approval without appeal, the landowners confirm and agrees for himself and all assigns and successors in interest that the conditions of this approval shall run with the land and the land uses herein permitted and will be binding upon and enforceable against the landowners and all assigns and successors in interest.

AGENDA ITEM 3: MINUTES: August 4, 2022 & September 1, 2022

The Chairman noted the consensus of the Board was to approve the 8/4/2022 minutes as written.

Board Member Yandow Moved and Board Member Norton Seconded a Motion to approve the 9/1/2022 minutes with the following changes:

Line 28: Change “close” to “open”

Line 36: After “they will” add “be”

Line 56: Delete the last sentence.

Line 69: Add a new sentence to read, “Board Member Norton Moved and Board Member Yandow Seconded a Motion to close the Fact-Finding/Public Hearing portion of the meeting. The Motion passed 3-0.

The MOTION passed 3-0.

AGENDA ITEM 4. OTHER BUSINESS: Kelley reported that there will be a meeting in November.

The meeting adjourned at 7:28 p.m.

ZONING BOARD OF ADJUSTMENT

By:

Nick Martin, Chair