

Town of Milford
ZONING BOARD OF ADJUSTMENT
MARCH 7, 2024
Public Hearings

Case #2024-01 Ms. Emily Russo, 403 Nashua Street, SPECIAL EXCEPTION

Present: Andrea Kokko Chappell, Chair
Michael Thornton, Member
Dan Sadkowski, Member
Tracy Steel, Member
Rich Elliott, Member
Terrey Dolan, Director of Community Development

Not Present: Joan Dargie, Vice Chair

Recording Clerk: Jane Hesketh, Community Development

MEETING AGENDA

1. Call to Order
2. Approval of Meeting Minutes for 11/2/23, 11/16/23 & 12/7/23
3. Board Recommendation to the Board of Selectmen regarding the re-appointment of Zoning Board of Adjustment Members Joan Dargie and Michael Thornton to new three-year terms
4. Public Meeting:
 - a. Case #2024-01 The applicant, Ms. Emily Russo, located at 403 Nashua Street, is requesting approval of a required Special Exception pursuant to the procedures set forth in the Milford Zoning Ordinance, Sections 7.12.6 (Home-based Business Criteria) and Section 10.02.1 (General Criteria). This request is for the expansion of a small existing daycare facility currently operated out of her residence that shall now meet or exceed the number of children requiring licensing by the State of New Hampshire Childcare Licensing Standards. The request is for up to six children to attend the facility on a daily basis.
5. Other Business: TBD
6. Next Meeting(s): March 21, 2024

1 **MINUTES OF THE ZBA MEETING MARCH 7, 2024**

2
3
4
5 **1. CALL TO ORDER**

6
7 Chair Andrea Kokko Chappell opened the meeting by welcoming everyone and introducing herself. The Chair
8 welcomed those attending in person and electronically.

9
10 The Chair stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen's
11 Meeting Room.

12
13 If you would like to participate in the public meeting, please call this number from home: +1 646-558-8656 and
14 enter the Meeting ID: 851 6407 7601 and Password: 269952 or log in via www.zoom.com using the Meeting ID
15 and Password previously stated.

16
17 A digital copy of the meeting materials can be found on the Town website at:
18 <https://www.milford.nh.gov/zoning-board-adjustment/agenda/zba-agenda>.

19 We will not be live streaming this meeting on Granite Town Media, Government Channel 21, but will be on
20 Zoom.

21 <http://gtm.milford.nh.gov/CablecastPublicSite/watch/2?channel=2>.

22
23 Roll call attendance with all present at Milford Town Hall: D. Sadkowski present; R. Elliott present;
24 M. Thornton present; T. Steel present; A. Kokko Chappell present.

25
26 Chair explained the process for the case hearings. The Chair said a full agenda may not allow all cases to be heard
27 and that at 10:00 p.m. the meeting will end. The Chair explained how the meeting would proceed for the cases
28 that may not be heard in that they would be continued or tabled to another agreed upon meeting; also explained
29 was the process for public notification.

30
31 A. Kokko Chappell first moved to the approval of meeting minutes.

32
33
34 **2. MEETING MINUTES**

35
36 11/2/2023

37 In Attendance: J. Dargie, M. Thornton, D. Sadkowski, R. Elliott, T. Steel, A. Kokko Chappell

38 Chair noted it was previously discussed to table these minutes to the March 21, 2024 meeting.

39 Chair asked for a motion to table these minutes.

40 R. Elliott made a motion to table the minutes to March 21, 2024 and it was seconded by T. Steel.

41 All were in favor.

42
43 Chair Kokko Chappell then moved to the next order of business.

44
45
46 **3. RE-APPOINTMENT OF JOAN DARGIE AND MICHAEL THORNTON**

47
48 Chair Kokko Chappell stated the membership for J. Dargie and M. Thornton is due to end in March 2024, and
49 both have agreed to remain on the ZBA for another 3 year term. Chair noted a recommendation needs to be
50 presented to the Select Board. Chair then asked for a motion to approve this recommendation. D. Sadkowski
51 made a motion to approve and it was seconded by T. Steel. All were in favor with the exception of Member
52 Thornton who abstained.

2
3
4 **4. PUBLIC MEETING**

5
6 Chair noted that with the absence of J. Dargie, R. Elliott will be a voting member for the hearing.

7
8 **a. Case #2024-01** The applicant, **Ms. Emily Russo, located at 403 Nashua Street**, is requesting approval of a
9 required Special Exception pursuant to the procedures set forth in the Milford Zoning Ordinance, Sections
10 7.12.6 (Home-based Business Criteria) and Section 10.02.1 (General Criteria). This request is for the expansion
11 of a small existing daycare facility currently operated out of her residence that shall now meet or exceed the
12 number of children requiring licensing by the State of New Hampshire Childcare Licensing Standards. The
13 request is for up to six children to attend the facility on a daily basis.

14
15 The Chair addressed the applicant to explain what the board will need to hear in her presentation. Applicant
16 Emily Russo was present at the meeting table when she made her presentation. Reading from the application
17 E. Russo began her presentation.

18
19 Emily Russo started by saying the request for the Special Exception is for the entrance and exit to the Day Care.
20 She proceeded by reviewing the Special Exception Criteria.

21
22 **Special Exception Criteria under 10.02.1:**

23
24 **a. Criteria: proposed use is similar to those permitted in the district**

25 “It’s a small business.”

26
27 **b. Criteria: specific site is in an appropriate location for the proposed use because**

28 “I have provided adequate space for parents to enter and exit.”

29
30 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

31 “It is within the boundaries of my property.”

32
33 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

34 “Parking and turn around areas will be marked.”

35
36 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**
37 **proposed use**

38 “It’s within boundaries of my home.”

39
40 **Home-based Business Criteria under Section 7.12.6:**

41
42 **1. Home Business located in the Residential ‘A’, Residential ‘B’ or Residential ‘R’ Zoning District**

43 Applicant stated she was unsure on this point.

44
45 **2. Explain if the Home Business in conducted entirely within the dwelling or accessory structure**

46 “It is within the dwelling.”

47
48 Chair then addressed the applicant about question 1 and the zone she is in. T. Dolan responded by saying she is in
49 a Limited Commercial District where there are a variety of structures/businesses on Nashua Street. Chair to
50 T. Dolan: then a Limited Commercial District calls for a Special Exception. T. Dolan: yes, because the business
51 is being expanded. T. Dolan explained the reasoning for the Special Exception; it is a single family residence that
52 is expanding and the applicant needs town approval in order to have the Day Care License with the State renewed
53 for the expansion. Chair Kokko Chappell stated she feels this is not the way to handle this and then deferred to
54 member Mike Thornton for further clarification.

2
3 **4. PUBLIC MEETING**

4
5 **a. Case #2024-01**

6
7 **Home-based Business Criteria under Section 7.12.6:**

8
9 Chair then added, this is a Limited Commercial District and the zoning ordinance for this district needs to be
10 followed; so can there be a Day Care Facility in a Limited Commercial District. This point was discussed and
11 with input from M. Thornton, T. Dolan and R. Elliott it was agreed a Day Care Facility is allowed in a Limited
12 Commercial District which the Chair was concerned about. There was additional information provided by
13 T. Dolan which clarified this further. T. Dolan cited the ordinance for the Limited Commercial District that
14 specifies a Day Care Facility is an acceptable use under the Ordinance.

15
16 The applicant continued with her presentation.

17
18 **3. A sign cannot be more than six feet square and cannot show advertising**

19 “No sign.”

20
21 **4. There shall be no more than 2 non-resident employees of the Home Business**

22 “Zero.”

23
24 **5. The Home Business shall not be more than 25% of the combined floor area of all structures on**
25 **the property**

26 “Less than 25%”.

27
28 **6. Retail sales of goods incidental to Home Business are allowed**

29 “No retail sales.”

30
31 **7. There shall be not more than 16 clients or deliveries per day.**

32 “1-6 clients per day.”

33
34 **8. No Parking or deliveries by vehicles with more than 2 axles; only 1 commercial vehicle may be**
35 **parked on the property in conjunction with the Home Business**

36 “Zero.”

37
38 **9. A Home Business shall not be conducted in a way that is perceptible in external effects from**
39 **beyond the lot line between the hours of 9:00 p.m. and 7:30 a.m.**

40 “8:00 am – 5:30 pm.”

41 Chair asked about the days and the applicant confirmed it will be Monday thru Friday.

42
43 **10. The use shall not involve the storage or use of hazardous, flammable, explosive or toxic**
44 **substances associated with the Home Business other than types and amounts commonly found in a**
45 **dwelling**

46 “None.”

47
48 The applicant finished the presentation.

49
50 Chair asked for questions or comments from the board.

1 **MINUTES OF THE ZBA MEETING MARCH 7, 2024**

2
3 **4. PUBLIC MEETING**

4
5 **a. Case #2024-01**

6
7 M. Thornton: is the renovated garage converted to Day Care usage presently. Applicant: yes it is already
8 converted for the Day Care. Chair: what are the state regulations for the number of children allowed?
9 Applicant: she explained the number of children currently under her care varies from day to day, and the number
10 allowed is also determined by the age of the children. Chair to the Applicant: you are only allowed 6 children on
11 your own. Applicant: yes, that is correct.
12

13 T. Dolan added the following information: Emily Russo was in touch with him over the summer and T. Dolan
14 expressed concerns about the driveway configuration due to the fact parents had to back out of the driveway
15 onto Nashua St. This resulted in E. Russo making a change to the driveway to allow cars to drive out; the size of
16 the driveway was expanded. Per T. Dolan, Director Leo Lessard gave permission to the applicant for this
17 expansion. T. Dolan went on to explain the changes made to the driveway not only included the expansion;
18 designated markings were put onto the driveway for a parent's pickup and drop off area. T. Dolan noted the
19 garage is 483 sq. ft. and the size of the home was discussed. T. Dolan referred to the schematic drawing of the
20 property that displays the driveway along with the location of the home, day care and play area. M. Thornton
21 asked how the children are contained when outside. E. Russo explained the barriers by using the pictures of the
22 property included in the application packet to point out the fencing. A. Kokko Chappell referenced the tax
23 information on the home and noted the house is listed at being 1922 sq. ft. /4 = 480 sq. ft. so she is at 25%.
24

25 R. Elliott asked about the parking capacity in terms of how the parking area would handle 6 parents arriving at
26 the same time. E. Russo: if that were to happen, the maximum number would be 3 in order to allow cars to turn
27 around in the driveway. Parents would have to wait or just drive around the block until they could drop off
28 without overcrowding the driveway. A. Kokko Chappell noted this is a Day Care and not a school which
29 requires a designated start time; this means not everyone would be dropped off at the same time. E. Russo added
30 the current families are aware of the driveway and not everyone does come at the same time; however, if this
31 were to happen, she added, the drop off times would need to be organized with the families.
32

33 R. Elliott to the applicant: what is the procedure with the State? E. Russo: the Fire Department will be contacted
34 first to inspect the facility then the State will come in to inspect for the certification.
35

36 Chair asked if there were any further questions.
37

38 D. Sadkowski asked about the abutters list that was provided and who the applicant had spoken with. E. Russo:
39 the people across the street were not spoken to but many of the direct abutters she did talk to and none these
40 abutters had issue with this.
41

42 M. Thornton stated his biggest issues are keeping the children away from the cars and vehicles backing out of the
43 driveway. T. Dolan noted the applicant addressed this with the driveway expansion and marking designated
44 areas for the drop off and pick up. E. Russo added if there is a situation where everyone does was to drop off at
45 8:00 am she would designate specific drop off times to stagger the flow of traffic. T. Dolan emphasized if this
46 requested change was to add more than the maximum number of 6 children, then the parking would be a major
47 concern. Since it is a small increase the parking should not be a problem, and a larger increase would probably
48 make the location inappropriate.
49

50 A. Kokko Chappell stated if the board was to approve this Homebased Business, (referring to **Home-based**
51 **Business Criteria under Section 7.12.6**); criteria #4 and 7 addressing the number of employees and the number
52 of clients not being more than 16. A. Kokko Chappell stated there could be a change in that more employees
53 could be hired and the applicant could quite possibly increase the number of children without having to be heard
54 again by the Zoning Board. Based on this, she feels there should be a discussion because she feels there should
55 be a condition added to the approval.

1 **MINUTES OF THE ZBA MEETING MARCH 7, 2024**

2
3
4 **4. PUBLIC MEETING**

5
6
7 **a. Case #2024-01**

8
9 A. Kokko Chappell to the applicant: another option for the parking of more cars could be to use the Town Space
10 across the street at the park. Chair stated her biggest concern is the flow of traffic into and out of the driveway.
11 E. Russo said a designated time could be assigned; she pointed out there are only 2 times during the day that
12 there is a traffic flow into the driveway. E. Russo noted most of the families already have set times based on
13 their own schedules for when they drop off and pick up. E. Russo again stated she can definitely organize set
14 times with the families.

15
16 M. Thornton then asked if the applicant intended to go higher than 6 children. E. Russo said she would not
17 because she works alone and her primary reason for having the Day Care is to provide income so she can be at
18 home with her daughter. It was noted by R. Elliott and T. Dolan the Day Care is required to renew the
19 certification yearly. R. Elliott asked if there should be a condition she must be certified yearly to continue with
20 the business. T. Dolan noted the Fire Department is directly involved with ensuring the facility is in compliance
21 and they coordinate with the state for yearly inspections as well as the allowed number of children. A. Kokko
22 Chappell feels there is not a need to have the Zoning Board get involved with this. The board discussed this
23 briefly and it was agreed there are already procedures in place.

24
25 Chair asked if there were any more questions and there were none. The meeting was then opened to the Public.
26 There were no residents in attendance or on Zoom; Chair closed the Public portion of the meeting. The meeting
27 moved to deliberations.

28
29
30 **Deliberations:**

31
32 **Special Exception Criteria under 10.02.1:**

33
34 **a. Criteria: proposed use is similar to those permitted in the district**

35 T. Steel: in a Limited Commercial District it is allowed with a special exception and there are other
36 small businesses in the area.

37 M. Thornton: a Homebased Business is permitted with special exception; certain businesses under
38 certain conditions and this is one of them.

39 R. Elliott: agrees

40 D. Sadkowski: agrees

41 A. Kokko Chappell: agrees; permitted by special exception.

42
43 **b. Criteria: specific site is in an appropriate location for the proposed use because**

44 M. Thornton: it's a good place; it's furthest away from cars by keeping kids and cars separate; based on
45 that he feels this is the most appropriate place

46 D. Sadkowski: the driveway has been adapted to accommodate traffic flow to the Day Care

47 R. Elliott: the garage is appropriate and there is a nice fenced play area

48 T. Steel: agrees; farthest away from the road keeping the kids safe

49 A. Kokko Chappell: agrees; also noted the schematic does not show the fenced area which is important
50 for safety

2
3
4 **4. PUBLIC MEETING**

5
6 **a. Case #2024-01**

7
8 **Deliberations:**

9
10 **Special Exception Criteria under 10.02.1:**

11
12
13 **c. Criteria: the use as developed will not adversely affect the adjacent area because**

14 D. Sadkowski: within the boundaries of her property so it should not affect any one else

15 R. Elliott: agrees; already other businesses nearby and there is no signage

16 T. Steel: agrees; self-contained

17 M. Thornton: he does not see any adverse effect on any adjacent property

18 A. Kokko Chappell: there will be no change; it is an existing business; the only change is the increase in
19 the number of children; the business is already developed and has not affected the adjacent area.

20
21 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

22 M. Thornton: as modified there will be no nuisance or serious hazard; the turnaround prohibits people
23 from backing out; it does not prohibit but provides the opportunity to drive out of the driveway and not
24 back up into traffic.

25 R. Elliott: there will only be a maximum of 6 families coming in and out which will result in minimal
26 traffic on Nashua St.

27 D. Sadkowski: there are designated markings on the driveway

28 T. Steel: agrees; it is private property with the exception of using the Day Care; other people or cars
29 should not be on the property so it should not cause a hazard

30 A. Kokko Chappell: the Board has made it clear this is the biggest concern and these concerns have
31 been pointed out to the applicant; it will be important to dictate to the people coming and going the
32 importance of using the turnaround and if this is relayed properly then it shouldn't be a concern and not
33 a serious hazard.

34
35 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**
36 **proposed use**

37 R. Elliott: agrees; since the State will be inspecting and the Fire Department will be involved

38 M. Thornton: since he is not familiar with a Day Care he cannot address this

39 T. Steel: it will need to be reviewed and approved by the State and Fire Department which will be in the
40 best interest of the children.

41 D. Sadkowski: it is within the boundaries of the home

42 A. Kokko Chappell: the typical items looked at for this criteria such as electric, water and sewer are
43 available; in addition, State and Fire Department guidelines will need to be met for licensing; for what
44 the Board is typically concerned with there will be adequate and appropriate facilities provided

45
46 Chair Kokko Chappell stated before moving to voting the conditions should be discussed.

47
48 T. Dolan stated based on Committee discussions this is what he has for conditions:

- 49
- There will be a limit of 6 clients
 - Emily Russo will work with the clients to work for a staggered pick up and drop off
 - State Licensing will be undertaken following the approval of the Special Exception
- 51
52

53 T. Dolan then noted as a business owner, E. Russo needs to impress upon her clients that there should not be any
54 backing up onto Nashua Street.

1 **MINUTES OF THE ZBA MEETING MARCH 7, 2024**

2
3 **4. PUBLIC MEETING**

4
5 **a. Case #2024-01**

6
7 M. Thornton stated under criteria d concerning serious hazards it should be noted a staggered drop off and pick
8 up time is necessary as well as driving out and not backing up.

9
10 The Chair feels there is no need to have State Licensing as a condition. Chair then summarized the conditions
11 for approval.

12
13 Chair listed her thoughts on the conditions for approval:

- 14
- 15 • There shall not be more than 6 children at any time.
 - 16 • There shall be staggered pick up and drop off times with not all children arriving at the same time.
 - 17 • Clients must pull out of the driveway facing forward.
 - 18 • Day Care Operation will be Monday thru Friday 7:00 am to 6:00 pm. (This point was discussed and it
19 was pointed out by M. Thornton some leniency should be given for this. The original agreed upon time
20 of 8:00 am to 5:30 pm was changed).

21 D. Sadkowski asked if the applicant would need to re-apply if the number of children would be increased. Chair
22 stated yes. T. Dolan then pointed out there is a State restriction on how many children a Day Care can have
23 based on square footage. Based on the Day Care owned by the applicant, 6 is the maximum allowed for this
24 particular Day Care's square footage.

25
26
27 **Voting:**

28
29
30 **Special Exception criteria under 10.02.1:**

31
32 **a. Criteria: proposed use is similar to those permitted in the district**

33 R. Elliott yes; D. Sadkowski yes; M. Thornton yes; T. Steel yes; Chair votes yes.

34
35 **b. Criteria: specific site is in an appropriate location for the proposed use**

36 D. Sadkowski yes; M. Thornton yes; T. Steel yes; R. Elliott yes; Chair votes yes.

37
38 **c. Criteria: the use as developed will not adversely affect the adjacent area**

39 M. Thornton yes; T. Steel yes; R. Elliott yes; D. Sadkowski yes; Chair votes yes.

40
41 **d. Criteria: no nuisance or serious hazard to vehicles or pedestrians**

42 T. Steel yes; R. Elliott yes; D. Sadkowski yes; M. Thornton yes; Chair votes yes.

43
44 **e. Criteria: adequate and appropriate facilities will be provided for proper operation of the**
45 **proposed use**

46 R. Elliott yes; D. Sadkowski yes; M. Thornton yes; T. Steel yes; Chair votes yes.

47
48 **Is the Special Exception allowed by the Ordinance?**

49 D. Sadkowski yes; M. Thornton yes; T. Steel yes; R. Elliott yes; Chair votes yes.

50
51 **Are all the specified conditions present under which the Special Exception may be granted?**

52 R. Elliott yes; D. Sadkowski yes; M. Thornton yes; T. Steel yes; Chair votes yes.

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48
49
50
51
52
53
54

4. PUBLIC MEETING

a. Case #2024-01

Chair asked for a motion to approve **Case #2024-01** with the previously noted conditions listed again as follows:

- There shall not be more than 6 children at any time.
- There shall be staggered pick up and drop off times with not all children arriving at the same time.
- Clients must pull out of the driveway facing forward.
- Day Care Operation will be Monday thru Friday 7:00 am to 6:00 pm.

M. Thornton made a motion to approve **Case#2024-01** as noted and it was seconded by R. Elliott.

Chair Kokko Chappell stated a motion was made to approve **Case #2024-01**. Chair Kokko Chappell asked for a vote; all were in favor. Chair stated the application has been approved. There is a 30 day appeal period that can be filed with the Zoning Board.

5. OTHER BUSINESS

T. Dolan announced Camille Patterson is the new Community Development Director.

T. Dolan stated the Master Plan Committee contract has been executed with Resilience Planning and Design from Plymouth, NH. He continued by saying there is one more opening for a ZBA Member; Mike Thornton has offered to fill one of the two openings on this committee. T. Dolan continued by saying this would be about an 18-20 month commitment and meetings should only be once a month. The goal is to complete the Master Plan by July of 2025; it has not been updated since 2016. T. Dolan provided more information on this project.

T. Dolan briefed the committee on the case for the next meeting on March 21, 2024.

Motion to Adjourn

Chair Andrea Kokko Chappell asked for a motion to adjourn. T. Steel made a motion to adjourn and it was seconded by M. Thornton. All Board Members were in favor. Meeting adjourned.

Motion to Approve:

Seconded:

Signed

Date:
