AGENDA ITEM 1: CONDITIONAL USE: ADAMS REAL PROPERTIES, LLC IS PROPOSING TO EXPAND THE EXISTING DAYCARE FACILITY FROM 59 TO 79 CHILDREN. THE PROPERTY IS LOCATED AT 27 RIVER ROAD IN THE MIXED USE (MXD) DISTRICT. TAX MAP 64, PARCEL 2:

Board Member Plageman MOVED and Board Member Norton SECONDED a MOTION to Open the Fact Finding/Public Hearing. The MOTION passed 4-0.

Doug Goulette, P.E., stated he was present with the landowner, Jason Adams, and he spoke on the application to expand Nadeau's playschool. He noted that ZBA has reviewed expansions in the past and there were here again to increase from 59 to 79 children. He stated they are in a building using 5,000 s.f. as a former tenant relocated to the other building and the daycare took over the remaining space. He noted the Staff Report captures the parking at the site; they are not proposing any exterior site changes; and the conditions were fine. They understand that they need to secure a sewer allocation from the Selectboard.

Acting Chairman Delphia asked if the tenant currently serves any meals at the site, or if that would change. The landowner replied no.

Justin St. James asked if Public Works offered any additional comments on the water flows. Goulette responded that he did his own set of calculation flows, as did Public Work, and both came up with the same flow numbers. Acting Chairman Delphia read Public Work's comments, in part, from Page 3, as follows: "Public Works staff has taken the time to calculate the additional water and sewer allocation required for the daycare expansion." St. James understood, but noted that Finding 15 noted that the applicant should address all comments prior to approval.

Board Member Plageman commented on the change of drop in the vehicles (1600) per day on River Road, in that period of time.

There was no one from the public present.

Board Member Norton MOVED and Board Member Plageman SECONDED a MOTION to Close the Fact Finding/Public Hearing. The MOTION passed 4-0.

Board Member Norton MOVED and Chairman St. James SECONDED a MOTION to approve the expansion of the child care center to 79 children, located at 27 River Road,
subject to the following Findings and Conditions of a Staff Report dated 3/5/2020:

**FINDINGS:**

1. The landowner is Jason Adams d/b/a WAD Real Estate, LLC. The tenant is ‘Nadeau’s Playschool Essex.’ The owner of the Playschool is Yvonne Brown, and the Director is Danielle Pouliot.

2. 27 River Road is located in the Mixed-Use Development (MXD) District.


4. The proposal is to increase the existing daycare operation from 59 and 8 employees to 79 children and 14 employees. (79 full time children and 0 part-time after school children).

5. The operating hours remain the same Monday through Friday from 7:30 a.m. to 6:00 p.m. The arrival times will continue to be staggered. No school bus drop-off is needed.

6. This application is being reviewed by the Zoning Board of Adjustment under Section 4.5 Day Care Facilities and Section 5.7 Conditional Use.

7. Section 4.5 requires a review before the Planning Commission. At the 2/13/20 Planning Commission meeting, the Commission agreed to allow the Zoning Board to review this application and not require further review by the Planning Commission.

8. Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicant for posting on the property.

9. The applicant was mailed a copy of this Staff Report prior to the meeting.

10. The abutting property owners were notified by certified mail.

11. Doug Goulette provided comments on this application.

12. No one from the public commented on this application.

13. In an email dated 2/3/2020, the Fire Chief said, “The Applicant must obtain all necessary state permits and conform to any requirements set forth by the State Fire Marshal’s Office.”

14. The Police Chief and Parks and Recreation Director reported “no feedback on this application.”

15. In an email dated 2/24/2020, Public Works said,

   *The proposed conditional use application and other documentation for the proposed*
daycare facility expansion in the existing building at 27 River Road has been reviewed by
the Public Works office and comments have been provided below. Public Works staff
recommends that all comments below be addressed by the applicant prior to approval.

Traffic:
1. As the proposed development includes utilizing the existing drive entrance
onto VT RT 117, the applicant will be required to communicate with
VTrans, and submit any calculated additional traffic to the intersection for
review. Public Works will require a copy of the VTRANS approval letter
prior to any construction and/or certificate of occupancy.

Water/Sewer:
1. The applicant’s engineer has provided no water and sewer calculations for
the proposed conditional use of the existing building at 27 River Road. Public
Works staff has taken the time to calculate the additional water and sewer
allocation required for the daycare expansion. The applicant will be required
to apply for additional sewer allocation from the Town Selectboard.

   a. 27 River Road, also known as Building #1, currently has 858 GPD of
      assigned / purchased water and sewer allocation, (Daycare: 828
      GPD, State Farm: 30 GPD).

   b. With a daycare expansion into the State Farm portion of the building
      by the daycare with 24 additional people, (children and teachers), the
total allocation required for Building #1 will be 1,116 GPD.

   c. The current owners of Building #1 will be required to apply for an
      additional 258 GPD of sewer allocation, from the Selectboard. Once
      approved, the applicant will be required to purchase the additional
      allocation. Please note, the additional allocation for the daycare
      facility does not include serving meals onsite. If the daycare intends to
      serve meals to the children in the future, the applicant will be required
      to request additional sewer allocation from the Town Selectboard, and
      purchase the approved allocation at the rate at the time of approval.

2. The sewer and water connection fees have been estimated under the
assumption that the building will only house a 79-child daycare facility with
14 fulltime employees. In addition, if the fees schedule changes, then the fee
charged shall be the fee in effect at the time of submittal for a building permit.

   a. Water: 258 gpd x $5.73/gal + $0 = $ 1,478.34

   b. Sewer: 258 gpd x $10.30/gal + $0 = $ 2,657.40

   c. Total = $ 4,135.74

16. In a letter dated February 27, 2020, James Clancy, State Permit Coordinator, issued a
Jurisdiction Opinion approving the daycare expansion. See attached.

17. In addressing Section 4.5 (B) ‘Day Care Facility’ of the Zoning Regulations, the Applicant’s
engineer provided the following:

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(1) (a) Parking- Since daycare facilities are not listed in the Zoning Regulations, Table 3.3, we based our calculations on the ITE Parking Generation Manual, 5th edition, dated January 2019. The peak parking demand for a Day Care Center (565) for a weekday is 0.24 spaces/student. Based on the proposed 79 students, this results in 19 required parking spaces. The site currently has 24 available spaces, with 2 being ADA compliant.

(b) It is not anticipated that this existing use will create objectionable noise or disturbance to adjoining properties.

(c) This facility will comply with the State requirements for certified day care facilities.

(d) This facility does not have playground equipment or play areas within the front yard setback.

(2) (a) There is an adequate amount of off-street parking spaces for employees and pick-up and drop-off of students.

(b) There are no changes proposed to the playground area. The current playground is surrounded with a chain link fence with two -3’ wide gates.

Sewer and Water Demand - With the change of use from the State Farm office to the expanded day care use, an additional 258 gpd of sewer allocation is required. An application for sewer allocation is being submitted concurrently with this application.

18. In addressing Section 5.7 (A) & (B), the Applicant’s engineer provided the following:

5.7(A) General Standards

(1) Capacity of existing or planned community facilities - It is anticipated that this project will not have an undue adverse impact on the capacity of existing or planned community facilities. This is a modest (34%) expansion of the number of children in the facility, and the existing use received ZBA approval in 2014. The building is served by municipal water and sewer services.

(2) Character of the area -- It is anticipated that this project will not have an undue adverse impact on the character of the area. This is a modest (34%) expansion of the number of children in the facility, and the existing use received ZBA approval in 2014. There are no proposed exterior site improvements.

(3) Traffic on roads and highways in the vicinity - The existing daily and peak hour traffic volumes for this building with the daycare use and existing office use are 305 vte/day and 45 am peak hour trips. With the proposed daycare expansion, the existing daily and peak hour traffic values are 396 vte/day and 61 am peak hour trips. PM peak hour volumes are similar to am peaks for both conditions. This is an
increase of approximately 33%. Trip generation is higher with the proposed daycare facility replacing the State Farm office space, however, given that River Road has both exclusive right and left turn lanes into this site, and turning lanes for exiting the site, we do not anticipate a significant change in the capacity or level of service at the project access road/River Road intersection. A review of VTrans traffic volumes along River Road at this general location indicates that from 2004 to 2011, volumes along River Road have dropped from 8,100 vpd to 6,500 vpd.

(4) Bylaws and Ordinances in effect – We believe this proposal is in compliance with the ordinances and bylaws in effect at this time.

(5) Utilization of renewable energy resources – This project will occupy the existing building and there are no new site improvements proposed. It is anticipated that this project will not interfere with the sustainable use of renewable energy resources on this property or adjoining properties.

5.7(B) Specific Standards

(1) Given that this is an existing use previously approved by the ZBA, it is our opinion that it is in conformance with the Town Plan. This proposal provides a needed daycare facility in close proximity to numerous employers along River Road.

(2) Site plan review criteria – There are no exterior site improvements proposed with this application.

(3) Given that this is an existing use previously approved by the ZBA, it is our opinion that it is in conformance with the community character as specified in the Essex Town Plan. The proposed expansion will not change the character of the existing operation on the site.

19. In addressing Section 5.7(A) of the Zoning Regulations the Zoning Board finds:

a) There will be no adverse affect on the capacity of the existing or planned community facilities;
b) There will be no adverse affect on the character of the area/neighborhood affected;
c) There will be no adverse affect on traffic on roads and highways in the vicinity;
d) The proposed use appears to 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 changes to the approved site plan; and
h) The proposed use is in conformance with community character.

CONDITIONS:

1. The ZBA approves the expansion of the existing day care facility to 79 children and 14 employees.

2. Any increase to the approved number of 79 children; request for longer hours of...
operation; or request for bus drop-off/pick-up, shall require an amendment to this approval.

3. The tenant shall coordinate with the Essex Fire Department on an updated emergency plan.

4. The applicant shall secure any/all other state permits and inspections that may be required as a result of this approval.

5. A Zoning Permit, Certificate of Occupancy and associated fees shall be submitted to the Zoning Administrator for the fit-up/use of the expansion.

6. Prior to the issuance of a Zoning Permit, the applicant shall secure an increase for sewer allocation from the Town Selectboard.

7. Prior to the issuance of a Zoning Permit, the applicant shall complete a water application and pay $1,478.34; and a sewer application and fee in the amount of $2,657.40, or the fees in place at the time of application.

8. Prior to the issuance of a Town Certificate of Occupancy, the tenant shall provide a copy of its amended State Day Care License.

9. All conditions from the previous approvals shall remain in effect as they may still apply.

10. By acceptance of the conditions of this approval without appeal, the applicant confirms 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 applicant and all assigns and successors in interest.

The MOTION passed 4-0.

AGENDA ITEM 2: CONDITIONAL USE: AMY & MICHAEL AKERLIND ARE PROPOSING A KENNEL LOCATED AT 313 OLD STAGE ROAD IN THE AGRICULTURAL-RESIDENTIAL (AR) ZONE. TAX MAP 14, PARCEL 24.

Board Member Plageman MOVED and Board Member Norton SECONDED a MOTION to Open the Fact Finding/Public Hearing. The MOTION passed 4-0.

Owiso Makuku spoke on this application. She reported that a letter of support came in from the neighbor.

Acting Chairman Delphia paraphrased an email from a neighbor at 309 Old Stage Road wherein he stated that he has never heard a dog barking, never had issues with dogs, and support s the application request. Chairman St. James was satisfied with this statement. Board Member Plageman said, "it was a very nice letter."
Amy Akerlind spoke on this application. The only change she requested was that the days of operation be 7 days a week.

Board Member Plageman stated his interest was piqued to read that the applicant picks up dogs and brings them back to the house. Ms. Akerlind stated that several kennels do business this way now. Plageman asked what kind of vehicle transports the dogs and if they were crated within the car. Akerlind said they are not created.

Board Member Norton asked if people would ever be dropping off/picking up their dogs. Akerlind said no, she will continue to transport.

Chairman St. James noted that Condition 5 states, "The applicant shall be limited to a maximum of 5 vehicle trips per week." He said that number seemed low and asked how that number was derived. Board Member Norton agreed and asked again if the applicant felt this was enough. Akerlind said she does on occasion go out more than 1x/day. The Board felt this number was constraining.

Board Member Norton asked if the applicant had her own dogs. Akerlind replied yes. Norton asked if dogs stay more than one-to-two days. Akerlind said yes, and currently she has a dog for 11 days.

Owisi Makuku stated that there is no limit on the number of dogs in the regulations.

Board Member Norton was curious and asked when dogs need a license in Essex. He asked if dogs that are picked up outside of Essex are registered with that town. He understands that dogs may not be registered. Akerlind stated that she requires proof of vaccinations.

Board Member Plageman asked about all "bright light on phosphorus" and asked if there was any special regulations for removal of dog feces. Akerlind stated she was not aware of any special things, and that she removes the feces. Board Member Norton asked the process for removal of dog feces. Akerlind said it varies, she has a large lot and farms some of the land.

Board Member Norton confirmed hours of operation as 9:30 a.m. to 3:30 p.m. Akerlind said yes.

Board Member Norton asked if state permits were associated with the business. Akerlind said no.

Chairman St. James suggested changing the trip ends associated with the business to 20 trip ends. The ZBA agreed.

There was no one from the public present.

Board Member Plageman MOVED and Board Member Norton SECONDED a MOTION to Close the Fact Finding/Public Hearing. The MOTION passed 4-0.

Board Member Plageman MOVED and Chairman St. James SECONDED a MOTION to approve the kennel located at 313 Old Stage Road, subject to the Findings and Conditions.
Draft

of a Staff Report dated 3/5/2020, as follows:

1. The applicant and landowners are Michael & Sylvia Akerlind.

2. The parcel is identified on the Tax Map as 2:\014\024\000 and is known as 313 Old Stage Road in the Town of Essex, Chittenden County, State of Vermont. This is a 3.72-acre parcel located in the Agriculture-Residential (AR) Zoning District.

3. The definition of a kennel, pursuant to Article VIII ‘Definitions’ reads,

   Any premises in which caring, breeding, housing, or keeping of four (4) or more dogs, cats, or other domestic animals is done for monetary purposes. Kennel may include doggie daycare and/or schooling.

   A kennel is listed as a conditional use in the C1 Zone.

4. The proposal is to increase an existing business (Squad Dogs Camp & Care LLC) from 3 dogs to 4-8 dogs. The operation would continue it is currently run, as follows:
   - One group session (1-2 times a week) is held in a fenced area for dogs that are not trained and reliable outside a fenced area;
   - Two – three sessions a week for further training for dogs that are off-leash without issue;
   - Camp hours are Monday – Friday; no earlier than 9:30 a.m. and no later than 3:00 p.m.;
   - Currently landowner picks up dogs.
   - Occasional overnight stays with no more than 2-3 dogs at a time. No physical kennel, overnight dogs stay inside the home, camp dogs stay outside for 2 hours intervals;
   - Customers are required to provide proof of vaccinations;
   - Is currently insured and bonded;
   - Is registered with the State.
   - The landowner owns one dog.

5. The applicants submitted a google-earth diagram showing the parcel of land, including the house, date-stamped received on January 30, 2020.

6. This proposal was reviewed under Article V, Section 5.7 ‘Conditional Use’ of the Official Town of Essex Outside the Village of Essex Junction Official Zoning Regulations.

7. Pursuant to state statute a ‘Notice of Hearing’ was provided to the applicants for posting on the property and the abutting property owners were notified of this meeting by certified mail.

8. The Police Chief, Parks and Recreation Director, and Public Works reviewed the application for a kennel and have no comments.

9. In an email dated 2/3/20, the Fire Chief said, I first need to inform everyone that I am friends with Mike and Amy Akerlind and have worked with them and known them for more than 20 years. Keeping an objective perspective, I do not see any impacts on the fire service from this application, and have no objections. I am happy to discuss if anyone feels it necessary based on my friendship with the Akerlinds.
10. Amy Akerlind spoke on behalf of this application.

11. No one from the public spoke on behalf of this application.

12. Pursuant to Zoning Regulation Section 5.7 ‘Conditional Use’, the Zoning Board of Adjustment finds:

IN CONSIDERATION OF SECTION 5.7 OF THE ZONING REGULATIONS AND INCLUDING THE ABOVE FINDINGS, THE BOARD FINDS:

a) With proper conditions the proposed use will not adversely affect the capacity of existing or planned community facilities;

b) With proper conditions the proposed use will not adversely affect the character of the area/neighborhood affected;

c) With proper conditions the proposed use will not adversely affect the traffic on roads and highways in the vicinity;

d) The proposed use will not adversely affect the by-laws 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) No changes are proposed to the site; and

h) The proposed use does not have an undue adverse effect on the character of the community.

CONDITIONS:

1. The applicant shall file a Use Permit and pay the associated fees.

2. The applicant shall secure all State permits that are necessary for the operation of this business.

3. All dogs/cats shall be vaccinated, including rabies, while on the premises.

4. The hours of operation for dog classes shall be between 9:30 a.m and 3:30 p.m.

5. The applicant shall be limited to a maximum of 20 vehicle trips per week associated with the business. Any increase in traffic shall require an amendment to the approval.

6. The applicant shall maintain regular clean up and disposal of animal waste in a timely manner.

7. By accepting the conditions of this approval without appeal, the applicant confirms and agrees for itself 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 applicant and all assigns and successors in interest.

The MOTION passed 4-0.

AGENDA ITEM 2: MINUTES: FEBUARY 6, 2020:

Draft
Board Member Norton MOVED and Chairman St. James SECONDED a MOTION to approve the 2/6/2020 minutes with the following change: Line 6: Change "Martin" to "St. James." The MOTION passed 4-0.

Acting Chairman Delphia noted that a clean copy of the recently re-adopting Operating Procedures was provided to the ZBA.

The meeting adjourned at 7:04 p.m.

ZONING BOARD OF ADJUSTMENT

By: _________________________, Acting Chair
Tracey Delphia