

**MINUTES**  
**PEMBROKE ZONING BOARD OF ADJUSTMENT**  
**April 27, 2015**                      **Pending 5-1-2015**

**MEMBERS PRESENT:** William Bonney, Chair; Bruce Kudrick, Vice Chair; Tom Hebert, Paul Paradis, Dana Carlucci

**ALTERNATES PRESENT:**

**EXCUSED:** Mark Johansen

**STAFF PRESENT:** Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Chairman Bonney called the meeting to order at 7:02 p.m.

**PUBLIC HEARING**

Case #15-04-Z

Applicant:

Richard Latham  
Dba Vision Aire, Inc.  
7226 Oak Hill Road  
Loudon, NH 03307

Property Owner(s):

Gerald Foster Trust 07/18/02  
Gerald Foster, Trustee  
80 Sheep Davis Road  
Pembroke, NH 03275

Property Address:

62 Sheep Davis Road  
Pembroke, NH 03275  
Tax Map 632, Lot 11 located in the C-1 Commercial /Light Industrial  
and the AC Aquifer Conservation Zoning Districts.

**Case 15-04-Z** a request has been made for a **Special Exception** under Article IV **Use Regulations** §143-19 **Table of use regulations Retail and Service # 15**. The applicant, Richard Latham dba Vision Aire, Inc. 7226 Oak Hill Road, Loudon N.H. 03307 is requesting permission to create an outdoor recreation area on leased land adjacent to Krazy Kids indoor recreation facility. A **Special Exception** is required for **outdoor recreation** in the C-1 Zoning District. The property is owned by Gerald Foster Trustee, Gerald Foster Trust 7/18/02, 80 Sheep Davis Road. Pembroke, N.H. 03275. The property is located at 62 Sheep Davis Road Map (632) Lot (11) in the C-1 Commercial / Light Industrial and the AC Aquifer Conservation Zoning Districts.

Mr. Everett Hodge confirmed that all abutters were notified.

Chairman Bonney opened the public hearing at 7:03.

There were 5 regular members and no alternate members present. Therefore, there was a full five-member board present for this hearing. Chairman Bonney explained the rules of the hearing. The Board makes its decision based upon the facts presented by the applicant. If any of these facts are subsequently found to be different, the Board reserves the right to revisit its decision.

Copies of assessment card, tax map, and a sketch of the proposed leased lot measuring 200 feet by 450 feet were included in the application packet. A notarized letter dated April 9, 2015 from Gerald Foster Trust; 80 Sheep Davis Road, Pembroke NH 03275 authorizes Richard Latham of Vision Aire, Inc. to apply for approvals related to land known as Map 632, Lot 11, Pembroke, NH. Richard Latham stated that it is our intention that Vision Aire will lease, with an option to purchase, approximately 2 acres of land adjacent to land owned by Vision Aire, Inc. known as Map 632, Lot 11-1 in Pembroke NH. Rick stated that he and his wife own Krazy Kids, and the land is held under Vision Aire. Rick met with Ann Ward, Gerald Foster Trustee, to come to an agreement to lease 2 acres of land that borders the parking for Krazy Kids for outdoor recreation. The outdoor recreation will be somewhat like what is located behind the building now – pedal cars and a track with various stopping points. It's all about providing exercise for the kids. Indoor recreation is very slow in the summer, and Rick Latham would like to even out the business by providing outdoor recreation targeted to ages three through twelve years of age.

Rick Latham stated that future plans may include adding onto the building. We would like to move the cart path to the leased land. We would like to set up inflatables, and change them out regularly. None of the recreation would be of a permanent nature. Rick Latham would like to drop an electrical circuit on the leased land to plug in electric inflatables. There will be no lights added this year. We would like to add picnic tables, paths and forts but nothing that is permanent. There is an existing chicken coop with live chickens, and a fake gas station where young drivers gas up. If anything permanent were considered on the leased land, the applicant would need to come back to the ZBA.

Dana Carlucci asked about traffic and safety. Rick Latham stated that the same entrance and egress will be used. The same number of people is allowed inside the building. Rick Latham stated that the building does not reach capacity except potentially during February school vacation week, their busiest time. They have not had any parking issues. The outdoor recreation will not change traffic flow. Hopefully, outdoor recreation and ice cream service put in last year will increase business in summer. The safeguards in the recreation area are that employees will be out there with the children, as they are now in the back lot. What happens is that a car pulls in and children run out to the carts. Bands must be purchased inside the building to allow access to the facilities. Rick Latham would consider putting a yellow painted hash walkway and fencing in if that were necessary. Also, these are younger children and their parents are with them to supervise their activities. If it ever becomes a drop off, Rick Latham stated there would be a supervisor on duty.

Paul Paradis asked for clarification. The leased lot comes up to the road. Fencing was talked about and will be added if necessary. What are the plans for buffering? Rick Latham will leave a buffer of trees for the house next door. Fencing is an option. If we need a fence, we will absolutely put one in. These are non-motorized foot pedaled carts. Rick Latham provided a photo of the current outdoor play area and pedal cars. Envision a LEGOLAND driving school for children ages 3-12 years in the future. The cars pedal on a hard packed surface. If we changed the track, it would be paved and traffic signs would be added. Everett Hodge clarified that paving is a permanent change but the use would still fall under outdoor recreation. The applicant would need to come back for drainage approval if they decide to pave the course. Little 2 seater motorized electric cars don't go fast, perhaps 3-4 miles per hour. Rick Latham stated that all electric cars make no sound but are not planned at the site in the next year. If the applicant were going to use electric carts, he would need to come back to the ZBA with specific plans.

Bruce Kudrick asked if any code related improvements need to be done at the existing building. The Building Inspector is in the process of checking emergency lights.

The proposal at this time is to move the outdoor cart track to the leased area 200' x 450' that has a trailer and mobile home on the property.

Please give a detailed description of your proposal below:

Richard Latham, dba Vision Aire, Inc., 7226 Oak Hill Road, Loudon NH stated that we propose to move our outdoor recreation area to the leased land adjacent to our present location. We intend to move our cart track to the new location. This will result in a larger area better able to serve our customers.

Richard Latham addressed the Special Exception criteria:

**Please describe how the requested use is essential or desirable to the public convenience or general welfare.**

The area will be used as an outdoor play area. This will allow us to move our current outdoor play area to the new location.

**Please state how the requested use will not impair the integrity or character of the district, or adjoining zones, nor be detrimental to the health, morals or general welfare.**

There will be no impact on the integrity or character of the district. We currently have an outdoor play area that is used.

**Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.**

The land is in an appropriate location as it is directly adjacent to Krazy Kids, Inc. There will be no effect on adjoining properties.

**Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.**

There will not be an effect on the district.

**Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.**

We currently have an outdoor play area now. There will be no undue traffic, nuisance or unreasonable hazard as a result of the outdoor play area.

**Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.**

Not applicable. We will use the current facilities in place.

**Please show that there are no valid objections from abutting property owners based on demonstrable fact.**

There are no objections from abutting property owners.

**Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.**

Not applicable. We will not be using water or sewer for an outdoor play area. Patrons will use the indoor facilities in place.

**If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system?**

N/A.

Chairman Bonney summarized the case. **Special Exception** under Article IV **Use Regulations** §143-19 **Table of use regulations Retail and Service # 15**. The applicant, Richard Latham dba Vision Aire, Inc. 7226 Oak Hill Road, Loudon N.H. 03307 is requesting permission to create an outdoor recreation area on leased land measuring 200' x 450' adjacent to Krazy Kids indoor recreation facility. A **Special Exception** is required for **outdoor recreation** in the C-I Zoning District. The property is owned by Gerald Foster Trustee, Gerald Foster Trust 7/18/02, 80 Sheep Davis Road. Pembroke, N.H. 03275. The property is located at 62 Sheep Davis Road Map (632) Lot (11) in the C-1 Commercial / Light Industrial and the AC Aquifer Conservation Zoning Districts. Vision Aire owns the building and land. Krazy Kids is a separate LLC. The applicant would use the leased land for outdoor recreation. The pedal carts used in summer would be moved to the leased land. Eventually the applicant will go to the Pembroke Planning Board to add onto the building. The applicant may put bouncy houses and inflatables on the leased land, but nothing fixed or permanent is planned on the leased land. Picnic tables may be set out to enjoy lunch or ice cream. Nothing permanent, other than an electric circuit, will be placed on the leased land. February vacation is the busiest time of year for Krazy Kids. Even then, the lot can handle vehicles and traffic. The proposal would not impact current traffic flow. It was stated that parents would stay with their kids to safeguard them in the outdoor recreation area. A buffer will be left by the road and existing house. The applicant is currently having a survey done. Clientele is children ages 3-12. The applicant may want to use motorized electric carts in the future, not gas powered, that go 3-4 miles per hour. The existing cart track will be moved to the leased land. No additional water or sewer is needed.

There being no further comment, Chairman Bonney closed the public hearing at 7:40 p.m.

**Deliberations:** Dana Carlucci stated that outdoor recreation is a great use to keep kids active. A condition may need to be on any approval that restricts any use of gas powered vehicles. It was discussed that the electric carts used at Chuckster's in Chichester NH make no noise. Mel's in Litchfield has high speed electric carts. Dana expressed concern about safety, with the leased lot running up to the road. The Planning Board will put safeguards in place at site plan review. The State Inspector has been to Town Hall as the applicant is in the process of getting a State of NH license for daycare and after school activities. State inspectors visit every three years after licensure. The facility must do background checks on employees every year. Dana Carlucci asked if the town has any authority over safety concerns at daycares. The Town of Pembroke used to license daycares, but does not do so any more. Paul Paradis noted that the applicant is planning a summer program in 2015. Daycare is allowed by zoning, so it could become a drop off situation at Krazy Kids. If daycare is part of a home, no site plan is needed. If daycare is conducted in a building, Planning Board site plan review is needed.

The ZBA discussed the Special Exception criteria.

**Please describe how the requested use is essential or desirable to the public convenience or general welfare.** Relocating the outdoor play area is a desirable activity for children.

**Please state how the requested use will not impair the integrity or character of the district, or adjoining zones, nor be detrimental to the health, morals or general welfare.** Krazy Kids has an outdoor activity area now.

**Please describe how the specific site is an appropriate location for the proposed use and that the character of adjoining uses will not be affected adversely.** The site is already being used for outdoor recreation.

**Please show that no factual evidence is found that the property value in the district will be adversely affected by such use.** No testimony was presented that property value would be adversely affected.

**Will undue traffic, nuisance or unreasonable hazard result from your proposed use? Yes or no and please explain your answer.** There will be no undue traffic. Change in traffic flow will be minimal.

**Please explain how adequate and appropriate facilities will be provided for the proper operation and maintenance of the proposed use.** Limited facilities for outdoor recreation will be provided. All outdoor facilities will be supervised,

**Please show that there are no valid objections from abutting property owners based on demonstrable fact.** No objections were received from abutting property owners.

**Please show that the proposed use has an adequate water supply and sewerage system and meets applicable requirements of the State.** N/A

**If the proposed use is for multi-family dwellings, will it be served by the Town water system and by the Town sewerage system?**

N/A.

The history of the land was discussed. Mr. Foster sold some land to Dirt Doctors. At that time, Mr. Foster reserved sufficient land to meet the subdivision requirements for 22 mobile homes on the site, and two extra acres for future use. The proposed leased land measures 200' x 450' and is located adjacent to Krazy Kids lot.

**MOTION:** Bruce Kudrick moved to **APPROVE a Special Exception** under Article IV Use Regulations §143-19 Table of use regulations Retail and Service # 15. The applicant, Richard Latham dba Vision Aire, Inc. 7226 Oak Hill Road, Loudon N.H. 03307 is requesting permission to create an outdoor recreation area on leased land adjacent to Krazy Kids indoor recreation facility. A **Special Exception** is required for **outdoor recreation** in the C-I Zoning District. The property is owned by Gerald Foster Trustee, Gerald Foster Trust 7/18/02, 80 Sheep Davis Road. Pembroke, N.H. 03275. The property is located at 62 Sheep Davis Road Map (632) Lot (11) in the C-1 Commercial / Light Industrial and the AC Aquifer Conservation Zoning Districts with the following conditions:

1. Must follow the submitted site plan.
2. Must follow all State and Town of Pembroke regulations.
3. Existing facility must be fully compliant with all current life safety requirements.
4. Gasoline powered recreational equipment is not permitted.

Tom Hebert seconded.

**VOTE:** BILL - YES TOM - YES BRUCE - YES  
PAUL - YES DANA- YES

MOTION TO APPROVE SPECIAL EXCEPTION WITH CONDITIONS PASSED 5-0.

#### **MINUTES OF PREVIOUS MEETINGS**

**MOTION:** Bruce Kudrick moved to approve the minutes of March 23, 2015 as amended. Tom Hebert seconded.

**VOTE:** DANA - YES TOM - YES BRUCE - YES  
PAUL - YES BILL - YES

MINUTES OF MARCH 23, 2015 APPROVED AS AMENDED ON A 5-0 VOTE.

**OTHER**

**Alternate Members** – Everett Hodge stated that we need two additional alternate members.

**OLD BUSINESS**

**NEXT MEETING**

**Date of next ZBA meeting** – Everett Hodge noted the next ZBA meeting would be on **Tuesday, May 26, 2015 at 7:00 p.m. due to Memorial Day holiday.**

**ADJOURN** **Motion:** Tom Hebert moved to adjourn. Paul Paradis seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:55 p.m.

Respectfully submitted,  
Susan P. Gifford  
Recording Secretary