

STATE OF NEW HAMPSHIRE

STRAFFORD COUNTY

SUPERIOR COURT

Three Ponds Resort, LLC

v.

Town of Milton

Docket No. 219-2018-CV-00369

ORDER

The plaintiff, Three Ponds Resort, LLC (“Three Ponds”), appeals the June 29, 2018 decision of the Town of Milton (“Town”) Zoning Board of Adjustment (“ZBA”) denying Three Ponds’ application for special exception. (Court index #1.) Several abutting landowners have intervened in support of the ZBA’s decision.¹ (Court index #5.) The court held a hearing on February 11, 2019, at which it heard argument from the parties and from the intervenors. The court held the record open until February 25, 2019 for the submission of post-hearing memoranda. Based on its review of the certified record, the parties’ pleadings and arguments, the factual circumstances of the case, and the applicable law, the court finds and rules as follows.

FACTUAL BACKGROUND AND PROCEDURAL HISTORY

The certified record (“C.R.”) reflects the following relevant facts. In March 2017, Three Ponds purchased MiTeJo Campground (“Campground”), which is located at 111 Mitejo Road in Milton, New Hampshire. (Id.) The Campground is presently comprised of 223 campsites, and sits on 225 acres of land identified as Town of Milton Tax Map 28, Lot 4. (Id.) The Campground is located within the Town’s Low Density Residential (“LDR”) zoning district. (See id. at 8.) Within the LDR zoning district, campground use is permitted by special exception. (C.R., Tab II at 583.)

On or about August 9, 2017, Three Ponds applied to the ZBA for a special exception to expand the Campground by adding a total of 173 new campsites. (C.R., Tab A at 5.) According to its application, Three Ponds sought to create two new areas within the Campground, the East Area and the West Area. (Id.) The East Area would consist of 118 new campsites, with new amenities including a bath house, a covered pavilion, and a playground. (Id.) The West Area

¹ The court refers to the ZBA and the intervenors collectively as “defendants.”

would consist of 55 new campsites, with new amenities including a remote parking area for tent sites and two bath houses. (Id.) The application further provided that “[a]dditional amenities are also proposed near the maintenance area and will include a bath house with café, mechanical building, pools, mini-golf, water and other attractions for use by the entire campground.” (Id.)

Article VIII of the Town zoning ordinance provides that “[i]n accordance with the powers granted by RSA 674:33, Powers of the Zoning Board of Adjustment, the Town of Milton Zoning Board of Adjustment (ZBA) shall hold hearings and make decisions on . . . [a]pplications for special exceptions under the terms of this ordinance” (Id. at 586.) Article VIII also provides that in order to approve special exceptions, the ZBA must affirmatively find the existence of the following five criteria (“special exception criteria”):

1. That the specific site is an appropriate location for the proposed use or structure.
2. That the use will not be injurious, noxious, offensive or detrimental to the neighborhood.
3. That there will be no undue nuisance or serious hazard to pedestrian or vehicular traffic, including the location and design of access ways and off-street parking.
4. That adequate and appropriate facilities and utilities will be provided to insure the proper operation of the proposed use and structure so that the use will not be contrary to the public health, safety or welfare.
5. That the proposed use or structure is consistent with the spirit of this ordinance and the intent of the Master Plan.

(Id.) On September 7, 2017, the ZBA took up Three Ponds’ special exception application. (C.R., Tab F at 82–96.) The ZBA found that Criteria 1, 2, 4, and 5 existed in this case. (Id. at 86, 90, 94, 95.) However, the ZBA heard public comment from several Town residents who were concerned that the Campground expansion would cause a hazard to vehicular and pedestrian traffic due to an influx of vehicles using roads around the Campground. (Id. at 90–91.) Town residents and ZBA members also expressed concern that the future reopening of the bridge from Milton to Lebanon, Maine (the “bridge”), in addition to the Campground expansion, would create too much new traffic along Townhouse Road. (See id. at 92.) After closing public comment on Criterion 3, the ZBA’s members discussed the impact that the expansion would have on local traffic. (Id. at 91–92.) They noted that although Townhouse Road is wide enough to meet applicable requirements for a residential road, they were concerned that it could not accommodate increased traffic associated with the proposed expansion. (Id.) They also noted that Three Ponds’ application was silent as to how the expansion would impact vehicular and

pedestrian traffic outside of the Campground. (*Id.*) Accordingly, the ZBA found that Criterion 3 did not exist and voted to deny Three Ponds’ special exception application because it did not meet all five of the special exception criteria. (*Id.* at 92.)

On or about September 27, 2017, Three Ponds requested a limited rehearing on the ZBA’s decision with respect to Criterion 3. (*See* C.R., Tab H at 98–104.) At its October 26, 2017 meeting, the ZBA voted unanimously to rehear Three Ponds’ application, and to “limit[] discussion to additional information by the applicant and public comment portion . . . on criteri[on] number three (3) only.” (C.R., Tab I at 107.)

Thereafter, on or about December 8, 2017, Three Ponds submitted an amended special exception application. (C.R., Tab K at 110.) The amended application made a number of small modifications to the original application, and reduced the number of proposed campsites from 173 to 163. (*Id.* at 117.) The application also included a detailed traffic survey of Townhouse Road, which had been conducted by MDM Transportation Consultants, Inc. (“MDM”). (*Id.* at 137.) The MDM survey was based on data collected between August 24, 2017 and August 27, 2017, at the intersection of Townhouse Road and Route 125, and at the intersection of Townhouse Road and Mitejo Road. (*Id.* at 138, 142.) MDM specifically analyzed data taken on Friday morning, Friday evening, and Saturday noon. (*Id.* at 142.) The MDM survey accounted for projected traffic associated with the bridge reopening, and found that the Campground expansion would result in a modest increase in traffic along Townhouse Road. (*Id.* at 137, 139, 217.) However, MDM concluded that Townhouse Road would adequately accommodate the expansion without creating an undue nuisance or serious hazard to vehicular and pedestrian traffic. (*Id.* at 139.)

On December 28, 2017, the ZBA held a limited rehearing on Criterion 3. (*See* C.R., Tab N at 285–94.) At the rehearing, Dan Flores of SFC Engineering Partnership, Inc. (“SFC”), presented the findings of the MDM survey, explaining that MDM had accounted for “safety characteristics, projected trip generation for the expansion, which includes the bridge being opened to Maine, vehicle type to be expected on the road with the expansion and the crash history.” (*Id.* at 285–86.) Again, public comment raised a number of concerns. (*Id.* at 286–93.) In particular, members of the public and of the ZBA were concerned because the MDM survey was conducted at the end of camping season, rather than on a weekend during the Campground’s peak season. (*Id.* at 289–90, 293–94.) Adding to these concerns, counsel for the intervenors

attended the rehearing and argued that, pursuant to RSA 36:56, the ZBA should have considered whether Three Ponds' application had the potential for regional impact. (Id. at 286.) With Three Ponds' consent, the ZBA resolved to continue the rehearing so that an independent engineering firm could review the results of the MDM survey. (Id. at 294.)

Subsequently, DuBois & King, Inc. ("DuBois"), an engineering, planning, and development firm, was retained to conduct a technical review of the MDM survey. (See C.R., Tab O at 337–39.) After reviewing the survey, DuBois concluded that MDM had utilized typical methodology for developing baseline traffic volumes and for projecting future traffic increases associated with the Campground expansion. (Id. at 339.) DuBois concurred that "there is not a significant safety issue at Townhouse Pond Road" and that "there is no reason to expect that additional campground traffic would have an undue or inordinate safety impact." (Id.) However, DuBois recommended that the Town review additional documentation on how the bridge reopening was factored into MDM's analysis, as well as documentation on the potential impact of future developments. (Id.) DuBois also recommended that the Town verify the sight distance from the end of Mitejo Road and evaluate whether recreational vehicles ("RVs") might have a different sight distance than passenger cars. (Id.) In response, MDM prepared a memorandum addressing the three concerns raised by DuBois and providing further explanation about its findings. (C.R., Tab P at 340–75.)

On February 22, 2018, the ZBA resumed its rehearing on Criterion 3. (C.R., Tab Q at 376–78.) However, at the beginning of the meeting, the ZBA announced that, after conferring with Town counsel, it had determined that it was required to consider whether the Campground expansion had a potential for regional impact, pursuant to RSA 36:56. (Id. at 376.) The ZBA thereafter found that due to expected increases in Campground smoke, surface water contamination, and local traffic, the expansion might have the potential for regional impact. (See id.) The ZBA determined that the towns of Acton and Lebanon, Maine could potentially be affected. (See id.) Having found that the Campground expansion was a development of regional impact, the ZBA also determined that it must reevaluate Three Ponds' entire application whilst following the notice procedures set forth by RSA 36:57. (See id. at 377.) Accordingly, the ZBA adjourned the rehearing, and subsequently notified the towns of Acton and Lebanon of their rights as abutters under the regional impact statute. (C.R., Tab Q at 378; Tab R at 379–82.)

In the ensuing months, the ZBA held several hearings on Three Ponds' application. (See C.R., Tab U at 387–98; Tab V at 402–04; Tab Y at 444–52.) On April 5, 2018, the ZBA held a hearing on Criteria 1 through 3. (C.R., Tab U at 386–398.) During public comment on Criterion 3, the ZBA heard testimony from several Town residents who agreed that Townhouse Road was not presently safe for pedestrian and bicycle traffic. (*Id.* at 396–98.) Both the public and the ZBA expressed concerns that increased traffic would further endanger pedestrians and children near Pineland Park Beach, located adjacent to Townhouse Road. (*Id.* at 397–98.) The ZBA noted that the MDM survey did not account for pedestrian traffic near the beach. (*Id.* at 398.)

On or about May 3, 2018, Three Ponds requested the ZBA's approval to amend its application once again. (C.R., Tab V at 402–03.) The ZBA voted to allow the amendment. (C.R., Tab V at 402–03.) Three Ponds then submitted a newly-amended application on or about May 10, 2018, which was substantially similar to its previous amended application, but reduced the number of new campsites from 163 to 95. (C.R., Tab W at 407–08.)

On June 28, 2018, the ZBA held its final rehearing on Three Ponds' newly-amended special exception application, and made findings with respect to each of the five special exception criteria. (C.R., Tab CC at 502–15.) Consistent with its September 7, 2017 decision, the ZBA affirmatively found that Criteria 1 and 4 existed, and found that Criterion 3 did not exist. (*Id.* at 506, 511, 512.) However, contrary to its initial decision, the ZBA now found that Criteria 2 and 5 did not exist. (*Id.* at 509, 515.)

On or about June 29, 2018, the ZBA issued a detailed notice of decision that related all of the findings the ZBA had made throughout the entire rehearing process. (C.R., Tab DD at 524–32.) With respect to Criterion 2, the ZBA found that the Campground expansion would be “injurious, noxious, offensive or detrimental to the neighborhood due to the amenities and the other uses that come with that being, traffic, smoke, water discharge, boat traffic in and off the lake along with the intensity of use.” (*Id.* at 530.) With respect to Criterion 3, the ZBA's notice of decision provided:

The Board found there would be undue nuisance or serious hazard to pedestrian or vehicular traffic including the location and design of access ways and off-street parking because of Townhouse RD being a maximum of 20ft in width, that MiTeJo has one access road, lack of safe ways for passage of pedestrians and bicyclists on Townhouse RD, studies disregard to the road between the intersections studied, that the study was done at the end of August and that the road cannot be brought up to a safer standard.

(Id. at 531.) Lastly, with respect to Criterion 5, the ZBA found that the Campground expansion “is not consistent with the spirit of this ordinance and the intent of the Master Plan as the board found the intent of the definition of campground when established in Zoning does not fit with waterslides or water features, that the amenities do not fit the definition of campground.” (Id. at 532.) Accordingly, the ZBA denied Three Ponds’ special exception application because three of the five special exception criteria did not exist. (Id. at 532.)

On or about July 26, 2018, Three Ponds moved for a rehearing. (C.R., Tab EE at 535–50.) On August 23, 2018, the ZBA voted to deny the motion for rehearing. (C.R., 561–64.) Pursuant to RSA 677:4, Three Ponds now seeks judicial review of the ZBA’s decision denying its application for special exception.

LEGAL STANDARD

Any person aggrieved by a ZBA decision may appeal to the superior court. RSA 677:4. “Judicial review in zoning cases is limited.” Town of Bartlett Bd. of Selectmen v. Town of Bartlett Zoning Bd. of Adjustment, 164 N.H. 757, 760 (2013). The appealing party bears the burden of proving that the ZBA’s decision was unlawful or unreasonable. RSA 677:6; 47 Residents of Deering v. Town of Deering, 151 N.H. 795, 797 (2005). It is the province of the ZBA, not the trial court, to resolve conflicting evidence and determine issues of fact. Lone Pine Hunters’ Club, Inc. v. Town of Hollis, 149 N.H. 668, 671 (2003). Accordingly, all findings of fact made by the ZBA are considered prima facie lawful and reasonable. RSA 677:6; Simplex Technologies v. Town of Newington, 145 N.H. 727, 729 (2001); Korpi v. Town of Peterborough, 135 N.H. 37, 39 (1991). The trial court will affirm the zoning board’s decision unless the board made an error of law or the court finds, based upon a balance of probabilities, that the decision was unreasonable. RSA 677:6; 47 Residents of Deering, 151 N.H. 795, 797 (2005).

ANALYSIS

Three Ponds asserts four grounds upon which it believes the ZBA’s decision was unlawful or unreasonable. (See Compl. ¶¶ 61, 74, 101, 116; Pl.’s Trial Mem. at 6, 11, 13, 18.) See RSA 677:4 (“The petition shall set forth that such decision or order is illegal or unreasonable, in whole or in part, and shall specify the grounds upon which the decision or order is claimed to be illegal or unreasonable.”) It argues: (I) that the ZBA improperly applied the

regional impact statute to consider the application in a regional context; (II) that the ZBA's decision with regards to Criterion 3 was unsupported by the evidence; (III) that the ZBA improperly conflated the proposed use with accessory uses in reaching its decision on Criterion 2; and (IV) that the ZBA improperly considered irrelevant facts in reaching its decision on Criterion 5. (See Pl.'s Trial Mem. at 6, 11, 13, 18.) The defendants object, arguing that Three Ponds' appeal must be limited to issues raised in its most recent motion for rehearing, and that the ZBA's decision was lawful and reasonable. (See Defs.' Trial Mem. at 6–7, 15.) The court addresses the parties' arguments in turn.

The court first addresses the defendants' contention that the court's review should be limited to issues raised in Three Ponds' July 26, 2018 motion for rehearing. (See C.R., Tab EE at 535–50.) RSA 677:3 governs rehearings before the ZBA, and provides in relevant part:

No appeal from any order or decision of the zoning board of adjustment, a board of appeals, or the local legislative body shall be taken unless the appellant shall have made application for rehearing as provided in RSA 677:2; and, when such application shall have been made, no ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds.

RSA 677:3, I. Thus, upon good cause shown, the court may consider additional grounds not raised in a party's motion for rehearing.

Three Ponds first applied for a special exception on August 9, 2017. The ZBA denied that application on the grounds that it did not meet Criterion 3 of the special exception criteria. Three Ponds then requested, and was granted, a rehearing solely on Criterion 3. Thereafter, the ZBA determined that Three Ponds' original application had the potential for regional impact, and expanded the scope of the rehearing to all five of the special exception criteria. The ZBA again denied Three Ponds' application, and Three Ponds requested a second rehearing. The ZBA denied further rehearing, and Three Ponds appealed to this court. Throughout this entire rehearing process, the ZBA worked cooperatively with Three Ponds, allowing, and even requesting amendments to Three Ponds' application. Therefore, due to the unique procedural history of this case, as well as the ZBA's cooperation with Three Ponds, the court finds good cause shown to consider all grounds properly raised before the ZBA throughout the entire rehearing process.

Next, Three Ponds argues that the ZBA misconstrued the regional impact statute and that, as a result, it improperly considered Three Ponds' special exception application in a regional

context rather than a local context. (Pl.'s Trial Mem. at 6.) The stated purpose of the regional impact statute is to:

- I. Provide timely notice to potentially affected municipalities concerning proposed developments which are likely to have impacts beyond the boundaries of a single municipality.
- II. Provide opportunities for the regional planning commission and the potentially affected municipalities to furnish timely input to the municipality having jurisdiction.
- III. Encourage the municipality having jurisdiction to consider the interests of other potentially affected municipalities.

RSA 36:54. In recognition of that purpose, local land use boards, “upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact.” RSA 36:56, I. Further, “[u]pon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.” RSA 36:57, I. An abutter is defined as “any person whose property is located in New Hampshire and adjoins or is directly across the street or stream from the land under consideration by the local land use board.” RSA 672:3. The statute also provides that “[a]t least 14 days prior to public hearing, the local land use board shall notify, by certified mail, all affected municipalities and the regional planning commission of the date, time, and place of the hearing and their right to testify concerning the development.” RSA 36:57, III.

In this case, the ZBA determined that Three Ponds’ special exception application could be construed as having a potential for regional impact due to expected increases in campground smoke, surface water contamination, and local traffic. Thus, RSA 36:57, I, required that the ZBA confer the status of abutters upon all municipalities that might be impacted. The ZBA determined that Acton, Maine and Lebanon, Maine might be affected by Three Ponds’ special exception application. Therefore, under the regional impact statute, the ZBA was required to confer abutter status upon those municipalities, and to notify them of all public hearings before the ZBA.

The regional impact statute contains a mandatory notice requirement that is triggered whenever a local land use board determines that an application can be construed as having the

potential for regional impact. See RSA 36:57, III. Because statutory notice is a jurisdictional requirement for a ZBA to exercise its appeals powers, Hussey v. Town of Barrington, 135 N.H. 227, 232 (1992), the ZBA was required to provide all statutory notice prior to making any decision on Three Ponds' application for special exception. See id.

In this instance though, when the ZBA first received Three Ponds' August 9, 2017 special exception application, it did not consider whether the application could be construed as having the potential for regional impact. As such, the ZBA did not notify affected municipalities prior to holding a public hearing on September 7, 2017.² Accordingly, the ZBA did not have jurisdiction to grant or deny Three Ponds' original application on September 7, 2017. However, by notifying the affected municipalities and thereafter reconsidering all five of the special exception criteria during the rehearing process, the ZBA cured the defect in its original decision. Therefore, the court finds that the ZBA correctly interpreted and ultimately complied with the statute.

Three Ponds argues that municipalities located outside of New Hampshire cannot be considered abutters under the regional impact statute because abutters must, by definition, own property located in New Hampshire. (See Pl.'s Trial Mem. at 7.) As such, Three Ponds argues that the ZBA should not have granted abutter status to municipalities located in Maine. (See id.) The court disagrees. The effect of the regional impact statute is not simply to provide notice to all abutters, but to confer the status of abutters upon all municipalities that might be affected by the actions of a local land use board. See RSA 36:57, I; see also RSA 676:7 (requiring that the ZBA provide notice to all affected abutters). To the extent Three Ponds argues that the word "municipalities" within the regional impact statute refers only to "New Hampshire municipalities," the court "will not consider what the legislature might have said or add language that the legislature did not see fit to include." Trefethen v. Town of Derry, 164 N.H. 754, 755 (2013). The statute could have, but does not differentiate between municipalities within New Hampshire and municipalities outside of New Hampshire.³ Thus, the statute, as written, applies

² In the absence of any evidence to the contrary, the court presumes that, had the ZBA considered whether Three Ponds' application had the potential for regional impact on or before September 7, 2017, it would have reached the same conclusion that it reached at its February 22, 2018 meeting. The court finds that this presumption, as compared to a contrary presumption, is most in keeping with the stated purpose of the regional impact statute. See RSA 36:54.

³ A comparison with RSA 672:3, which contains an explicit limitation to property located in New Hampshire, with RSA 36:57, which does not, demonstrates that the Legislature is mindful of its ability to limit abutter status when it so intends.

to all municipalities, including those that fall outside of New Hampshire's borders. Accordingly, the court holds that the ZBA's application of the regional impact statute was neither unlawful nor unreasonable.

Three Ponds next argues that the decision of the ZBA was unlawful or unreasonable because the ZBA could not have concluded, based on the evidence before it, that the Campground expansion would present an undue nuisance or serious hazard to vehicular or pedestrian traffic. (See Pl.'s Trial Mem. at 11.) Three Ponds contends that the ZBA's decision was contrary to uncontested expert evidence, and that the ZBA's decision was therefore based solely on unsubstantiated opinions. (See *id.* at 11–13.) The defendants counter that the ZBA did not simply disregard the expert evidence, but instead disagreed with the expert evidence. (Def.'s Trial Mem. at 11–12.) They argue that the ZBA was entitled to question the credibility of the evidence and that the ZBA's decision was neither unlawful nor unreasonable. (*Id.*)

In its notice of decision, the ZBA found that there would be an undue nuisance or serious hazard, finding that Townhouse Road was approximately twenty feet wide, that the Campground had only access road, that Townhouse Road lacks safe passageways for pedestrians and bicyclists, and that Townhouse Road could not be made safer. (See C.R., Tab DD at 531.) The ZBA also found that the MDM survey was flawed because it was not conducted during the Campground's peak season and because it disregarded sections of Townhouse Road located between its major intersections. (See *id.*) The court must accept these findings of fact as *prima facie* lawful and reasonable unless, on the balance of the probabilities, the court finds that the ZBA's decision was unreasonable. See RSA 677:6; 47 Residents of Deering, 151 N.H. 795, 797 (2005).

Citing to Condos E. Corp. v. Town of Conway, 132 N.H. 431, 438 (1989), Three Ponds argues that land use boards may not simply ignore uncontested expert evidence. (Pl.'s Trial Mem. at 11.) In Condos E. Corp., the Conway planning board denied the plaintiff's subdivision application on the grounds that the sole access road was insufficient to serve the needs of the proposed development. 132 N.H. at 434. However, the only evidence before the planning board in that case was taken from two experts who both agreed that the access road would adequately serve the proposed development. *Id.* at 432–33. The New Hampshire Supreme Court held that although the planning board was entitled to rely in part on its own judgment and experience, its decision must be based on more than mere personal opinion. *Id.* at 438. Because the planning

board chose to simply ignore all of the evidence before it, the Court held that the board's decision was unreasonable. Id. at 439.

The instant case is readily distinguishable from Condos E. Corp. During the rehearing process in this case, the ZBA was presented with conflicting evidence as to the existence of Criterion 3. On one hand, the ZBA was presented with the MDM survey and the DuBois report, which generally concluded that Townhouse Road could facilitate the campground expansion and that the expansion would not pose an undue nuisance or serious hazard to vehicular or pedestrian traffic. On the other hand, the ZBA heard testimony from local residents that Townhouse Road could not presently accommodate pedestrians or bicyclists due to the existing amount of traffic along the road. Those residents were concerned that any increase in traffic would further endanger pedestrians and bicyclists. Residents also testified about concerns that the traffic along Townhouse Road would endanger pedestrians and children near Pineland Park Beach, an area that was not considered in the MDM survey.

In zoning matters, it is for the ZBA to resolve conflicts and to assess the credibility of the evidence. See Harborside Assocs., L.P. v. Parade Residence Hotel, LLC, 162 N.H. 508, 519 (2011). Further, the ZBA is "entitled to rely upon its own knowledge, experience and observations" in reaching its decision. Id. at 520. In this case, the court concludes that the ZBA did not simply ignore the expert evidence before it. Rather, the ZBA considered both the expert evidence and the testimony of local residents, and it found that the testimony of the residents was more compelling, particularly given what the ZBA considered to be shortcomings in the expert evidence. Although the ZBA apparently recognized that the MDM survey was likely accurate from a technical standpoint, it noted that the survey did not explicitly account for traffic volumes during the Campground's peak season, or for pedestrian traffic in areas like Pineland Park Beach. The members of the ZBA drew on their own experience, in addition to the testimony of local residents, to determine that the survey simply did not account for all of the hazards along Townhouse Road. Accordingly, the court finds that the ZBA could have reasonably concluded on the evidence before it that there would be an undue nuisance or serious hazard to vehicular and pedestrian traffic. Therefore, the court holds that the decision of the ZBA was neither unlawful nor unreasonable with respect to Criterion 3.

Because the zoning ordinance required the ZBA to find the existence of all five of the special exception criteria, and because the ZBA found that Criterion 3 did not exist, the court

concludes that the ZBA's decision to deny Three Ponds' special exception application was lawful and reasonable. Accordingly, there is no need to address Three Ponds' remaining arguments, and the court declines to do so.

CONCLUSION

For the foregoing reasons, the June 29, 2018 decision of the Milton Zoning Board of Adjustment denying Three Ponds' application for special exception is AFFIRMED.

So Ordered.



Date: April 17, 2019

Steven M. Houran
Presiding Justice

Clerk's Notice of Decision
Document Sent to Parties
on 04/18/2019