

WORKSESSION
FINAL

A. Call to Order – 7:08 p.m.

B. Roll Call: A. Dittami, Vice Chairman; J. Deleire, M. Farinola, P. Young, Members;
L. Ruest, Administrative Assistant; K. Kelley, Building Inspector
Not Present: D. French, Member; T. Parker, P. Robart, Alternate
Members

C. Work Session – Application, Procedures and Fees

Application Documents: A. Dittami asked the Board for input with regard to simplifying the application process. He questioned whether the Board should request the Town Administrator have someone review and make recommendation or whether the Board should work with the Building Inspector to create a revised version. Another suggestion was for a volunteer member of the ZBA to make suggestions or create a committee to review and make recommendation to the full Board.

L. Ruest explained that the forms used by Hampton Falls and most other towns are forms provided by the Office of Energy and Planning as part of its ZBA Handbook. She also provided information on various ways other towns provide information to applicants.

M. Farinola suggested that the Building Inspector and Administrative Assistant each review the document and make suggestions for consideration of the Board given that they are the employees who work with the documents. K. C. Kelley suggested he could contact other towns to see how they handle the application process. Suggestion was made to allow 60 days to report back to the ZBA.

A. Dittami stated he felt the employee interaction in the ZBA application process should be changed from the Building Inspector processing the applications to the Administrative Assistant processing the applications. This would need to be addressed with the Town Administrator. M. Farinola inquired why the Building Inspector is processing any portion of the application when the ZBA has an Administrative Assistant. It was explained that certain portions of the process are part of the Building Inspector's job description. A. Dittami suggested that the Building Inspector be responsible for the initial intake of the application and be the point man for the public. He would provide the application packet, accept it once submitted and review it with the applicant, then the administrative work would be done; the Town would need to determine who is to do the administrative work. Should a problem be determined when preparing the application for the ZBA, the application could then be returned to the Building Inspector to address the problem. A. Dittami feels the Building Inspector could refer applicants to the Administrative Assistant for technical information. M. Farinola stated he felt inquiries should go to the ZBA Chairman and not the Administrative Assistant.

MOTION: That the ZBA use the Building Inspector as primary intake person and primary customer representative for the ZBA.

MOTION: A. DITTAMI

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P. Young inquired as to whether the ZBA has authority to require this change. A. Dittami stated that he would bring the matter to the Town for consideration. M. Farinola suggested that a procedure be presented to the Board of Selectmen for consideration of where job descriptions may change.

**SECOND: J. DELEIRE
3 IN FAVOR, 1 ABSTENTION, PASSES**

Board members reviewed the 12 page ZBA application packet of documents provided to applicants and discussed ways in which to simplify the process. P. Young suggested that the cover sheet be changed so that the lower portion where the summary information is provided be added to the top of each worksheet for variance, special exception etc. It was then suggested that the bottom area of the cover sheet include a section for listing abutters eliminating the separate page provided for that purpose. L. Ruest will prepare a draft for review at the next meeting.

K. Kelley stated that he reviews flood maps and town wetland maps with applicants as most are unaware of wetland soils. The Board determined that a wetland survey is required if the request for relief addresses this matter. K. Kelley suggested a wetland scientist flag the area in lieu of a survey in order to save the applicant time and expense. The application packet requires a sketch.

MOTION: To eliminate the requirement for copies of professional surveyed plans unless they are found to be absolutely critical to the ZBA's determination and make the requirement up to the ZBA's discretion on a case by case basis.

**MOTION: A. DITTAMI
SECOND: M. FARINOLA
4 IN FAVOR, PASSES**

Procedures and Fees: These matters were not addressed this meeting.

D. Review of Minutes of the Previous Meeting

MOTION: To approve the minutes of the June 24 meeting as written.

**MOTION: J. DELEIRE
SECOND: P. YOUNG
3 IN FAVOR, 1 ABSTENTION, PASSES**

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E. Other Business:

Invoice from Pierce Atwood: A. Dittami provided the Board with a copy of a legal bill for informational purposes. P. Young requested that the Board not use this firm in the future and outlined her reasons why; she recommended Attorney Bart Mayer of Upton and Hatfield. M. Farinola suggested identifying an attorney on a case by case basis.

F. Review of Fitzgerald Special Exception (Case #63-77) to determine if the activity reported by the Building Inspector is consistent or not with the original permit granted and, if not, what further action should be taken by the ZBA (Map 5, Lot 46).

A. Dittami stated that this matter is before the ZBA at the request of the Building Inspector. He summarized that a special exception was granted in 1977 and although a permit was granted, there is a section that allowed the ZBA to withdraw the approval if there was a violation. A. Dittami stated that the ZBA can give consideration this meeting as to a potential future determination as to whether action is to be taken, no action is to be taken, affirm the action or modify the approval.

M. Farinola requested a point of order stating that he feels it inappropriate to be reviewing this matter when there is an ongoing case (Case 10-2 Ruest) that may be linked to this matter. He stated that evidence may be identified to be used against the Town. He noted that this subject was argued in the other case that may end up in civil court and that the Fitzgerald case was used as a precedent. A. Dittami stated the question before the ZBA is whether to do anything at all. He referred the Board to item number three on the Notice of Decision dated September 9, 1977, signed by Richard O. Bohm and the police reports provided by the Building Inspector.

MOTION: That the ZBA not discuss this matter until the other case is determined.

MOTION: M. FARINOLA
SECOND: P. YOUNG
WITHDRAWN

A. Dittami felt the ZBA should consider this and provide the Building Inspector with direction; both he and K. Kelley feel the ZBA has authority to do so. He added that it may be determined that the ZBA may not have authority to do anything at all; the Board would not be making a decision to uphold or deny. M. Farinola requested confirmation that the Board is not talking merits of the case and only of an application at a particular point. A. Dittami stated the approval provided for a unique provision where the Special Exception can be removed or discontinued upon evidence which shows that the conditions under which the special Exception was granted are being violated.

Chairman Dittami stated that he felt the Building Inspector has a number of ways to address this; he could bring the matter to the ZBA and ask for revocation or he could go directly to the Fitzgeralds and issue a citation and then the Fitzgeralds would need to come to the ZBA. M. Farinola and P. Young withdrew the motion.

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P. Young questioned whether this equipment is stored at Applecrest Farm Orchards and K. Kelley stated no. K. Kelley stated that the Fitzgeralds are transporting vehicles down Old Stage Road, the matter was brought to his attention by the Police Department and a review of documentation back to 1973 was done by him. In 1977, the ZBA approved a road grader. K. Kelley questioned how the road grader gets to and from the property. He added that he has visited the property and that he observed a grader and other vehicles and that if the condition was not part of the decision that he would act independently of the ZBA and prepare a report for the Board of Selectmen.

P. Young noted that the complainant is not complaining about equipment on the property. Question was raised as to whether the complaint is noise or other equipment on the property. K. Kelley stated his action on this matter is a result of a noise complaint. Discussion took place with regard to other pertinent accessory equipment that might be involved. M. Farinola inquired as to other heavy equipment such as a bulldozer, backhoe or large truck that he might store at his property and questioned whether K. Kelley would serve a land use citation as the ordinance addresses commercial equipment. K. Kelley stated that the issue is not whether the Building Inspector acts under the jurisdiction of the ZBA or acts alone. If the ZBA is not to act, he will notify the Board of Selectmen of three options.

It was noted that the Fitzgeralds were mailed a copy of this meeting's agenda, however, they were not present. J. Deleire suggested that the Fitzgeralds be given an opportunity to make things right. K. Kelley stated that he gave the Fitzgeralds the same documentation provided to the Board this meeting, asked them to review the information and come see him.

MOTION: To give the Building Inspector 60 days to come to an accommodation with the Fitzgeralds. If the matter does not come to an accommodation, that the ZBA put the matter on the docket for review of the special exception.

MOTION: A. DITTAMI
SECOND: J. DELEIRE
UNANIMOUS

Comments or Questions from the Floor: C. Merrill inquired as to who made the complaint and was told Lori Caruso, 5 Avery Ridge Lane.

G. Adjournment

MOTION: To adjourn the meeting at 8:21 p.m.

MOTION: M. FARINOLA
SECOND: A. DITTAMI
UNANIMOUS