

PUBLIC MEETING
FINAL

Call to Order – 7:00 PM: Chairman Dittami called the meeting to order at 7:07 p.m.

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

Motion for Rehearing – Case #10-2, Ruest:

L. Ruest stepped down and Abby Tonry took over taking minutes at 7:08 p.m.

7:08 Abby Tonry took over as acting secretary for Request for Rehearing of:

Case # 10-02: Application from Robert and Lori Ruest requesting an **Appeal from an Administrative Decision**. The applicants allege that the Building Inspector has made an error in the decision, determination, or requirement of January 29, 2010 to a zoning inquiry and hereby appeals said decision, which the applicants believe was made in error in Zone A on property located at 25 Coach Lane. (Map 8, Lot 83-14)

A. Dittami stated that the question before the Board was whether or not to allow a rehearing on the case. The request had been made in the allotted 30 day period for a rehearing on the motion made in this case. The rehearing would allow new evidence to be presented, correction of procedures and if appropriate additional consideration of existing evidence. The matter would be a discussion by the Board only. This is a public meeting not a public hearing. P. Young asked if she should step down. J. Deleire stated that he felt it did not matter. D. French stated that he felt there should be a time limit on the audience participation. A. Dittami stated that the Board could not force an individual to step down. The board could vote to ask the person to step down, however only the individual could recuse herself if she felt her participation was inappropriate. The Board declined to take a vote and P. Young chose to not step down.

MOTION: To allow public comment before the vote.

MOTION: A. Dittami
SECOND: M. Farinola
Passes 5-0.

M Farinola asked that the grounds for the rehearing be reviewed. A. Dittami addressed Atty. Sharon Cuddy Somers letter of April 23, 2010. He highlighted some of the 12 Grounds for Rehearing: Substantive and Grounds for Rehearing: Procedural. He also stated that the reasons for the decision may not have been spelled out as completely as they could have been and may therefore give the applicant grounds for appeal. A. Dittami stated that at a rehearing the board can reconsider its decision, decide if the ruling is accurate or reformulate its decision for or against.

M. Farinola stated he felt the original decision was clear and substantive.

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J. Deleire asked if written reasons were provided. A. Dittami stated that although a letter was sent to the applicant it did not list the reasons for denial, no rules or statutes.

D. French stated that if the applicant is denied and chooses to take the matter to court then having a rehearing to make the decision clearer could save the taxpayer's money.

P. Young defended her statement. She has no problem with a rehearing but felt the first decision was made on the materials presented. She would like new evidence presented if there is to be a change in the decision. She stated she was not a voting member when she made her first comment.

A. Dittami stated his reasons for a rehearing are to buttress up the existing decision; if a mistake has been made then an additional hearing may change the outcome but if not it will make the previous decision clearer and if the applicant goes to court it will make the Board's position stronger; and since Hampton Falls is a small town the Board works for all citizens and it is more economical to give the applicant another chance than take the matter to court.

A. Dittami then allowed the public to comment. Jim Wilwerth – 10 Mill Lane – stated that a rehearing should be allowed but hoped that the neighbors could come to some agreement between themselves and not take the whole industry down with it. Dean Tsonas – 8 Crank Road – stated that the noise regarding the motor could not have happened, he felt the whole issue has driven a wedge between town members and hopes it can be resolved locally.

Applicant Robert Ruest addressed the Board and public. He stated that he has lived his entire life with fishing and boats. That this issue is not about fishing or lobstering, it is about storage of traps and boats in residential yards. That rebuilding of boats in the yard for 3-4 years is an eyesore to the neighborhood.

Everett Eaton – Nason Road – stated he has traps in full view in his yard along with his boat as he has no ability to store them elsewhere on the property. Dean Tsonas stated that neighbors do not have the right to tell others how to keep up their yards. Chris Merrill stated that K. Kelly has been to the property about snow plowing, dogs, chickens and C. Merrill felt the whole issue has been resolved per town standards and that no rehearing is required. The Board should stand up and say no, let the courts decide.

D. French stated that even if the decision was made properly the applicant may still go to court.

M. Farinola stated that the town listens to all complaints, that he felt K. Kelly did everything right.

A. Dittami stated this would be a whole new hearing start to finish. That there would be discussion about agricultural fishing, at what point does it become commercial? D. French wanted to review the definition of 'usual & customary'.

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Everett Eaton asked if the whole town would get notice of a rehearing. A. Dittami stated that there would be abutter notices as well as the notice being posted in the town hall, library and post office.

MOTION: To grant a rehearing at the June 24th meeting.

Motion: A. Dittami

Second: J. Deleire

Passes 4-1, one abstention.

A. Dittami then handed out a copy of Chapter 672 Section 672:1; Chapter 21 Section 21:34-a and 21:1; Chapter 211, Section 211:62-e and George W. Becker v. Town of Hampton Falls. He stated that these rulings and laws give some definitions for the Board and the applicant and Building Inspector to consider. He requested that at the next meeting the parties be prepared to address how these rulings and laws would impact the current case.

P. Young asked when the minutes will be available to the public to read. A. Dittami stated that they would be at the town hall along with Chapter 672 rules in a few days.

Abby Tonry stepped down and Ruest resumed taking minutes at 7:51 p.m.

L. Ruest resumed taking minutes at 7:51 p.m.

Review of Minutes of the Previous Meeting: Meeting minutes were not reviewed.

Other Business: Work Session with Counsel: Attorney Mark Beliveau of Pierce Atwood was present to meet with the Board to address the new criteria for granting variances as well as other responsibilities of the Board such as special exceptions and equitable waivers.

P. Young requested that L. Ruest be asked to leave the meeting. A. Dittami stated he felt that both the Administrative Assistant and Building Inspector are integral parts of the Board with respect to guidance and advice and stated it is worthwhile having them present to learn along with Board members. P. Young and M. Farinola disagreed. P. Young stated she would prefer to forego the work session and have time with counsel. D. French stated he understood this was a general work session and not specifically related to any case. He suggested holding the classroom portion and address questions relating to the Ruest case afterwards. J. Deleire agreed. Following discussion, the Board agreed to end the meeting and hold a meeting with counsel.

MOTION: To close the meeting and hold a meeting with counsel at 7:58 p.m.

MOTION: M. Farinola

SECOND: P. Young

4 in favor, 1 abstention, Passes

**ZONING BOARD OF ADJUSTMENT
MAY 20, 2010**

**7:00 PM
PUBLIC SAFETY BUILDING**

**PUBLIC MEETING
*FINAL***

Comments or Questions from the Floor: No comments were heard at this time as no members of the public were present.

Adjournment:

L. Ruest and K. Kelley were excused at this time.

MOTION: To adjourn the meeting at _____ p.m.

**MOTION:
SECOND:
UNANIMOUS**