



**Meeting Minutes**  
**North Hampton Planning Board**  
**Tuesday, August 7, 2012 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**

6

7

8

9 These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a  
10 transcription.

11

12 **Members present:** Shep Kroner, Chair; Laurel Pohl, Vice Chair, Mike Hornsby, and Phil Wilson, Select  
13 Board Representative.

14

15 **Members absent:** Tim Harned, Barbara Kohl and Dr. Arena

16

17 **Alternates present:** Nancy Monaghan

18

19 **Others present:** Brian Groth, RPC Circuit Rider, and Wendy Chase, Recording Secretary

20

21 Mr. Kroner convened the meeting at 6:30pm and noted for the record that there was a quorum.

22

23 Mr. Kroner seated Nancy Monaghan for Dr. Arena.

24

25 **I. Old Business**

26

- 27 1. **Case #12:10 – Golden Ks LLC, 63 Atlantic Avenue, North Hampton, NH.** The Applicant proposes  
28 a 3-lot subdivision by subdividing two (2) residential house lots off from the parent parcel  
29 fronting on Chapel Road leaving the commercial property with a single residence on Atlantic  
30 Avenue. Property owner: Golden Ks LLC, Guy Marshall, 63 Atlantic Avenue, North Hampton, NH:  
31 Property location: 63 Atlantic Avenue and Chapel Road; Tax Map & Lot 005-038; Zoning district:  
32 R-2. The applicant requests a Continuance to the September 4, 2012 meeting.

33

34 The Board was in receipt of a letter from the Applicant's Attorney, Timothy Phoenix, dated July 3, 2012,  
35 requesting a continuance of Case #12:10 to the September 4, 2012 Meeting in order to seek zoning  
36 relief that may be necessary in order to continue with the proposed subdivision.

37

38 **Ms. Pohl moved and Mr. Wilson seconded the motion to grant the Applicant's request to continue**  
39 **Case #12:10 - Golden K's LLC, to the September 4, 2012 meeting.**

40 **The vote was unanimous in favor of the motion (5-0).**

41

42 **II. New Business**

43

- 44 1. **Case #12:13 – Stoneleigh Park Plaza Inc., Peggy Chidester, 18 Lafayette Road, North Hampton,**  
45 **NH. Conditional Use Sign Application.** The Applicant requests a waiver to Article V, Section  
46 506.5.G – internally lighted signs to allow the continued use of an existing sign structure, to

47 maintain consistency of the exterior view of the building with other tenants. Property owner:  
48 Stoneleigh Park Plaza Inc.; property location: 18 Lafayette Road (Music School, Unit #2), North  
49 Hampton, NH; M/L 003-098-001; Zoning district: I-B/R.

50

51 In attendance for this application:

52 Peggy Chidester, Owner/Applicant

53

54 Ms. Chidester owns Stoneleigh Plaza, which consists of multiple retail units. The signs on the building  
55 above each business are box signs, internally lighted, that partially hang off a "railing" structure.

56

57 Ms. Chidester was denied a building permit from the Building Inspector for a new tenant because it was  
58 his interpretation that a new tenant's replacement of an existing wall sign is considered a materially  
59 altered wall sign, which constituted Planning Board approval, because the proposed sign required a  
60 waiver to the internally lighted provision.

61

62 Ms. Chidester explained that she was before the Board to ask permission to use the existing sign  
63 because she was only replacing the plastic face of the sign and considered it not to be materially altered.  
64 She has a unique situation, in that, if she were to comply with the Ordinance and have goose neck  
65 lighting it will not be uniform with all of the other signs on the building.

66

67 Mr. Kroner explained that there was an amendment to the Sign Ordinance last year regarding "change  
68 of tenant" and that is one of the reasons the Applicant is before the Board. The Board was attempting to  
69 try and move the signs in town in one direction; away from internally lighted, because the Ordinance  
70 would be ineffective.

71

72 Ms. Chidester said that the uniformity of the lighted box signs lend to the appearance of the building  
73 and if one sign has downward lighting because of a new tenant, it could be several years where there  
74 will be no uniformity with the signs, which would negatively affect the appearance of the building.

75

76 Mr. Kroner said that the other issue pertaining to this site was with Precision Fitness. Precision Fitness  
77 came before the Board requesting a second sign when in fact they already had two wall signs, so the  
78 request was really for a third sign. He said it was misleading and the Board would most likely not have  
79 approved the request knowing it would be a third sign.

80

81 Ms. Monaghan said that the issue is "internally lighted" and if every tenant change is allowed to replace  
82 the face of the sign then the signs would be non-conforming in perpetuity, and wondered if that was the  
83 intent of the Sign Ordinance, or is there a point where the signs will have to come into conformance  
84 with the Ordinance, which is no internal lighting.

85

86 Ms. Pohl said that the Board has always made attempts to try and make improvements with the signage  
87 along Route 1 to keep in conformance with the Zoning Ordinance, and internal lighting is not in  
88 conformance with the Ordinance.

89

90 Mr. Groth said that at first he did struggle to define whether the sign was a "wall" sign or a "projecting"  
91 sign. He said the sign has the appearance and character for a wall sign. He suggested that no matter  
92 how the Board decides the case they should at least discuss a strategy for bringing Stoneleigh Park  
93 Plaza's signage into compliance.

94  
95  
96  
97  
98  
99  
100  
101  
102  
103  
104  
105  
106  
107  
108  
109  
110  
111  
112  
113  
114  
115  
116  
117  
118  
119  
120  
121  
122  
123  
124  
125  
126  
127  
128  
129  
130  
131  
132  
133  
134  
135  
136  
137  
138  
139  
140

Ms. Chidester said that she looked into changing the signs in the entire plaza but realized that it would be very costly and she did not feel that she could enforce such an expense onto the tenant. She said that she is not prepared to make such a significant change at this time.

Mr. Wilson said that although he would like to see all the signs changed to New England style, downward lighted signs, the purpose of the change to the Ordinance was to recognize that it is an unsupportive financial burden to require property owners to “change out” signs completely when there is a tenant change. He said that he does not agree that by replacing the face of a box sign would constitute a material alteration; he compared it to changing out an expired light bulb. Mr. Wilson said he does not believe a permit is required.

Mr. Kroner read Section 506.3.A.2 – Wall signs under Change of tenant into the record: *A new tenant’s replacement of an existing wall sign shall be considered a material alteration and shall require either 1) approval of the Building Inspector if the proposed sign fully conforms to the provisions of this Section 506 or 2) approval of the Planning Board if the proposed sign requires a waiver from any provision of this Section.* This Section of the Ordinance was added in May 2011. Mr. Kroner said that he thought the amendment was made because the Board recognized there were many non-conforming signs in perpetuity.

Mr. Wilson recollected that the amendment, 506.3.A.2 was put in place because of an application before the Board where the Applicant wanted to take down internally lighted letters and replace them with new letters and retain the right to the internal lighting and keep the pole sign; the Board decided then to add a provision that if the wall sign were materially altered it would need Planning Board approval. He said that the Board would like to see a means of moving toward getting rid of internally lighted signs, and agreed with Mr. Groth that the Board should discuss ways of doing that.

Ms. Monaghan asked if there were other options the Board could look at on this type of sign ever coming into compliance.

Mr. Wilson mentioned the “abandoned” sign provision. It is no longer considered a change of tenant or “grandfathered” if the sign has been abandoned for a consecutive 120-day period.

Mr. Groth questioned, in his report, whether or not the colors of the proposed sign were in compliance.

Ms. Pohl referred to the Building Inspector’s letter to the Board. She said that he refers to Article V., Section 506.3.A.2 materially altered but does not explain why he feels it is materially altered. She said changing the color is not considered a material alteration.

Mr. Groth said the “change” is that the tenant changed, he referenced the first sentence of the Section, *A new tenant’s replacement of an existing wall sign shall be considered a material alteration...* Mr. Groth said that the Building Inspector acted appropriately by acting on what is actually written in the Ordinance.

The issue the Board was dealing with is whether or not there was an actual change to the wall sign or just replacement of the “face”.

141 Mr. Wilson said that the Board should find a way to implement a reasonable and sensible program for  
142 changing these types of signs to make them compliant. Mr. Wilson said that the colors of the sign may  
143 not be in compliance.

144  
145 The Board discussed the colors and determined them not to be obtrusive.

146  
147 **Mr. Wilson moved and Ms. Pohl seconded the motion that the Board finds that the change of tenant**  
148 **does not require a conditional use sign permit for the proposed sign.**

149  
150 Mr. Kroner asked if Mr. Wilson wanted to add the reasons why the proposed sign would not require a  
151 permit.

152  
153 Ms. Pohl said that the Building Inspector sites that the proposed sign is considered materially altered,  
154 but does not state why and she said that she does not understand why it would be "materially altered".

155  
156 Mr. Groth said that the Building Inspector made the correct call regarding the way the section is written;  
157 changing a tenant is a material alteration.

158  
159 Ms. Monaghan asked if the proper procedure was to amend the section of the ordinance rather than ask  
160 the Building Inspector to disregard what it states.

161  
162 Mr. Kroner said that it may not require an amendment, but may need editing to make it clearer. He said  
163 that he and Mr. Groth have discussed putting a sign committee together and review the Sign Ordinance;  
164 he said every community struggles with Signage.

165  
166 Ms. Pohl said that she appreciates Mr. Groth and Ms. Monahan's input regarding the intent of the Sign  
167 Ordinance, that the Board wants to "change over" the appearance of Route 1 and get rid of the  
168 internally lighted signs. She said that in this economy it is tough, but the right opportunity to take  
169 advantage of in the Town. She said whatever changes to be considered, the Board needs to make the  
170 distinction between multi-tenant sites, and single-tenant sites.

171  
172 **The vote passed in favor of the motion (4 in favor, 1 opposed and 0 abstention). Ms. Monaghan**  
173 **opposed.**

174  
175 Mr. Wilson commented the Mr. Smart (Interim Building Inspector) was right to make this call and that  
176 Mr. Groth is right that the Town needs to move toward making all existing non-conforming signs into  
177 compliance.

178  
179 **2. Case #12:14 – Philbrick's Fresh Market, Phil Philbrick, 69 Lafayette Road, North Hampton, NH.**  
180 The Applicant requests a site plan amendment to install a door to the Philbrick's Fresh Market  
181 Café and allow seasonal outside seating on the existing 13' 4"L sidewalk. Property owner:  
182 Stevens E. Inc., C/O Gary Stevens, 69 Lafayette Road, North Hampton, NH; Property location: 69  
183 Lafayette Road (Philbrick's Fresh Market); M/L 007-065-000; Zoning district: I-B/R.

184  
185 In attendance for this application:  
186 Phil Philbrick, Applicant and Owner of Philbrick's Fresh Market  
187 Bernard Pelech, Applicant's Counsel

188

189 The Board was in receipt of a letter of authorization from the property owner to allow the applicant to  
190 appear before the Planning Board on their behalf.

191

192 Mr. Pelech submitted photos to the Board depicting where the access door and outdoor seating would  
193 be located on the site. He explained that Mr. Philbrick is aware of the Board's safety concerns regarding  
194 the outdoor seating area and suggested adding one (1) foot high raised curbing to offer protection to  
195 patrons from vehicles. He said that it's difficult to determine how to space bollards and questioned how  
196 they would look. He said they will ask the opinions of the Public Works Director, as well as, the Fire and  
197 Police Chiefs, and it would also be conditioned upon the building owner's approval.

198

199 Mr. Pelech referred to an email he received from Ms. Chase regarding waiver requests to the parking  
200 and septic regualtions. He said that they did not request waivers because they were not adding more  
201 people.

202

203 Mr. Kroner said that over the past several years there have been at least five (5) instances where motor  
204 vehicles have been driven into buildings in Town. He said curbing is not going to prevent a vehicle from  
205 going over the sidewalk; it's a huge liability issue. He said the location is at the most dangerous part of  
206 the parking lot. Mr. Kroner said he would like information on what the septic system was designed for.  
207 There are questions of whether or not it was designed to support a café or food service. Mr. Kroner said  
208 that there are nitrates created where "meats" are prepared and the septic plan on file is not designed  
209 for a meat counter; nitrates can cause septic failure.

210

211 Ms. Pohl said that the owners did not come before the Board when Philbrick's moved in because it was  
212 a change of tenant, not a change of use. She said that what is being presented is a new floor plan  
213 indicating there is a new restaurant that she didn't believe they have approval for. She questioned  
214 whether or not the width of the sidewalk would change due to added curbing or bollards.

215

216 Mr. Pelech said that if they use curbing it would be 4 to 6 inches and occur between the parking area  
217 and sidewalk; the existing sidewalk would not change.

218

219 Ms. Pohl wanted to know if the curbing would extend into the fire lane.

220

221 Mr. Philbrick said the Café was a part of the process from the beginning. A new leach field has been  
222 installed and he has all of the State approvals for that.

223

224 Attorney Pelech said that they are willing to work with whomever the Board wants them to regarding a  
225 barrier; they want to insure that the patrons are safe.

226

227 Mr. Groth said that he wasn't sure how to proceed with this application because they applied for a site  
228 plan amendment, but requested no waivers, and there are many waivers to the site plan review  
229 requirements that would be necessary to continue with the application. He said that the applicant was  
230 advised that a drawing of the outdoor seating would not be enough information and that the applicant  
231 would have to prove the parking requirement was met.

232

233 Mr. Wilson said that the original application would have been under the Site Plan and this amendment  
234 does not require a full blow Site Plan Review. He said the Board reserves the right to require a Site Plan

235 Review if there is a Change of Use to a building or site which does not have an approved site plan on file.  
236 He said that there is a safety issue and, if approved, it could be conditioned on a letter from the Fire and  
237 Police Chiefs stating that the applicant has provided adequate safety provisions for outside seating.  
238

239 The Building Inspector made the judgment when Fresh Market moved in that what was being proposed  
240 was a "Change of Tenant" not a "Change of Use"; therefore it did not require Planning Board approval.  
241 Mr. Philbrick said that the plan depicting the Café was the same plan presented to the Building Inspector  
242 when he approved the Change of Tenant. A Change of Tenant does not require Planning Board  
243 approval.  
244

245 Mr. Pelech said that he would direct Mr. Philbrick to work with the Fire and Police Chiefs on a plan to  
246 address the safety issue for the proposed outside seating area.  
247

248 **Mr. Wilson moved and Ms. Monaghan seconded the motion to take jurisdiction of the Application of**  
249 **Case #12:14.**  
250

251 Mr. Philbrick answered Ms. Pohl's question that the new door would be in front of the door, or very  
252 close to the handicapped parking spot.  
253

254 **The vote was unanimous in favor of the motion (5-0).**  
255

256 **Mr. Wilson moved and Ms. Pohl seconded the motion to approve the amendment to the Site Plan as**  
257 **proposed with the condition that (1) the Board receive, prior to the installation of the door, a letter**  
258 **from the Fire and Police Chiefs stating that they reviewed and approved the means of protecting**  
259 **patrons in the outdoor seating area of any incursions of vehicles from the parking lot, and (2) that the**  
260 **Board receive a recordable Mylar for this site from the owner of the property showing all**  
261 **modifications to the site that have been made since the last Site Plan was approved.**  
262 **The vote was unanimous in favor of the motion (5-0).**  
263

264 1. **Case #12:15 – Barr-Moran, Inc., PO Box 1076 North Hampton, NH. Conditional Use Sign**  
265 **Application.** The Applicant requests the following waivers: Article V., Section 506.3 for relief  
266 from a procedural requirement of the property owner's signature(s) or authorization on the  
267 application; Article V, Section 506.2.K – relief from the width requirement; Article V, Section  
268 506.6.D – relief from the maximum 60 square foot size requirement; Article V, Section 506.6.G –  
269 size requirement in districts other than the I-B/R; and Article V, Section 506.6.Q - color.  
270 Property owners: David and Suzanne Pope, Trustees, David A. & Suzanne Pope Revocable Trust,  
271 PO Box 905, North Hampton, NH; Property location: 17 Ocean Blvd, North Hampton, NH (Beach  
272 Plum); M/L 001-035-000; Zoning district: R-2.  
273

274 In attendance for this application:

275 Bob Lee, Applicant/Owner of the Beach Plum

276 Craig Salomon; Counsel for the Applicant  
277

278 Mr. Wilson called for a Point of Order. Mr. Kroner recognized Mr. Wilson. Mr. Wilson said that he  
279 received a phone call from Mr. Salomon asking him if he intended to recuse himself from this  
280 application because he has recused himself from previous Planning Board applications regarding the  
281 Beach Plum in the past, because his daughter worked at the establishment for a couple of summers a

282 few years ago. Mr. Wilson said that at this point he did not think it would affect his ability to adjudicate  
283 the case objectively; therefore he will not recuse himself.

284

285 Mr. Salomon said that he was not concerned with Mr. Wilson's ability to adjudicate the case, he was  
286 concerned that if a neighbor appealed he wanted Mr. Wilson to be aware of that eventuality.

287

288 Mr. Salomon explained that the application involves two lobsters holding ice cream cones located at the  
289 Beach Plum on Ocean Blvd. The Building Inspectors, Mr. Mabey (Town) and Mr. Southworth (Little  
290 Boar's Head) looked at the "carvings" and determined them to be signs; the applicant appealed that  
291 decision with the Board of Adjustment as an Administrative Decision; the Board of Adjustment upheld  
292 Mr. Mabey's ruling, and that case is pending in Superior Court. Mr. Salomon said that he wanted to  
293 ensure the Board that if the application is approved by the Planning Board after the 30-day appeal  
294 period they would withdraw the Court Case. He said that they are also requesting a variance from Little  
295 Boar's Head.

296

297 Mr. Salomon said that the Applicant is here before the Planning Board agreeing that the "carvings" are  
298 signs but beyond that they are reserving their rights as they may exist in Superior Court.

299

300 Mr. Salomon said that the Beach Plum is in the Residential Zoning District where only 18 square-feet of  
301 signage is allowed. He said that it is difficult to measure a 3-dimensional sign.

302

303 Mr. Salomon went over the Applicant's requests of the Board. They are asking a waiver to the  
304 procedural requirement that the owner of the property sign the application. He said that under the  
305 terms of the lease between the owners (the Popes) and the tenants (Barr-Moran, Inc.) it is the tenant's  
306 responsibility to secure licenses and permits required for the business. The Popes were notified by  
307 certified mail of this application.

308

309 Mr. Salomon referred to Section 506.2.K which addresses Monument signs. He said the top of the  
310 carving is wider than the base, and a monument sign requires that the width of the top of the sign shall  
311 not be greater than the width of the bottom of the sign.

312

313 Mr. Salomon referred to Section 506.6.D and 506.6.G because they both relate to square footage. He  
314 said the ordinance doesn't give guidance on how to determine square footage on a 3-dimensional sign.

315

316 Mr. Salomon said the small lobster carving under the portico is approximately 9.3 square-feet and the  
317 area with the words "Beach Plum" is 2.9 square-feet; the larger carving is 17.81 square-feet (if looking at  
318 the carving "head on") and the area with the words is .5 square-feet. He said they both fall under the 60  
319 square-feet requirement for a monument sign. He said that the two carvings plus the existing sign totals  
320 40 +/- square-feet.

321

322 Mr. Salomon submitted a copy of a newspaper clipping in 2000 that depicts a large ice cream cone on  
323 the other side of the existing Beach Plum sign.

324

325 Mr. Salomon said that they requested relief from color in case the Board determined that the colors did  
326 not meet the requirement.

327

328 Mr. Salomon said that Mr. Lee would be willing to eliminate the words on the carvings if appropriate,  
329 and mentioned that there is no lighting associated with the carvings.

330

331 Mr. Salomon went over the Sign Standards under Section 506.1.B. –

332

333 **1. Maintain and enhance the visual quality or aesthetics of the community.** Mr. Salomon said that the  
334 “carvings” are aesthetically pleasing and photographed frequently and loved by children.

335 **2. Improve pedestrian and motorist safety by minimizing distractions and obstacles to clear views of**  
336 **the road and of directional or warning signs.** Mr. Salomon said that the signs are far back from the road  
337 and referred to 506.6.D that requires 10-feet from the Road and the “carvings” are situated in a way  
338 that would not distract motorists.

339 **3. Improve motorist’s safety by encouraging fewer words per sign.** Mr. Salomon said each sign has  
340 two words “Beach Plum”, and Mr. Lee would be willing to eliminate those words.

341 **4. Protect and enhance the visual and scenic quality of the community’s night sky by eliminating light**  
342 **pollution emitted from signs.** Mr. Salomon said that there is no lighting associated with the “carvings”.

343 **5. Protect and enhance economic viability by assuring that North Hampton will be a visually pleasant**  
344 **place to live, work and shop.** Mr. Salomon reiterated that people frequenting the Beach Plum love the  
345 “carvings”.

346 **6. Protect property values and private/public investments in property.** Mr. Salomon did not remark.

347 **7. Protect scenic views of the natural landscape and significant historical areas of the Town....** Mr.  
348 Salomon said the Beach Plum has been there since before WWII and the owner went to war and came  
349 back and zoning had been implemented so the owner was granted a variance.

350 **8. Avoid personal injury and property damage from structurally unsafe signs.** Mr. Salomon said that  
351 the “carvings” are carved from a block of wood from a renowned chain saw carver, and they weigh  
352 hundreds of pounds.

353 **9. Provide businesses with effective and efficient opportunities for identification by reducing**  
354 **competing demands for visual attention.** Mr. Salomon said that this is the only business in the area;  
355 there is no competing business around.

356

357 Mr. Groth went over the requested waivers by the Applicant.

358 **1. Waiver request from 506.3 – relief from a procedural requirement of the property owner’s**  
359 **signature on the application.** Mr. Groth opined that such relief cannot be granted. Although the  
360 Applicant’s lease may stipulate that the right to apply for relief is solely that of the applicant, he does  
361 not believe it establishes the owner’s permission for the tenant to do any activity requiring Planning  
362 Board or Zoning Board relief in perpetuity. The Board would put the Town at risk should it approve the  
363 application without the owner’s signature.

364 **2. Waiver request from 506.2.K – Monument Sign, the width of the top of the carving is wider than**  
365 **the base.** Mr. Groth said that it is up to the Board’s discretion.

366 **3. Waiver request from 506.6.D – Square footage requirement of a monument sign.** There are two, 3-  
367 dimensional, “carvings”. The letters are less than two square feet, if the interpretation of the ordinance  
368 is to include the surface area of the “carvings”, then when added to the two sided pole sign and the  
369 sandwich board, 60 square feet would be exceeded. Mr. Groth said every business is permitted one  
370 sandwich board sign no larger than 2’ x 3’ provided that they meet the requirements of Section 506.6.L,  
371 including that they are taken in at night. Per Section 506.6.R allows only one pole sign per business; a  
372 waiver from this provision would be required to approve the lobster sign.

373 **4. Waiver request from 506.6.G –** Mr. Groth said that because the site is not in the I-B/R District,  
374 506.6.G is applicable.



375  
376 The Board came to the consensus that it would be ill-advised for them to waive the procedural  
377 requirement of the owner's signature on the application; therefore would not be able to take  
378 jurisdiction of the application.  
379  
380 Mr. Wilson said that if the words "Beach Plum" were removed from the lobsters he would not interpret  
381 them as signs. He also pointed out Article V, Section 501.2 that would require the applicant to seek  
382 relief from the Zoning Board to make a change on a non-conforming use.  
383  
384 **Ms. Pohl moved and Ms. Monaghan seconded the motion to deny the waiver request from Article V,**  
385 **Section 506.3 because the application lacks the procedural requirement of the owner(s) signature(s).**  
386 **The vote was unanimous in favor of the motion (5-0).**  
387  
388 Mr. Kroner said that the Board mistakenly granted approval of a lot line adjustment and not all owner(s)  
389 on record signed the application and it was because that particular owner did not agree to the lot line  
390 adjustment.  
391  
392 Mr. Salomon requested a recess to talk to his Client.  
393  
394 Mr. Kroner called for a recess.  
395 Mr. Kroner reconvened the meeting.  
396  
397 Mr. Salomon said that his Client would like to continue the case to a date certain to give them a chance  
398 to obtain the owner(s) signatures.  
399  
400 Mr. Wilson said that since the signage would be a change to a non-conforming use, the Board can't do  
401 anything without relief from Section 501.2 from the Zoning Board.  
402  
403 Mr. Salomon said that the Legislative Body voted to put signage under the Planning Board's purview by  
404 way of a Conditional Use Permit. He said that the Zoning Board's standard for review is different from  
405 the Planning Boards. He said it becomes very circular. He asked what would happen if the Zoning Board  
406 added conditions of approval the Planning Board did not agree with.  
407  
408 Mr. Kroner said that the "use" is not being expanded or changed, and doesn't agree with using this  
409 standard, 501.2, because it's regarding "use".  
410  
411 Mr. Wilson said that Mr. Kroner is bringing in a definition of "use" that is no applicable. He said it is not a  
412 change in use; it's simply a change. If you have a non-conforming property; it cannot be changed  
413 without relief from the Zoning Board.  
414  
415 Mr. Wilson said that the question to the ZBA has nothing to do with the sign ordinance itself; the  
416 applicant would be going to the ZBA for approval to make a "change" on the non-conforming use.  
417  
418 Ms. Pohl said that the ZBA would be addressing the actual "change" of whether or not the "change"  
419 would make the use more conforming or less conforming. She said that the question revolves around  
420 whether or not the "change" is allowed.  
421

422 Mr. Salomon said that would mean an interpretation of the Zoning Ordinance by the Planning Board  
423 which is appealable to the ZBA who ultimately determines what the Ordinance means; the other  
424 approach would be for a variance where the ZBA has the authority to attach conditions that the  
425 Planning Board may not agree with. He said the sign ordinance was adopted after Section 501.2.  
426

427 Mr. Salomon requested a continuance to a date certain so that the Board can obtain a legal opinion on  
428 the ruling how the Board should act regarding Section 501.2, and whether or not the Applicant needs  
429 relief from that provision before the Board can grant a conditional use permit for signage on a non-  
430 conforming use.

431  
432 **Mr. Wilson moved and Ms. Pohl seconded the motion to grant the Applicant's request to continue**  
433 **deliberations on the application for case #12:15 to the September 4, 2012 meeting conditioned upon**  
434 **receipt of letter from the Applicant or the Applicant's Counsel requesting such continuance and**  
435 **relieving this Board of the time constraints for taking jurisdiction of the proposal.**  
436

437 Ms. Monaghan asked if it should be conditioned that the Board needs the owner's signature.

438 Mr. Wilson said that it can be added to the motion but the Board already decided that they cannot take  
439 jurisdiction of the application without the owner's signature.

440

441 **The vote was unanimous in favor of the motion (5-0).**

442 The Board decided to have Ms. Chase submit to the LGC, generically, the scenario relating to variance vs.  
443 Conditional use, and if she receives an ambiguous answer, Mr. Kroner will contact Town Counsel. Mr.  
444 Salomon asked permission from the Board the ability to speak with Town Counsel if it ends up with  
445 them. The Board said that after the Board receives an independent opinion from Counsel they will  
446 decide at the time, whether or not, they grant Mr. Salomon permission to speak to Town Counsel.  
447

448

448 **Mr. Wilson moved and Ms. Pohl seconded the motion to authorize the Chair to ask Town Counsel to**  
449 **opine on this issue for the Board.**

450

451 **The vote was unanimous in favor of the motion (5-0).**

452 **I. Other Business**

453

454 1. **Master Plan Update** – Mr. Kroner said that he and Brian will give a more thorough report to the  
455 Board at the Work Session. Mr. Groth said that the dates have been set for Saturday, September  
456 29, 2012 and Saturday, October 6, 2012 for the public visioning sessions. He asked the Board to  
457 keep those dates available. They will talk about structuring the sessions and advertising and  
458 supplying food in more detail at the August Work Session.

459 2. **Rockingham Planning Commission Circuit Rider Contract**.- Mr. Wilson explained that this year  
460 there were no matching funds from the Coastal Grant to help defray the cost of the Town's  
461 Circuit Rider support. Mr. Wilson said it is still much less costly to pay the full amount to  
462 Rockingham Planning Commission than to hire a Town Planner with a full time salary and  
463 benefits.  
464

465 **Ms. Pohl moved and Mr. Wilson seconded the motion to authorize the Chair to sign the Contract with**  
466 **Rockingham Planning Commission for Circuit Rider support for the year, July 1, 2012 through June 30,**  
467 **2013.**

468  
469 The Board recognized the past Circuit Riders, as well as the Town's current Circuit Rider, Brian Groth, for  
470 the great job they've done, and do, for the Town.

471  
472 **The vote was unanimous in favor of the motion (5-0).**

473  
474 **The meeting adjourned at 9:35pm without objection.**

475  
476 Respectfully submitted,

477  
478 Wendy V. Chase  
479 Recording Secretary

480  
481 **Approved September 18, 2012**