



**Meeting Minutes  
Public Hearing & Work Session  
North Hampton Planning Board  
Tuesday, September 15, 2015 at 6:30pm  
Town Hall, 231 Atlantic Avenue**

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

**Members present:** Shep Kroner, Chair; Dan Derby, Phil Wilson, Nancy Monaghan, Josh Jeffrey and Jim Maggiore, Select Board Representative.

**Members absent:** Tim Harned, Vice Chair

**Alternates present:** None

**Others present:** Jennifer Rowden, RPC Circuit Rider, and Wendy Chase, Recording Secretary

Chair Kroner called the Public Hearing to order at 6:34pm.

Chair Kroner read the following into the record:

The Planning Board will hold a Public Hearing on a proposed amendment to Article I – Purpose. The proposed change is to add the following language at the end of the paragraph:

The ordinance shall not apply to the Little Boars Head Village District, which was granted exclusive Planning and Zoning authority by an act of the New Hampshire Legislature in 1937.

The purpose of the proposed amendment is to clarify that the Town and Little Boars Head Village District do not have concurrent jurisdiction.

The Planning Board was in receipt of a letter from Little Boars Head Village District with a proposed amendment to the Planning Board's amendment to Article I – Purpose. The proposed amendment is to add the following sentence after \*3/14/68:

*Except with respect to the powers and responsibilities of the Town of North Hampton Building Code and Fire Inspectors concerning site inspections and the issuance of building permits and certificate of occupancy, which shall continue to apply in the Village District of Little Boars Head,*

45 Chair Kroner explained that the proposed change is to ensure that Little Boars Head Village  
46 District (LBHVD) will not be excluded from Code Enforcement services. He asked for comments  
47 from the Board Members.

48

49 Mr. Maggiore informed the Board that the Select Board has not discussed the proposed  
50 amendment to Article I - Purpose. He hasn't spoken about it with the Town Administrator Paul  
51 Apple either.

52

53 Chair Kroner asked if it was Mr. Maggiore's understanding, that it was, and still is, the intention  
54 of the Select Board to continue to offer Code Enforcement and Fire Inspection responsibilities to  
55 Little Boar's Head Village District.

56

57 Mr. Maggiore said that is how he has always thought it to be.

58

59 Mr. Wilson said that he did not think the Planning Board can enact the language by LBH because  
60 the Board can only enact language that is consistent with the laws of the State of New  
61 Hampshire that created this "mess" in the first place and it didn't "tease out" code enforcement  
62 and fire inspections – it gave exclusive authority for planning and zoning, which the Planning  
63 Board's proposal states. He said that he thought the concerns LBH Commissioners expressed is a  
64 canard because they have the authority to appoint whoever they want to be their Code  
65 Enforcement Officer and Fire Inspector and if the Select Board agrees to provide that service  
66 with the Town's Building Inspector and Fire Inspector – it's done; they have the authority to  
67 appoint whoever they want. He said there are two points, first this is a canard ; it's not a  
68 problem; they've made it a problem and secondly he doesn't think the Town can adopt their  
69 language anyway because provisions under which they were given authority was clear and did  
70 not exclude fire inspections and code enforcement. He said that he believed that LBH District  
71 had their own Code Enforcement Official and doesn't know when the Town started enforcing  
72 their Zoning Ordinances. He said that he questions if that is wise to have that. He said fire  
73 inspection is a different thing.

74

75 Chair Kroner said that the structural reality is that the district is taxed by the Town and those  
76 taxes go towards fund Code Enforcement Officer.

77

78 Mr. Wilson agreed and said that LBH chose not to come to an agreement with the Town for  
79 concurrent jurisdiction. They should be allowed to persist in a separate path and he thinks that  
80 is what the law states. He said he can understand if the Select Board wants the Town's Code  
81 Enforcement Officer to enforce their codes because it would be practical and less expensive, he  
82 just doesn't think it is appropriate. He said that he doesn't think they can put the language LBH  
83 suggest into the Zoning Ordinance and suggested they run it by Town Counsel.

84

85 Chair Kroner agreed that the proposed needs legal review. He said that there are things in the  
86 ordinance that the Board doesn't necessarily deal with regularly, but are technically in the  
87 Zoning Ordinance.

88

89 Ms. Monaghan said that she didn't think the Board could take any action on it because it hasn't  
90 been reviewed by Town Counsel.

91

Mr. Derby said that because the suggested language doesn't refer to "concurrent jurisdiction" he is not comfortable adopting their proposal.

Ms. Rowden informed the Board that they had plenty of time to continue the Public Hearing on the proposed amendment before it has to be placed on the ballot.

Mr. Wilson referred to the last sentence of the Board's proposed amendment, *the ordinance shall not apply to the Little Boars Head Village District, which was granted exclusive Planning and Zoning authority by an act of the New Hampshire Legislature in 1937*. The proposed amendment from the LBH Commissioners is asking the Town to adopt something that applies in Little Boars Head Village District.

Chair Kroner opened the Public Hearing at 6:49pm.

Charles "Chuck" Gordon, 10 Sea Road (in the Village District) – said that the issue is here is clearly not a canard, we're talking about matters of public safety in ensuring that any structure that is built or remodeled in the Town including the Village District complies with all applicable building codes and where modifications done to heating systems the Fire Department inspects those changes. He said that the whole matter was not initiated by the Village District and when it was initiated by others we regretted it. They want to continue with the same arrangement with the Town since 1946 when the Town adopted zoning ordinances, and from 1946 on there was concurrent jurisdiction until a couple of years ago. He said the arrangement between the Town of Rye and Rye Beach District is different; the Rye Building Inspector reviews applications to see whether they comply with the Rye Beach ordinance and that was the arrangement the Commissioners understood was going to prevail a couple of years back. He said the provisions regarding building codes could stand alone; they don't necessarily have to be in the zoning ordinance; they are not land use matters. The Legislature granted jurisdiction for zoning to Rye Beach and Little Boar's Head in 1937; the word "exclusive" is included in the language for Rye Beach, it is not included in the language for Little Boar's Head. He said that building codes are in the zoning ordinance and it is because of that that the Commissioners submit the proposed change, which is merely the addition of the addition of the clause, *Except with respect to the powers and responsibilities of the Town of North Hampton Building Code and Fire Inspectors concerning site inspections and the issuance of building permits and certificates of occupancy, which shall continue to apply in the Village District of Little Boars Head*.

Chair Kroner closed the Public Hearing at 6:35pm.

Mr. Wilson said he was sorry Mr. Gordon misunderstood him, he was not calling the necessity of safety inspections a canard; putting that in the paragraph and then stating it was a necessity to put it in a paragraph of the Town's Zoning Ordinance is the canard because that is not necessary for public safety or anything else. He said that if the Select Board wants to agree with it, that's fine but he felt it is creating dual effort for building inspection and code enforcement and doesn't think it needs to be state in the Zoning Ordinance.

Chair Kroner said that the inference for the proposed amendment is that the Building Inspector is not allowed to do inspections in Little Boars Head Village District.

138 Mr. Wilson said that the Commissioners can add to their own Purpose statement in their  
139 ordinance the proposed statement. He said Mr. Gordon implied that they have their own  
140 Building Inspector/Code Enforcement Officer.

141

142 Chair Kroner reopened the Public Hearing without objection at 7:00pm.

143

144 David O'Hare, 18 Old Locke Road said that the Little Boars Head Village District doesn't have a  
145 Building Inspector they have a Zoning Inspector.

146

147 Chair Kroner said that the LBH Zoning Inspector makes sure building in LBH is being done  
148 consistently with the Zoning Ordinances adopted by Little Boars Head. Mr. O'Hare said he  
149 believes that to be true.

150

151 Chair Kroner closed the Public Hearing at 7:02pm.

152

153 Mr. Jeffrey said that it needs to be reviewed at a higher level. The Board needs clarification of  
154 what is and what isn't redundant.

155

156 Mr. Maggiore said it definitely needs a review from Town Counsel. He suggested getting an  
157 opinion from the Select Board of what their intention is for the direction of the Building  
158 Inspector and Code Enforcement Officer, and to also get the opinion of the Building Inspector to  
159 see what he considers his role to be regarding LBH.

160

161 Chair Kroner said that the Public Hearing should be continued to a date certain so the Board can  
162 find out from Town Counsel whether or not the proposed amendment is even permissible.

163

164 Mr. Derby said that the Select Board would probably like to hear what Town Counsel has to say,  
165 so that meeting should take place first before Mr. Maggiore brings it up to the Select Board.

166

167 Mr. Wilson said that he was misunderstood and said that Mr. Maggiore doesn't need to go to  
168 the Select Board to see if the Town's Building Inspector should inspect buildings in Little Boars  
169 Head to make sure they meet code and the Fire Department inspections to make sure they  
170 meet safety codes because the answer is of course, Little Boars Head needs services for life  
171 safety; the legal and technical question is, given the resolution passed by the Legislature in  
172 1937, can the Town write something like this into the Zoning Ordinance. He said he thought the  
173 Town could if LBH had already passed this as a resolution in at their town meeting and the Town  
174 was memorizing it in the Town's Zoning Ordinance. He said that the Little Boars Head  
175 Commissioners have authority to contract with whomever they want for life safety inspections  
176 including the Town.

177

178 Chair Kroner said that he understood the Commissioners concerns and the Board should find  
179 out from legal counsel if they can change the purpose statement to exclude concurrent  
180 jurisdiction with LBH while expecting the Administration portion of the Zoning Ordinance to still  
181 be provided to LBH.

182

183 Ms. Rowden said that another option is not to change the Purpose statement at all and carry on.  
184 It would neither exclude nor include LBH.

185 **Mr. Derby moved and Mr. Jeffrey seconded the motion to hold a non-meeting with counsel to**  
186 **review all the options discussed at this meeting regarding the amendments to the Purpose**  
187 **Statement.**

188 **The vote was unanimous in favor of the motion (6-0).**

189

190 **Ms. Monaghan moved and Mr. Derby seconded the motion to continue the Public Hearing on**  
191 **the proposed amendment to the Purpose Statement to the November 3, 2015 meeting.**

192 **The vote was unanimous in favor of the motion (6-0).**

193

194 Chair Kroner called for a recess to change recording for the scheduled Work Session.

195

196 Chair Kroner called the Work Session to order at 7:22pm.

197

198 **I. Old Business**

199

- 200 1. Fire Chief Michael Tully – proposed changes to the regulations regarding required  
201 driveway widths for emergency vehicles.

202

203 Chief Tully submitted information on driveway widths and the safety issues of how they pertain  
204 to emergency vehicles. He did extensive research and provided the information to each member  
205 of the Board. He referred to the Town of Rye's driveway standards, Section 5.F and said that he  
206 liked their standards, but would recommend changing the width to 12-feet wide with 2-feet on  
207 each side resulting in an overall width of 16-feet. He said that the 2-feet on either side could be  
208 finished with stone dust; it would not necessarily have to be paved.

209

210 Mr. Derby asked if other town's that provide mutual aid have larger emergency apparatus than  
211 North Hampton. Chief Tully said that some do.

212

213 Ms. Monaghan said that the CIP committee determined that a Quint truck would not work for  
214 North Hampton.

215

216 Ms. Rowden suggested adding the driveway regulation in the Site Plan and Subdivision  
217 Regulations and not in the Zoning Ordinances.

218

219 Mr. Kroner said that it should be added to the Driveway permit application as well.

220

221 Ms. Rowden said that it could also be a Town Ordinance through the Select Board.

222

223 Chair Kroner will reach out to Mel Lowe from the Town of Rye to find out where their driveway  
224 width regulations lie.

225

226 Mr. Jeffrey volunteered to work with Ms. Rowden on a draft regulation for driveway widths for  
227 the Board to review.

228

229 Mr. Wilson said that the Board can present the Select Board with an ordinance for them to  
230 adopt and attach the diagram submitted by Chief Tully to go along with it. The diagram explains  
231 exactly what they want.

Mr. Jeffrey will coordinate with Ms. Rowden.

## II. New Business

### 1. Committee Updates

- a) Long Range Planning (LRP) – Mr. Kroner said that he put together some questions for the 2016 town survey. He said that there should be at least 20 questions to draw people into taking the survey, and not just yes and no questions; they will use scale responses. Mr. Maggiore said that they have an understanding of what residents want. They need to focus on Route 1; he would like questions focusing in on what people would like to see on Route 1. Mr. Derby said that they would also like to know from the community how the Board is doing. He is in favor of including a comment section in the survey even though it may be a tedious task during the collation process. Mr. Maggiore will send out an email to Committee members to set a meeting soon. Discussion ensued on a proposed Village District. Mr. Kroner said that there can't be a Village District without sidewalks. Mr. Wilson commented that people like sidewalks until they find out how much they are to construct and maintain. Mr. Kroner agreed and said that they don't want to lead people to an answer. He said people would need to be educated on the question by informing them of sidewalk construction estimates. Mr. Kroner would like to meet to gather a set of questions to present to the Board to review.
- b) Capital Improvement Plan (CIP) – Ms. Monaghan said that she is just about done with the second draft of the plan. They are waiting for the Municipal Facilities Committee's presentation and Select Board vote. There is a change from last year; they delineated all repairs that need to be done to the buildings if the Municipal Complex fails; some were included in the capital plan over the years and this year they will delineate those and treat them as emergencies. There are so many repairs that need to be done to the buildings if the plan doesn't pass; they will work it through the buildings maintenance fund and general budget or emergency capital if needed. She said that after the Select Board vote at the October 5<sup>th</sup> Public Hearing the CIP will finish their report and it will be ready for the Budget Committee when they start to meet in November.
- c) Rules and Regulations/Procedures – no update
- d) Application Review Committee (ARC) – no update
- e) Economic Development Committee – no update
- f) Select Board – Jim Maggiore – Mr. Maggiore said the Select Board will receive the report from the municipal facilities committee on September 28<sup>th</sup> which is a public meeting and then they will hold a Public Hearing on October 5<sup>th</sup>. He encouraged everyone to attend.
- g) RPC Circuit Rider – Jenn Rowden – Vegetative Buffer – Ms. Rowden informed the Board that RPC received a grant to follow up on sea level and storm surge work they have done. They are able to work with all seven coastal communities and one fit for North Hampton would be to work on vegetative buffer work. They already have the grant money so it wouldn't cost the Town anything. She said the funding starts in October so there's not a lot of wiggle room to start drafting a zoning ordinance. She asked the Board if they would like her to keep exploring and coming up with draft language or if North Hampton isn't interested she can work with Little Boars Head Village District. The Board agreed that they are interested in working on a vegetative buffer. Mr. Kroner said

that it's important to provide a scientific mechanism to support their case. Mr. Wilson asked if she could produce rationale that it is a good idea to move forward with vegetative buffers. Ms. Rowden said she could start work on the vegetative buffer; but cannot implement it on existing lots and it is probably impossible to make it retroactive. Mr. Maggiore said that the Town is working with NH DOT on the 10-year plan and discussed the berm at Bass Beach and what potential impacts it could have if washed out by a big storm. NH DOT said that they could do a study. No one knows who would be responsible if the berm was washed out by a big storm. Ms. Rowden said RPC may already have some data regarding that. Mr. Wilson said that if it doesn't benefit North Hampton we shouldn't "kick in" too much money. Ms. Rowden said that she is working on the stormwater ordinance and is waiting on the finalized version of the model ordinance from Julie LaBranche. Ms. Rowden updated the Board on the EPA MS-4 form and said they opened the public comment period from 9/1/2015 through 11/20/15 linked to water quality standards for Great Bay, so North Hampton filing of the permit will be affected. The final language won't be released until January 2016; therefore won't go into effect until June 2016. She said it is good to be proactive with stormwater ordinances. Ms. Rowden said that the stormwater permit standards are that the Town is responsible for storm water on town roads and municipal owned facilities. The State has a different MS 4 Stormwater permit that covers state roads. It's not a good idea for the town to allow a large development that would increase the stormwater runoff on town roads because the Town has to treat it. The Ordinance should gear towards new development and redevelopment that would allow treatment of stormwater on site

**Proposed Zoning Ordinance amendments/additions and/or Regulation  
amendments/additions Discussion.**

Ms. Monaghan presented the following and asked, on behalf of the Sign Ad hoc Committee that the Board consider accepting the changes and scheduling public hearings, and place on the March Ballot.

a) Article V, Section 506 - Signs – Proposed amendments:

Ms. Monaghan explained that they added "of any size" to the definition of billboard to include all signs especially sandwich board signs that advertise a business at a different locations.

**506.2 DEFINITIONS**

**A. Billboard.** A sign of any size that directs attention to a business, commodity, service, or entertainment conducted, sold or offered at a location other than the premises on which the sign is located.

Ms. Monaghan explained that the proposed change to 506.5 is to add what is in "red" and delete the existing in "green", so that this section and the definition are defined the same.

Cindy Jenkins asked if the proposed amendment affected agricultural signs and Ms. Monaghan said that it doesn't.

Ms. Jenkins questioned seasonal signs for agricultural purposes.

Mr. Kroner referred to seasonal sign in Section 506.6.M, which requires a permit. The sign

324 section in the Agriculture Ordinance, Section 508.5.E refers to seasonal sign 506.6.M. Mr. Wilson  
325 said that agriculture is not exempt from the amendment that items advertised on another  
326 property would be considered a billboard. He said the Board may want to change the sign fee  
327 for agricultural signs.

328 **506.5 PROHIBITED SIGNS**

329 **B. Billboards.** No billboard not existing at the time of the adoption of this ordinance  
330 shall be permitted. A billboard is defined at Section 506.2.A.

331 as that type of sign that advertises goods, products, merchandise, business, or any other  
332 sort of enterprise or adventure not actually available at the premises where the billboard  
333 is located.

334 Ms. Rowden suggested that “Billboard” does not need to be defined twice in the Ordinance.

335 Discussion ensued on potential conflicts with the proposed amendments. Ms. Jenkins questioned  
336 signs advertising “farmers markets” in the area which are most likely on a property other than  
337 where the farmers market is. Mr. Maggiore referred to Section 506.6.L Special Even signs and  
338 thought those types of signs would fall under that category, but then would conflict with the  
339 newly amended definition of “billboard”.

340 **506.4 SIGNS AUTHORIZED WITHOUT A SIGN PERMIT**

341 **A. Flags.**

342 **1. Governmental flags.** Official National, state, and local flags do not require a  
343 permit. A flagpole may not exceed 30 feet above ground level for the purposes set  
344 forth in this ordinance. Likenesses of a government flag, including but not limited to a  
345 feather flag or an arrangement of such flags in the design of the American flag, are not  
346 official flags and are not permitted under this section

347  
348 Ms. Monaghan explained the purpose of the proposed change to Governmental signs. The  
349 amendment would clarify that any likeness of a flag design like a feather flag is not  
350 permitted.

351  
352 **Mr. Derby moved and Mr. Jeffrey seconded the motion to take all three proposed sign**  
353 **ordinance amendments to a Public Hearing on November 3, 2015.**  
354 **The vote was unanimous in favor of the motion (6-0).**  
355

356 **I. Other Business**  
357

358 Patricia Morris introduced herself and said she is from Center Barnstead, practicing  
359 agriculture and equine animal law throughout the State. She was present to hear from towns  
360 affected by the recent Superior Court Case Decision. She is working with Representative Bob  
361 Heffner on upcoming legislature regarding this issue.

362  
363 Mr. Kroner said that Mr. Harned is spearheading the amendment to the Zoning Ordinance  
364 and was looking at whether they should strike “riding stable” from the Special Exception  
365 process and address the inherent concerns through an accessory structure scale.

366 Ms. Morris read the minutes and the proposed amendment that involves non-residential  
367 structures over 2,400 square-feet just broadens it making it difficult for the Code  
368 Enforcement Officer. She said Hopkinton addressed a commercial riding stable that hit on  
369 the traffic, size and noise.

370

371 Mr. Kroner said that the reason for the amendment to accessory structures is also because  
372 currently they are allowed only a 15-foot setback from property line requirement. You could  
373 have a building that housed an aircraft, 15-feet from a neighbor in a residential zone. He said  
374 the Building Inspector made a good suggestion and said that a cap of 25% lot coverage be  
375 implemented and that stays away from the structure size issue.

376

377 Mr. Wilson said that if there is a conditional use permitting process or special exception  
378 process all issues get addressed.

379

380 Ms. Jenkins asked if the Planning Board felt they need to address the issue of the size of  
381 accessory buildings because they may degrade a neighboring property or diminish their  
382 property value.

383

384 Mr. Wilson said it could be out of character of the neighborhood or present public safety  
385 issues depending on what takes place in it, or it could be ugly. He said that the review  
386 process will allow the Planning Board to accommodate the interests of the abutters and  
387 neighborhood.

388

389 Mr. Kroner said that if it is a conditional use permitting process the Board can put conditions  
390 on a building they approve for a riding stable, such as, in the event it is no longer used as a  
391 riding stable the owner shall have to receive Planning Board approval for another proposed  
392 use.

393

394 a) Planning Board 2016/2017 budget – Mr. Kroner would like to get the Master Plan  
395 completed and digitized and printed and placed on the website. The Board would like  
396 money to go towards digitizing the Master Plan.

397

398 i. August 18, 2015 – Mr. Wilson moved and Mr. Maggiore seconded the motion  
399 to adopt the August 18, 2015 meeting minutes as written. The vote was  
400 unanimous in favor of the motion (6-0).

401

402 ii. September 1, 2015 – Ms. Monaghan made an amendment to line 288 to  
403 include, won't work because they want their new building and sign to be  
404 visible to drivers passing by on Route 1. Mr. Wilson moved and Ms.  
405 Monaghan seconded the motion to adopt the September 1, 2015 meeting  
406 minutes as amended. The vote was unanimous in favor of the motion (6-0).

407

408 The meeting adjourned at 9:40pm without objection.

409

410 Respectfully submitted,

Wendy V. Chase, Recording Secretary