

PUBLIC NOTICE OF MEETING

The North Hampton Zoning Board of Adjustment held a Public Meeting on Wednesday, August 18, 1999 at 7:00 PM at the Town Hall to hear the following:

At the meeting on July 21, 1999 two cases were tabled to a time and date certain: (viz.: August 18, 1999)

Case 99:16 Douglas & Karin Nelson, for property located at 25 West Road, North Hampton, Tax Map 20 Lot 1, requests a variance to Article IV Section 406.2 of the North Hampton Zoning Ordinance, and asks that they be allowed to erect a home on a lot that does not meet current zoning. **Page 2**

Case 99:17 Turner Porter, for property located at 34 Willow, Tax Map 5 Lot 9, requests a Special Exception as provided in Article IV, Section 405, and in Article V, Section 507, for a Home Occupation, and asks that he be allowed to operate a professional office at this location. **Page 3**

And a new case:

Case 99:19 Lamprey Brothers, Inc, for property located at rear of Joe's Meat Shop, Tax Map 7, Lot 150, request possible variances for setbacks to property lines and wetlands, in order to replace existing storage facility and building. **Page 2**

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Meeting Wednesday August 18, 1999
Minutes

The meeting started late...

After introducing the members and explaining the procedures the Chairman explained that there were two problems:

1. Only four (4) members were in attendance.

Rules governing the Board state that ties lose, a majority of the constituted Board is necessary to win (i.e. 3). One member, Mark Johnson, was expected but has not arrived. The applicants have the choice of withdrawing and their case will be re-advertised at the Town's expense. The Chair asked if any applicants wished to withdraw? No one did.

2. The Chair stated that no record could be found that the Notice had been published in the paper.

Since the first two cases were continued to a time and date certain, this affects **Case 99:19**. The Board does have receipts from notices sent to the abutters in that case.

R. Field: Regardless of abutters the meeting should have been properly noticed. The applicant cannot waive the Requirement and neither can the Board.

The Chair asked for public comment.

Alan Hines, Selectmen: Mr. Fields is correct.

Mr. Don Lamprey spoke for **Case 99:19**: If we must, we will come back. The project will not be started this fall so the timing will not affect us.

R. Fields made a MOTION that **Case 99:19** be heard first at the next meeting. The motion was Seconded by R. McCann. It passed 4 - 0.

The next meeting is scheduled for the third Wednesday in September, and the normal time is 7:30 PM.

C. Kelleher made a MOTION to accept the minutes from the last meeting. R. McCann Seconded.

During the discussion which followed, comments were made that the Board members expected to get the minutes by mail and had not received them. They would have to approve them and then read them. The vote was 2 - 0, with B. Fields and C. Kelleher abstaining because they were not at the last meeting. The Chair said that the Board would wait until the next meeting to revisit the issue of the minutes.

Case 99:16

The Chair read the notice and asked if anyone was present to speak for the petition. Ernie Cote, LLS, of E. Cote & Associates, asked if there had been any resolution to the questions posed at the last meeting. The Chair answered that the Town Counsel sent a letter to the Chair in which he advised requesting information from Rye. A letter and information had been sent to the Rye Zoning Administrator, Joan Dawley, but no answer had been received.

The Chair advised that the Case should be continued until the next meeting, and a MOTION was made by R. Fields, Seconded by C. Kelleher, to table the Case to a time and date certain, with Case #99:16 being listed as second on the Agenda. The motion passed, 4 - 0.

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Case 99:17

After reading the notice describing the case, the Chair asked if anyone was present to speak to the questions raised at the last meeting concerning Little Boar's Head's (LBH) knowledge and disposition of this Home Occupation.

C. Gordon, LBH ZBA Chair, addressed that question. He said that he was not speaking to the merits of the petition, but that he was there to answer the three basic questions raised at the last meeting:

1. Did LBH Ordinance deal with Home Occupations"
2. Did LBH deal with this particular instance?
3. What was the disposition?

As he tried to make clear in his two letters to the ZBA, C. Gordon said that this Home Occupation complied with LBH's Ordinance:

1. Yes it is in the Ordinance and does not require a Special exception,
2. The property and Home Occupation under consideration met all the requirements of the Ordinance: signage (none), employees (one), etc.
3. No further disposition was necessary.

C. Gordon then went on to explain how the wording had been changed to remove the requirements for seeking a Special Exception at a Village Meeting in 1982. When the words were removed, the current wording '*may be permitted*' was retained thus giving an ambiguous interpretation possibly connoting the necessity for permission. He mentioned that he had copies of the warrant and the minutes of the Village meeting in 1982, and offered to give copies to the Board.

R. Field asked about changes made in 1990, and C. Gordon said he couldn't find any information on 1990.

The Chair stated that after C. Gordon's information the Board could deal with the case on its merits. The other Board members agreed and had no problem with proceeding.

Sanford Roberts, attorney for the applicant, spoke for the petitioner and said that the only issue was the LBH issue. He then went through the criteria as listed in the North Hampton Zoning Ordinance, Section 507, and dealt with each of the five criteria in order:

1. His client's business is land development and he is the sole individual involved, with one secretary;
2. The office is in his home;
3. There are no signs, no storage of materials;
4. There is no such by-products, none;
5. There are no articles produced.

He then stated that his client is entitled to conduct his business at this location.

The Chair asked if others wished to speak for the petition.

A. Hines, Mill Rd, Selectman, said that it should be granted. His lawyer is correct, he has seen the home occupation.

The Chair asked again if anyone wished to speak for the petition.

R. Neves, Meadowfox Rd, said he is in favor of granting. The applicant is a good citizen. R. Neves said that he has driven by the house and one wouldn't know, wouldn't be able to tell by driving by that there was a business on the property.

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R. Field asked S. Roberts if there were any other employees such as independent contractors who might be there on a daily basis?

S. Roberts said No there were no such employees or independent contractors.

T. Porter explained that Jack Hippen, his builder, comes once a week to review business matters, and that he calls daily for updates. He is an independent contractor, but has his own office and does not work out of T. Porters office.

R. McCann said that he could attest to that as he has seen it.

C. Kelleher said that he was happy with what had been presented so far.

The Chair asked if it were an R-2 zone and received an affirmative from the Building Inspector. He then said that he had no more questions and asked if anyone had anything more? Any comments?

When no one spoke, he asked if the Board wanted to deliberate?

R. Fields said that he didn't think that they needed to go into Deliberative session, that he was ready to make a motion.

The MOTION he made was that for reasons stated the petition should be approved to grant a Special Exception for T. Porter's residence in Case 99:17.

C. Kelleher Seconded the motion. The vote was 3 - 0 with one abstention (the Chair). The Chair stated that the motion had passed and that the applicant had twenty days in which to appeal the decision.

He also asked that the name of the stenographer (taking a transcript for the petitioner) be recorded in the minutes. Her name is Regina Murtagh, Certified Shorthand Reporter, 795 Ocean Blvd., Rye, NH, 603-433-1924..

S. Roberts said that if a transcript were generated the Board would receive a copy, although he thought that there was no reason to have a transcript made.

The Board adjourned at 8:40 PM.