

The meeting was called to order at 7:35 p.m. Those attending were: Mike Iafolla, Chairman, Dick Wollmar, Bob Field, Mark Johnson, Russ McCann, Alternate, Paul Charron, Building Inspector and Tina Kinsman, Recording Secretary.

The Chairman introduced the members of the Board, and explained the rules and procedures of the meeting.

Case 2000:23 – Dave Freitas, 28 Ocean Boulevard, requests a variance to Article V, Section 501.2 for the addition of a 26'x28'6, 2-car garage and a second floor sunroom and sun deck, reference Little Boar's Head ZBA Case #87-3, September 3, 1987.

Attorney Vincent Weners, representing Mr. Freitas, spoke for the petition. The Chairman stated that he had received a letter from Chuck Gordon, Little Boar's Head Zoning Board, on August 14, 2000. Mr. Gordon stated, that the special exception granted in 1987 did not apply because wetlands setbacks were added in 1990 to the zoning ordinance and all properties are now subject to the 75' setback. Mr. Field made a motion to have Mr. Freitas appear before the Little Boar's Head Zoning Board for this special exception and then this petition would be reconsidered before the North Hampton Zoning Board, seconded by Mark Johnson, motion carried.

The Chairman stated that he had spoken to Derrick Hill, next on the agenda, and Mr. Hill stated that he would not mind Mr. Jones' case being heard next.

Case 2000:26 – James Jones, 120 Lafayette Road, for an appeal of Administrative Decision of the Planning Board, made on August 1, 2000, because of interpretation of permitted uses in Industrial Business Zone.

Case 2000:27 – James Jones, 120 Lafayette Road, for a Special Exception to Article IV, Section 405 for the operation of a landscape business to include, but not limited to, sifting and stockpiling of loam in IBR zone.

Mr. John Simmons, attorney for Mr. Jones, gave a brief introduction to the petition. He stated that he felt that Mr. Jones' business was a permitted as a landscaping business with loam processing and sifting and that it was permitted under wholesale/retail.

The Chairman asked if anyone else wanted to speak for the petition, no one volunteered.

Those speaking against the petition, Mr. Duffy, 12 Woodridge Lane, stated that the dust and mud etc., mentioned in John Ennis' letter, were all concerns of the abutters. Mrs. Duffy, showed her pictures of the site taken in 1998 through the early part of 2000. They are part of the permanent record. John Simmons introduced new pictures of the site, taken August 16, 2000. Mrs. Duffy continued stating that the dirt pile was a nuisance to the neighborhood, particularly the children playing on the pile. Betty Carroll, also an abutter, stated that she found it hard to believe that a variance was ever granted for this use; the Chairman stated he didn't believe that one was granted. Dr. Richett also spoke against the petition: dust comes into his health care facility and smoke from outside burning sometimes lasts three days, and that dirt from the site was going out onto Route One. Don Gould, continued. He was not speaking as Planning Board Chairman, but as a citizen. He had spent hours compiling his chronology of the Jones site and had prepared a handout that addressed his concerns. He felt strongly that this should not be a permitted use and that the Board should grant a special exception to allow Mr. Jones to continue his business, but with restrictions. The Chairman stated that the multiple uses on the property would have to be addressed and resolved at the Planning Board with the applicant.

Those speaking for the petition: Peter Simmons felt that this was a permitted use and that the children playing on the pile should have more parental control. The Chairman then closed the discussion portion of the meeting, and the Board began their deliberation. There was discussion that revolved around Mr. Gould's list for a special exception; how to control the height of the dirt pile, slope limitation, the dirt going out onto Route 1, limits on hours of operation and weekend operations.

A motion was made by Mr. Field and seconded by Mr. Wollmar as follows:

Moved: that as to Case 2000:26, the Decision of the North Hampton Planning Board, dated August 1, 2000 regarding Jim Jones for property located at 120 Lafayette Road, in which it concluded that "...the stockpiling and processing of loam is not a Permitted Use in the Industrial Business District be affirmed.

On vote taken, the Motion was defeated as follows. FOR: Messrs. Field and Wollmar, AGAINST: Messrs. McCann, Johnson and Chairman Iafolla.

A motion was then made by Mr. Johnson as follows:

Moved: to overrule the Planning Board, dated August 1, 2000 regarding James Jones for property located at 120 Lafayette Road and find that the stockpiling and processing of loam is a permitted use in the Industrial Business District.

The motion did not receive a second, and Mr. Johnson withdrew the motion.

The Board was then advised that the Public Notice relating to Case 2000:27 had been revised as of August 14, 2000 to include the following "...a landscape business to include, but not limited to, sifting and stockpiling of loam in the IBR zone.."

Following considerable discussion by the Board, the Chairman indicated that he would entertain a Motion to reopen the Public Hearing for the limited purpose of receiving public comment as to the use of the premises identified in Case 2000-27 for "Landscaping." A Motion was made by Mr. Field and seconded by Mr. McCann, it was unanimously voted:

To reopen the Public Hearing portion of the meeting to receive the public comment on the Revised Notice pertaining to Case 2000_27, for the sole purpose of considering a "Landscaping" use in the IBR zone. Voting FOR: all members, AGAINST: none.

The Board then received testimony from Dr. Richett who indicated that a well managed wholesale/retail landscaping use, with short term storage of essential business inventory materials, and absent sifting or other processing, would be acceptable to him. Mr. & Mrs. Duffy and Mrs. Carroll also spoke; and although continuing to be concerned about the management of the operation and the problems which it had created for abutters to date, they conceded that a well managed and operated landscaping service, absent sifting and/or any other soil processing, might be acceptable to them. They were adamant that the Planning Board should review carefully any proposed Site Plan and impose operating restrictions and conditions to address their several concerns. There being no further public comment, the Chairman closed the reopened Public Hearing.

Mr. Field, having been in the minority on an earlier vote on Case 2000-26, then moved for reconsideration on such vote; Mr. Wollmar seconded the Motion for Reconsideration. After discussion, it was unanimously VOTED: to reconsider the Board's earlier Vote on Case #2000-26, VOTING FOR: all members, AGAINST: none.

Mr. Field then renewed his earlier Motion to affirm the Decision of the Planning Board as to Case 2000:26; the motion was seconded by Mr. Wollmar. After discussion, it was VOTED unanimously: that as to Case 2000:26, the decision of the North Hampton Planning Board, dated August 1, 2000, be affirmed in its entirety. VOTING FOR: all members.

Mr. Field then made the following MOTION: That, as to Case 2000:27, the Board grant a Special Exception to James Jones, for the conduct of a retail/wholesale “landscaping” business at 120 Lafayette Road, and in connection, to permit the short term storage on site of loam and other essential landscaping materials as inventory. Mr. Wollmar seconded the Motion.

Mr. McCann then suggested that the motion be amended to define “short term.” He suggested 90 days. Mr. Field agreed to the proposed amendment, and the addition of the phrase “...no to exceed a ninety (90) day supply” to the Motion. There being no further discussion, votes were later taken on the (I) amendment and then (ii) on the motion as amended. The motion as amended was approved in the following form:

VOTED: Case 2000:27, the Board grant a Special Exception to James Jones for the conduct of a Retail/Wholesale “Landscaping” business at 120 Lafayette Road, and in connection, to permit the short term storage on site of essential landscaping materials as inventory not to exceed a ninety (90) day supply. Each vote passed unanimously. VOTING FOR: Messrs. Field, Wollmar, McCann, Johnson and Chairman Iafolla.

Mr. Field then moved that in order to permit any member of the public to express his/her concerns as to the revised notice for Case 2000:27, the vote be effective on September 15, 2000, and that in the interim, should the Board receive public objection based on inadequate publication, Case 2000:27 be renoticed for a Public Hearing in September. If not, the statutory thirty (30) day appeal period would then run from September 15, 2000. The motion was seconded by Mr. Johnson, and after discussion, it was VOTED to approve the motion to defer the effective date of the Decision in Case 2000:27 to September 15, 2000 to permit public objection if any to the revised notice publication issue. VOTING FOR: Messrs. Field, Wollmar, McCann, Johnson and Iafolla.

Mr. Field then made the following motion: to permit the applicant in Case 2000:27 to file a new application with the Board, to request permission to conduct processing. The motion was seconded by Mr. McCann, after discussion, it was unanimously VOTED, and those voting FOR: Messrs. Field, Wollmar, Johnson and McCann and Iafolla.

Mr. Field then Moved the following: that Case 2000:27 as acted upon the Board when final, be directed back to the Town of North Hampton Planning Board, for (I) Site Plan review, and (ii) evaluation and direction to the applicant as to Planning Board acceptable site management and operation procedures. The motion was seconded by Mr. Wollmar. Following discussion, this motion was unanimously approved, VOTING FOR: Messrs. Field, Wollmar, McCann, Johnson and Iafolla.

Case 2000:24 – Derrick Hill, 272 Atlantic Avenue, Article IV, Section 415.11, for an Equitable Waiver. The petition was noticed incorrectly as a Zoning Ordinance Article, it should have been advertised as RSA 674:33-a *Equitable Waiver of Dimensional Requirements*. This Case will be renoticed next month, at the Board’s expense, and the Board will deal with his next case so that he can start his renovation.

Case 2000:25 – Derrick Hill, 272 Atlantic Avenue, for a variance to Article V, Section 501 for expansion of nonconforming use, construction of addition on a house that is 24’ to front property line where 30’ is required. Since this house has been in existence for approximately 200 years, the Board was favorable in its review of the petition. Mark Johnson made the motion to grant the variance, seconded by Russ McCann, vote unanimous.

The Board had to consider the petition of Michelle Peckham for a rehearing regarding Irving Oil; Mr. Fields left the meeting at this point. The Board reviewed her motion for a rehearing; while Irving met one of the two criteria for approval, they did not meet both, therefore, the petition was denied. This parallels the variance procedure in which any member might feel that the application could meet the test of one or more of the Gelinas Findings of Fact but still not qualify for a variance. The Board found her request for rehearing lacking in substance, and denied her request.

The meeting adjourned at 10:45 p.m.

Respectfully submitted,

Tina Kinsman
Recording Secretary