

The meeting was called to order at 7:35 p.m. Those attending were: Mike Iafolla, Chairman, Mark Johnson, Vice Chair, Russell Jeppesen, Bob Field, Dick Wollmar and Tina Kinsman, Recording Secretary.

The Chairman stated that the Board had a request from Donald Crandlemire, Esquire, representing James Jones be tabled and continued to the June meeting. Mike Iafolla read the letter addressed to Stephen Hermans, Esquire for the record. Russell Jeppesen stated that counsel was not present, the request was legitimate; this was the consensus of the Board. Mike Iafolla stated that petition #2001:13, Jim Jones would be tabled, but not to a time and date certain; therefore, the petition will need to be readvertised.

Bob Field asked the secretary to add to the minutes of May 18, 2001 that he recused himself regarding the James Jones Case 2001:13. The abutters then asked if he would be allowed to continue working at 120 Lafayette. Jim Jones is under advisement by the Planning Board to do certain things; operate his landscaping business and act on conditions of approval by the Planning Board; the work on the site will be to come into compliance. There were some abutters from 187 Lafayette at this meeting; Mike Iafolla stated that this could not be discussed, because this property was not before the Zoning Board, and that the Cease & Desist will go into effect on June 3, 2001. The Chairman also stated that there was a petition for rehearing from Mr. Ennis that will be heard at the end of the regular meeting.

There was a request from Ron Todd to amend the minutes of 4/18; Dick Wollmar made the motion to accept these and approve the amended minutes, seconded by Russell Jeppesen, motion passed.

Paul Charron appeared before the Board for advice on Lillie-Putz to relocate lot lines. Paul saw no reason for a variance; but wanted the Board's opinion. Bob Field stated that this was not proper procedure; if the Board advises the Building Inspector it fouls up the process. Mike Iafolla agreed; Paul was in a tenuous position; this was a matter of friendship we could advise. Two of the lots are in compliance, one was grandfathered, the other two were in compliance, and Paul Charron can make the decision. Bob Field stated that it would be ok for the Chairman of the Zoning Board to meet with the Building Inspector to help him understand the issues, but he is concerned about the procedure of the Building Inspector coming before the Board for advice. Peter Simmons stated that John Krebs had reviewed this and found that it was making a bad situation much better. The Board reiterated its policy that the Code Enforcement Officer has the authority to make judgments regarding the need for a variance. This declaration was in response to the Code Enforcement Officer's request that the Board rule on Peter Simmons' inquiry.

Case 2001:09– Appeal of Administrative Decision, 73 South Rd, Mr. Pearce appeals the decision of the Building Inspector denying him a Building Permit for a New Residence on 008-111-001 (73 South Rd)

Bernie Pelech spoke for the petition; and stated that he had asked the Pearce's to stop work on March 27; on March 14 they had applied for a building permit, and Paul Charron denied it saying it was not a buildable lot. He referred to the 1979 Zoning Board meeting the subdivision that was proposed by Mrs. Coughlin was approved with no conditions and there was no need for a variance. Mike Iafolla stated that it is inherent not to create a subdivision that requires a variance; this would create a nonconforming lot. Bob Field did not agree. Dick Wollmar stated that the according to the zoning in 1973, it didn't meet the requirements; Bernie Pelech asked why the Planning Board approved it. Bernie produced a tax bill showing that it was being taxed as a vacant residential lot. Paul Charron stated that he had checked the appraisal of the lot with the

assessor and Russell McAllister; lots on South Road are valued at double the amount of this lot, the assessor said that he thought that it was not a buildable lot.

Mr. Pearce spoke for the petition and explained what happened at the 1979 meeting; the minutes were not accurate. He owns two lots, and had a copy of the basic property which is now Garrett Drive, the Coughlins wanted to buy property for a house lot and since they couldn't afford they whole 8.5 acres, the two owners would split the cost. One would be a house lot, the other would be left as a separate piece of property in Mr. Pearce's wife's name in case he or his business would be sued. There was a barn on one piece of the property and he understood that it would be coming down because it was a detriment to the property. The Coughlins would then divide it into 2 acres with frontage and Mr. Pearce would have the rest. There was no need for a road, because there was never a plan for multiple houses. Bob Field asked the applicant if he ever thought of correcting the 1979 minutes; Mr. Pearce said he never saw them after they had been completed; he didn't know it was an issue.

Speaking against the petition: Michelle Coughlin; she stated that she has nothing against the Pearces, they purchased land from them, 8 acres, to be kept as a buffer. It was never sold as a building lot only as preservation land. John Coughlin stated that he wanted to keep it nonbuildable; fields and trees, although this was not put in the deed as a stipulation. He also said they were reasonable and honest people and believed them when they told him it wouldn't be built on.

Speaking for the petition: Mrs. Laurie Pearce stated the 22 years ago they sold it to keep it a vacant field, she doesn't remember anyone, the Planning Board, every saying that you could never build on it, or do anything with it. Steve Pearce wanted to correct what Michelle had said, they could never sell the lot for \$15,000, of 8.5 acres, that they couldn't afford the whole amount. He also said that they gone to the expense of planting 6,000 trees to keep the site private. Mrs. Coughlin said that they never told her that they wanted to buy this to be a buildable lot; that they had talked to all the other neighbors about their plans, but not to her. Paul Charron stated that his decision to deny the building permit was based on minutes of the 1979 meeting, was there anyone else here that was at that meeting? No response. Mark Janos stated that in 1973 the residential zone required 175' frontage, it was not a buildable lot at that time. Mike Iafolla stated that the minutes indicate that everyone on Planning Board knew that. There was then discussion among Board members; according to the minutes from 1979 it was not a buildable lot, that the property owner does need a variance. Mrs. Pearce then stated that the building Inspector told her when she brought in her permit request that she was all set, to go ahead. Paul stated that the information was sketchy at best, when he had all the information, he stated that it was not a buildable lot. Russell Jeppesen made the motion to uphold the Building Inspector's decision, seconded by Dick Wollmar, vote was unanimous.

Case 2001:10 – 73 South Rd, Mr. & Mrs. Pearce, Request a variance to Article IV Section 406 for a lot with frontage of 50 feet where 175 feet is required, to allow construction of a single family home on Lot: 008-111-001 (73 South Rd)

Mr. Pelech stated that this was a 4.6 acre lot with only 50' frontage, that it was a backlot or pork chop lot which does not meet the requirements of 406.9. He then demonstrated the "five findings of fact" to support the request for the variance. Bob Field asked for a clarification: is the applicant agreeable to hearing the same information on the first case relative to this case; Bernie Pelech replied yes. Bob Field asked Mr. Pelech if Mr. Pearce decided not to joint his two lots, is this a self imposed hardship? Bernie replied by saying the we can't assume that Mr. Pearce knew about the changes in the zoning ordinance.

Speaking for: Jenifer Landman; Mr. Pearce asked if he could have a right-of-way; she told him the land belonged to Mr. Brown; Mr. Pearce now has access from Post Road. She always assumed it would be built on because it meets the requirements for a pork chop lot. Speaking against: Mrs. Coughlin, this a separate nonconforming lot, is the selling of this a precedent: the Pearces spoke to all the neighbors except them because they knew it really wasn't a buildable lot and it shouldn't be granted. Bob Field asked Mr. Pelech what type of house was going in; a single story house. Mr. Field also said that there is nothing in the law to prevent people from changing their minds, but there should be stipulations- on the driveway and a buffer of trees, that this is a civil misunderstanding. Russell Jeppesen stated that there can be no limitations on what they build, Mike Iafolla cautioned the Board to be careful, to deal with the land use.

A motion was made by Bob Field to approve the request for the lot with the interest of public and private home, a ranch with one-story home with access out of a material that would be permeable, seconded by Mark Johnson, 2 in favor, 3 against, because of unrealistic restrictions. Another motion was made by Russell Jeppesen to approve as a buildable lot, seconded by Mark Johnson. There was discussion among Board members; Bob Field felt that it didn't meet the hardship; a new owner could tear down this house a build a 3 1/2 story trophy house that would be disruptive to the Coughlins. Russell Jeppesen stated that this was an unnecessary hardship on the property owners. Mike stated that the Board grants relief from the rules that they go by. The vote on the motion to approve as a buildable lot: 2-2, Mike Iafolla votes to break the tie, in favor 3-2. Bob Field and Dick Wollmar, voting against. Bob stated that he voted no because this does not bear the burden of public & private rights. The Chairman stated that Mrs. Coughlin has 20 days in which to appeal this decision.

Case 2001:14 – 132 Woodland Road, Jacki Walker, for a Special Exception to Article IV, Section 405, to allow a home occupation, a hair salon.
Not heard because of a noticing problem.

Case 2001:15 – 33 Atlantic Avenue, Alexander Z. Warren, for a variance to Article IV, Section 406 for 12 feet to the side lot line where 15 feet is required for a proposed 24'x26' barn in an R-2 zone.

Mr. Warren stated that he wanted to build a barn, 24x26 within the 30 foot setback from the east property line, but would not be sited closer than 10 feet from this line. The owner stated that the barn would not exceed 30 feet in height, and that Mrs. Lucy Palmer, abutter to the east lot line stated that she had no objection and would be forwarding a letter. The Little Boar's Head Zoning Board granted a variance to this effect. A motion was made by Bob Field to approve the request, seconded by Russell Jeppesen, vote unanimous.

Case 2001:16 – J. Merrill Lord, Mill Road (rear land with 63' frontage), Lots 012-035-000 & 013-038-000, for a variance to Article IV, Section 406, for a lot with 63' frontage where 175' is required.

Mr. Lord spoke for the petition; he stated that both lots 12-35 and 12-38 are previously existing lots of record; lot 12-35 is landlocked. The public purpose behind frontage is adequate access for fire, police and other emergency vehicles. This lot will have some frontage on Mill Road by using 12-38. He was proposing to build one house on the parcel that is 14.75 acres so that his son (who goes to school in N. Hampton) will be able to get the bus from this residence. Bill Cahill, 189 Mill Road, stated that he was confused about the 63' of frontage because 30' is composed of a cemetery. Mr. Daskocil asked if it was a buildable lot? Yes, a structure can go there, doesn't have to be a dwelling. Mr. Cahill asked if there are any regulations that deal with cemeteries. Mike stated yes, access has to be provided for passage onto it. The question was asked if the deed contained any details about the cemetery; the owner did not know. Dick Wollmar made the

motion to table 2001:16 until this has been clarified, seconded by Mark Johnson, to a time and date certain, June 20, 2001. The applicant needs to provide definable deeds and an attorneys' opinion is needed, vote was unanimous.

Case 2001:17 – 34 Woodland Road, Patricia & Stephen Gianotti, for a Special Exception to Article IV, Section 405, to allow a home occupation, Doctor's office (psychology). Steve Gianotti spoke for the petition. He stated that his property is 1.6 acres, house is shaped like a U. He has contacted his neighbors: Kokernak, Bottomley, Taylor and Bois; they are all ok with the proposal. He is looking for guidance from the Board; there would be no nights or weekends, except for an emergency. He asked what the maximum number of cars would be. Mike Iafolla stated that a fence guaranteeing privacy for the neighbors would be a good idea, applicant agreed. A motion was made by Bob Field, no group sessions and no professional service after 5:00 P.M. except for an emergency, parking shall not exceed 6 cars (excluding residents), a fence and no more than 2 employees, seconded by Mark Johnson, vote was unanimous.

Case 2001:18 – 51 Lafayette Road, Al's Seafood, Al Courchene, for a variance to Article IV, Section 409.8A to move existing septic system to a location that has a 50' setback to wetlands where 75' is required.

Asked to be continued; applicant will pay to be readvertised.

The Board then took up the subject of the motion for rehearing submitted by John Ennis regarding 120 Lafayette Road. The Chairman stated that at no point in these proceedings would any public input be permitted. Bob Field stated that the special exception was based on revised notice and the 30 day appeal period (September 15, 2000), defer effective date of Decision to September 15, 2000. The appeal from John Ennis is dated September 5, 2000 and dated stamped, addressed to Zoning Board, did the Board get it? It appears not. Jim Jones stated that the Board should be advised that there is a pending lawsuit. Bob Field stated that this removed it from the Right to Know law. The Board decided to go to executive session to discuss the matter further.

Meeting adjourned at 11:15 P.M.

Respectfully submitted,

Tina Kinsman
Recording Secretary