

ZBA Minutes
July 17, 2001

The meeting was called to order at 7:30 p.m. Those attending were Mike Iafolla, Chairman, Mark Johnson, Vice Chair, Dick Wollmar, Russ McCann, Alternate, and George Lagassa who was filling in for Bob Field.

Peter Simmons stated that he wanted to make a presentation before the meeting started. He presented Mike Iafolla with a handmade gavel from Kenya and thanked Mike for his 20 years of dedicated service to the Town of North Hampton, and wished him well for the next 20 years.

Mike stated that the first order of business was to deal with the transcript from the meeting of June 6, 2001 concerning Jim Jones. He stated that the transcript was put in his truck the last week of June and not opened. Mike opened the package and resealed it until today. The Board needs to agree to accept or reject it as a piece of evidence for the case heard on June 6, 2001. Mark Johnson made the motion to accept as evidence, seconded by George Lagassa. Mart stated that he was not attesting to the accuracy of the document; Dick Wollmar stated that he assumed that it was accurate. The vote was taken, and was unanimous that the transcript becomes part of the record.

Minutes of June 20, 2001

Mark Johnson made the motion to accept the minutes, seconded by Dick Wollmar, unanimous.

The Chairman stated that motions for rehearing are not generally noticed; are we going to grant rehearsings?

Case 2001:24 – Motion for Rehearing, Case 2001:21, 187 Lafayette Road, Jim Jones, from Giant Lift Manufacturing, Joe Fitzgerald, objecting to the decision of the Board as published June 7, 2001 Notice of Decision

Russ McCann made the motion to grant a rehearing, seconded by George Lagassa, unanimous.

Case 2001:28 – Motion for Rehearing, Case 2000:26, Appeal of Administrative Decision, by James Jones and his attorney, Don Crandlemire

Attorney Don Crandlemire spoke to correct this. Ron Todd stated that in response to this request the abutters had written a letter to the ZBA stating that they had never requested a rehearing on Case 2000:26, only Case 2000:27.

Case 2001:30 – Motion for Rehearing, Case 2001:21, 187 Lafayette Road, ZBA's denial of Appeal of Administrative Decision, June 6, 2001, request by Don Crandlemire, Attorney for Jim Jones

Motions for rehearing, motion made to grant by George Lagassa, seconded by Mark Johnson, unanimous.

Case 2001:28 – Motion for Rehearing, Case 2000:26, Appeal of Administrative Decision, by James Jones and his attorney, Don Crandlemire

Case 2001:29 – Motion for Rehearing, Case 2000:27, Application for Special Exception, by James Jones and his attorney, Don Crandlemire

These cases were listed in error. Attorney Crandlemire stated that they were not requests for rehearsings. The Chairman stated that Attorney Craig Salomon represented abutters on cases 2001:13, 22 & 23 and that he had agreed to hold off on hearing these until the attorney could get to the meeting.

Case 2001:25 – Indian Ground Development, Lisa Cook & Thomas Der, 4 Exeter Road, owners, for a variance to Article IV, Section 406 for existing deck that encroaches on 25' setback by 9", request by Beth Dixon, former owner at the request of mortgage company of the present owners.

Beth Dixon spoke for the petition and stated that the mortgage company was requesting the variance. Mark Johnson made the motion to grant the variance, seconded by George Lagassa, unanimous.

Case 2001:17 – James & Deborah Hallinan, 8 Glendale Road, for a variance to Article IV, Section 406 for setbacks & Article V, Section 501.2 for expansion of nonconforming use for an addition of a family room & converting single stall garage to a double garage, encroaching on side setback (leaving 6') where 25' is required.

This case was continued from the previous month, at the applicant's request. At that time, there had been one objecting abutter, and they had come to an agreement, but the abutters had just returned from vacation and did not have time to write a letter agreeing to this. The applicant asked for conditional approval until he could get this letter; Mike stated that when the ZBA grants a variance, it is not final for 20 days, and that the Board could write them and inform them of the granting of the variance. Mark Johnson made the motion to grant the variance pending their receipt of the letter prior to the 20 day appeal period; they should respond within 10 days, seconded by George Lagassa, unanimous.

Case 2001:27 – Motion for Rehearing, Case 2001:10, 73 South Road, Mr. & Mrs. Pearce, by Michele & John Coughlin

Michelle Coughlin started by asking for revision and corrections to the minutes of May 15, 2001. She stated that she could agree with people changing their minds, but she felt that the Pearce's lied to her. Mrs. Coughlin restated her entire case and did not present any new evidence. Bernie Pelech, representing the Pearces, stated that the Board had done nothing wrong in granting his clients a variance and that the Coughlin's had produced no new evidence for the rehearing. Mrs. Coughlin stated that she believed that the Board would be setting a precedent by not reversing its decision. Jenifer Landman, an abutter, stated that she had no problem with the Pearce's house being built. Bob Landman also agreed and was against the appeal. Dick Wollmar wanted to review the decision; he stated that Mike had voted against and that Dick felt that because the property was owned by two separate owners, that it didn't fit the spirit of the law; he also stated that there was a legitimate way to do this without a variance, but that the applicant would probably find it too expensive.

The Building Inspector had given the building permit to the Pearce's on the advice of Town Counsel; mark Johnson then made a motion to stand by the original decision of the Board, and deny the appeal, seconded by Dick Wollmar, 1 in favor, 1 opposed, Dick Wollmar, George Lagassa and Russ McCann abstained; Mike cast the deciding vote in favor of the motion; the petition fails. Mrs. Coughlin then asked if she could appeal again, Mike stated that he thought she could take it to court.

Case 2001:13 – James Jones, 120 Lafayette Road, for a Special Exception to Article IV, Section 405 to allow for screening under special exception #4, Planned Unit Industrial & Business Projects.

Don Crandlemire, attorney for Jim Jones, stated that the screener and site plan was approved by the Planning Board and that he could address all the issues at once and to combine it with Case 2001:23. Craig Salomon, attorney for the abutters, stated that he had a problem with this. Case 2001:13 would not be continued as a public hearing, but only to discuss the scientific testing and compliance. In Case 2001:23, screening was voted **not** a permitted use on August 16, 2000; the

ZBA upheld the Planning Board's opinion. The Duffs and Mr. Ennis did not ask for reconsideration regarding the screening and the decision of the ZBA was never appealed; therefore, it is a closed issue. The only issue is the motion for rehearing by Mr. Ennis Case 2001:22. Mr. Crandlemire disagreed that 2000:26 & 27 that these cases were for rehearing regarding noncompliance; and that he takes issue with the pending litigation to determine what compliance is.

Case 2001:22– Motion for Rehearing on Decision on Case 2000:27, 120 Lafayette Road, Jim Jones, from John Ennis objecting to the change in notice as specified in August 18, 2000 Notice of Decision

Craig Salomon stated that the original case was 2000:27, when the ZBA gave Mr. Jones a special exception to allow retail/wholesale business; he also stated that the standard review of a special exception would not be applied generally. He read the definition and stated that Mr. Jones' operation has devalued the properties in the area, caused dirt, dust, vibration, etc. And it was not in the public interest.

Mr. Crandlemire stated that Jim Jones has the right to sell earth materials and that he felt that the Board had made a mistake in how the Town's special exception criteria is set forth in the ordinance. There had been property line issues before, but not now.

Mike stated that he was comparing 120 Lafayette and 187 Lafayette; they were quite different. 187 Lafayette is a 2-acre site dedicated to one function and the other site has three uses, and that 4/10 of an acre would be left after the building went up. He also stated that this was not a good approach; the use should come first, then put up the building. Bob Landman stated that the special exception is a case for the courts but that he felt the Board made a mistake in granting the special exception.

Neil Hiltunen asked the Board to keep in mind that Mr. Jones was operating without permits. Don Crandlemire stated that the use issue had been decided. Craig Salomon said that 120 Lafayette had been decided last August, and that procedurally, there was no way to return to that; the issues were closed.

A motion was made by Dick Wollmar to overturn the special exception granted on August 16, 2000, seconded by George Lagassa, the vote was 3-0-1, with Russ McCann abstaining. The special exception has been overturned.

Mike asked if Cases 2001:22 & 23 were the same, Craig Salomon said yes. Case 2001:23 was dealt with in Case 2001:22. Attorney Crandlemire stated that 2000:26 was on the agenda, no one had requested it to be heard. Dick Wollmar made the motion not to hear Case 2000:26, seconded by George Lagassa, vote unanimous.

Attorney Crandlemire stated that he had one more case to be heard; Mike stated that it would not be heard today, Crandlemire passed out the material he had prepared on 187 Lafayette Road. The Board will consider this.

Respectfully submitted,

Tina Kinsman
Recording Secretary