

TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
April 17, 2002

The Town of North Hampton Zoning Board of Adjustment ("Board") met on Wednesday April 17, 2002 at the North Hampton Town Hall to conduct a Regular Meeting of the Board ("Meeting"). Notice of the Meeting had been properly noticed in the Portsmouth Herald on April 10, 2002.

- I. Member(s) Present: Mark Johnson, Vice-Chairman, Robert Field, Jr., Dick Wollmar, Richard Luff, and Ted Turchan.

Member(s) Absent: None

Alternate(s) Present: None

- II. Other(s) Present: Ms. Krista Tischendorf, Recording Secretary of the Board

Vice-Chairman Johnson called the meeting to order at 7:00pm; declared a Quorum present, which Quorum remained present and voting throughout the Meeting; and, then proceeded to the business of the Meeting. It was noted that each Applicant coming before the Board is entitled to have the Application/Appeal considered by a Board consisting of five (5) members; although Board action may be taken by a unanimous vote of a Quorum of three (3).

Mr. Johnson noted that, following the Town Election which was held in March, the Selectmen have appointed several new Members and Alternates to the Board; to wit: Member(s): Richard Luff and Ted Turchan; and Alternate(s): James E. Kierstead.

He then stated that it was necessary to take a moment and conduct an Organizational Meeting of the Board, to elect a Chairman of the Board and a Vice Chairman, to serve until the next Organizational Meeting, or until a successor to each is duly elected.

Mr. Wollmar nominated Robert B. Field, Jr., as Chairman, and the nomination was seconded by Mr. Turchan. There were no additional nominations. It was then voted 5-0 to elect Mr. Field as Chairman of the Board.

Mr. Field then assumed the Chair position and suggested that the Vice-Chairman be nominated. Mr. Wollmar nominated Mr. Johnson to be re-elected as Vice Chair. Mr. Turchan seconded the nomination. It was then voted 5-0 to elect Mr. Johnson as Vice Chair of the Board.

Mr. Field then addressed the Board and the audience and thanked Michael Iafolla, the previous Chairman of the Board, for his 30 + years of service, which included 23 as Chairman. He suggested that Mr. Iafolla be invited to attend the May meeting of the Board for formal recognition and thanks. Mr. Field was authorized to be in contact with Mr. Iafolla for such purpose.

Mr. Field then confirmed with each of the two (2) new members, pursuant to RSA 42:1, that each had been duly sworn to the impartial and faithful performance of his duties as a Board Member. Each responded in the affirmative. Mr. Field requested that each new Member and Alternate be provided copies of the current Town of North Hampton Zoning Ordinance, including the Town Zoning Map. He cautioned all members that under New Hampshire law the Board sits as a "quasi-judicial" body; and accordingly, that members of the Board should be extremely cautious of any independent communication or activities that could be viewed as compromising their objectivity on matters coming before, or before, the Board. He cautioned Members to take note of RSA 91-A, the so-called "Right to Know" law, which governs what is, or is not, an appropriate gathering of Board members.

He concluded by stating that he and Ms. Tischendorf would be working on an update of the Rules and Procedures of the Board, which would be submitted, to the Board for review and consideration in the near future. He added that, with the increased financial and land use consequences of the zoning process, he felt that the Board may wish to take

more advantage of “tabling” procedures to permit a more comprehensive review of the facts and legal arguments presented in connection with the more complex cases.

Mr. Field then confirmed with the Secretary that Notice of the Meeting had been properly posed and published in the Portsmouth Herald on April 10, 2002 as prescribed by the Ordinance, is dated seven (7) days in advance of the Meeting.

Chairman Field then proceeded to the standard Agenda items.

I. Minutes

- i. March 20, 2002: Written suggestions for correction to the “draft” minutes of March 20, 2002 Meeting had been submitted by Mr. Chuck Gordon, who had served as a Alternate, and have been incorporated into the “definitive” Minutes.
- ii March 27, 2002: The “draft” minutes were reviewed without comment.

VOTE: On motion duly made by Mr. Wollmar, and seconded by Mr. Johnson, the (i) Amended Minutes of March 20, 2002 and (ii) Amended Minutes of March 27, 2002, were accepted by a vote of 3-0. (The two (2) newly appointed Board members abstained.)

II. Meeting Start Time. The Board discussed changing the regular meeting start time from 7:30 p.m. to 7:00 p.m., on the third (3rd) Wednesday of each month, except as the Board may otherwise determine.

VOTE: On motion duly made by Mr. Johnson, and seconded by Mr. Wollmar, it was voted 5-0 to move the starting time of Regularly Scheduled Meetings of the Board to 7:00 p.m. on the third (3rd) Wednesday of each month, except as the Board may otherwise determine.

III. Conduct of the Meeting. Mr. Field explained the procedure, which the Board would follow in connection with the consideration and review of Application or Appeal properly before the Board. He Stated the Board can only take jurisdiction of matters that have been properly initiated under New Hampshire law, and he encouraged both Applicants and the Building Inspector to be mindful of the formal requirements. On behalf of the Board he asked that any member of the Public wishing to speak on a matter state their name, address, and direct their remarks to the Board and not to others in attendance. The Board will first hear all evidence in support of an Application; then in opposition to the Application; and, then, if appropriate, rebuttal from each side. Members of the Board may, in their discretion, ask questions of the Applicant and others addressing the Board.

In most matters the Board will deliberate on a matter immediately following the presentation of the case, and closure of the Public comment on the matter, when presented with complex matters, the Board may “Table” the matter for discussion later in the Meeting, or at a later date, so as to not disrupt the orderly flow of business.

IV Old Business:

- A. Case #2002:08 - 3 Fern Rd., Jarrod Patten, Article V, Section 513.3 – Request for Special Exception to allow an accessory apartment over an unattached garage. Ms. Tischendorf advised the Board that the Applicant requested the matter be “Tabled” until the May 15th meeting of the Board. The Board acknowledged and acceded to such request.

V. New Business

- A. Case #2002:11 – 63 Atlantic Avenue; Lamprey Brothers, Inc. Article V, Section 501.2. Request for Variance to permit an expansion of a non-conforming use.
 - (i) Jurisdiction. Properly before the Board.

- (ii) Case Presentation: Mr. Donald Lamprey was present to represent Lamprey Brothers, Inc. The Company would like to construct a barn type building of either wood or steel to house the Company's trucks and farm equipment. Mr. Lamprey explained that the business has been in existence on the property for more than 80 years, and that
- (iii) Five (5) Conditions: Mr. Lamprey was present to represent Lamprey Brothers, Inc. The Company would like to construct a barn type building of either wood or steel to house the Company's trucks and farm equipment. Mr. Lamprey explained that the business has been in existence on the property for more than 80 years, and that its operations are "grandfathered".
- (iv) Board Observations/Special Considerations: Mr. Turchan expressed concern that the roof characteristics of the new structure "fit in" with the other buildings located on site and with the "residential" characteristics of the neighborhood. He suggested standards be imposed as to roof design, pitch, and eaves.

VOTE: Upon motion duly made by Mr. Turchan and seconded by Mr. Luff it was voted to approve the Variance for the proposed barn/garage provided that such barn/garage have roof lines that are architecturally consistent with the surrounding structures on site. The vote was 4-0. Mr. Field abstained.

- B. Case #2002:12 – 203 Lafayette Road, Joe Roy. Article IV, Section 403. Request for Variance(s). To permit manufactured housing on a lot not individually owned.

Case #2002:13 – 203 Lafayette Road, Joe Roy. Article IV, Section 406.5. Request to permit residential and commercial use on one lot.

Case #2002:14 – 203 Lafayette Road, Joe Roy. Article V, Section 501.2. Request to permit the expansion of a "non-conforming" use.

Case #2002:15 – 203 Lafayette Road, Joe Roy. Article V, Section 503 & 504. Request to permit manufactured housing and the expansion of a "Trailer Park".

- (i) Jurisdiction: Properly before the Board.

Case Presentation: Mr. Bernie Pelech, Esquire, was present to represent Crown Homes, Joe-Ghan Realty. Mr. David Bowley was also in attendance to represent Crown Homes. Mr. Field addressed the Applicant and his attorney regarding the case history at this location. Mr. Field advised that there needs to be a material change from the previous applications heard and considered by the Board during 1997 and 1998. Mr. Pelech addressed that issue. The number of lots has been reduced and the lots will be age restrictive to 55 years of age and older.

- (ii) Five (5) Conditions: Not presented due to procedural questions.
- (iii) Board Observations/Special Conditions: The Board had concerns regarding the fact the "age restriction" (basis for "material change") was not publicly noticed. This information was given neither to the Building Inspector nor the Secretary. The cost of advertising was also at issue. The Applicant will pay for the cost of re-advertising.

VOTE: Upon motion duly made and seconded, it was voted to Table cases 2002:12, 2002:13, 2002:14 and 2002:15 until the May 15th Meeting and placed on the agenda following Case #2002:08. The vote was 4-0. Mr. Field abstained.

- C. Case # 2002:16 – 209 Lafayette Road; Max Stratton. Article V, Section 506.3. Request to permit a wall sign to exceed the allowed square footage.

- (i) Jurisdiction: Properly before the Board.

- (ii) Case Presentation: Robert Battles, Esquire, was present to represent Mr. Max Stratton, the Applicant, who was also present. Mr. Battle presented his letter of the five (5) requirements for Variance. He pointed out BMW Motorcycles has very specific signs that may be used for their dealerships. The wall sign proposed is ten (10) inches too wide. The backdrop for the proposed sign is white and matches the building. The lettering is chrome. No objections were offered.
- (iii) Five (5) Conditions. Mr. Battles addressed the Board regarding the five(5) points (see letter). Each of the five(5) conditions, which must be satisfied to enable the granting of a variance, were addressed.
- (iv) Board Observations/Special Consideration. The Board had a discussion regarding the illumination of the sign, color, smaller signs, and if cars on Route 1 would be able to see it.

VOTE: Upon motion duly made and seconded, it was voted to grant the Variance for a sign that is larger than the ordinance allows. The vote was 4-0. Mr. Field abstained.

- D. Case # 2002:17 – 74 Lovering Road; James A. & Nancy R. Berry. Article VI, Section 409.9. Requests a Variance to permit an addition that will be less than the required 35 foot side yard setback.

- (i) Jurisdiction: Properly before the Board.

Case Presentation: Mr. James A. Berry was present to address the Board regarding the proposed addition. The addition will be three levels, basement, first floor and second floor. The house was built in 1971 before the Ordinance was in effect. The house itself was built parallel to Lovering Road versus squarely on the property. There is no other place to build the addition. The addition is required to add space for exercise equipment for health reasons. Mr. Michael Fritz, 72 Lovering Road, spoke in favor of the Applicant and has no problem with the proposed addition. Mr. Dietrich Ebert, 80 Lovering Road, concurred.

- (ii) Five (5) Conditions: Each of the five (5) conditions, which must be satisfied to enable the granting of a Variance were addressed.
- (iii) Board Observations/Special Considerations: The Board had a discussion regarding the proposed addition. The proposed addition will only be one inch closer to the lot line than the existing house. Mr. Fritz's house sits 350' from Mr. Berry's. There were no objections raised by abutters

VOTE: Upon motion duly made by Mr. Turchan, and seconded by Mr. Wollmar, it was voted to grant the Variance to allow the 24' by 18' addition which will be situated 17'1" from the property line. The vote was 4-0. Mr. Field abstained

VI. Other Business

Mr. Field then addressed the Board in greater detail regarding having himself and Ms. Tischendorf work on the Rules of Procedure. Mr. Field would like the Board to call him with thoughts about the structure of a more formal and deliberative meeting. Mr. Field cautioned the Board about having private conversations with each other and/or Applicants on any business of the Board. Mr. Turchan addressed the Board regarding inspecting a property before the Meeting. It was suggested that the Zoning Board should put a Consent in the Application Form to specifically permit the Board members access to inspect properties to be included included on the Agenda. This process has be informally inferred in the past. The Board discussed adjusting the Agenda if there is a potentially complex Application. Ms. Tischendorf noted the legal issue of date of Application submission. The Board will need to address this matter with the individual Applicants.

Ms. Tischendorf then asked the Board members to give her adequate advance notice if they would not be attending a Meeting in order to call and Alternate Member to sit in their place. The Alternate will be asked to finish the case in the event it is Tabled. Board members agreed.

VII. Next Meeting

The next Meeting of the Board will be held at 7:00 p.m. on Wednesday, May 15, 2002, at the North Hampton Town Hall.

VIII. Adjournment

Upon motion duly made by Mr. Johnson, and seconded by Mr. Wollmar, it was voted to adjourn the meeting. The Meeting was adjourned at 9:15 p.m. The vote was 4-0. Mr. Field abstained.

A true record, attest

North Hampton Zoning
Board of Adjustment

By: _____
Krista Tischendorf,
Recording Secretary