

**TOWN OF NORTH HAMPTON, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JUNE 19, 2002**

The Town of North Hampton Zoning Board of Adjustment ("Board") met on Wednesday May 15, 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 May 8, 2002.

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

Member(s) Absent: None

Alternate(s) Present: Samuel Checovich

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

Chairman Field called the meeting to order at 7:01pm; 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. Field had several items to report on.

- A. RSA 673.15 – Swearing in of Witnesses. Mr. Field explained the purpose of swearing in the witnesses was to improve the quality of the testimony being given and to protect the Board and the Town. Mr. Field proposed to swear in all the witnesses for each case at the beginning of each case.
- Vote: **Upon motion duly made by Mr. Checovich and seconded by Mr. Turchan, it was voted to adopt RSA 673:15 to swear in witnesses as standard Board Procedure. The vote was 4-0. Mr. Field abstained.**
- B. Water Supply: Town of Seabrook. Mr. Field noted to the Board that the Board of Selectmen of the Town had a meeting regarding the emergency relief request of the Town of Seabrook for water. There is no new source of water except for the construction of a desalinization plant. North Hampton water supplies are proposed to be tapped. Mr. Field requested that all Board Members carefully consider the "ground water" urgencies when addressing any wetlands and/or wetland set back issues.
- C. Sexual Harassment Issues. Mr. Field attended a Sexual Harassment seminar on Friday, June 7, 2002 sponsored by the Town of North Hampton. Mr. Field cautioned the Board to keep in mind the potential liability to the Town when acting as a Board representative. If the Board has any questions the are urged to see the Board Secretary in the Town Services Office.
- D. Website. Mr. Field informed the Board of the upcoming Town Website and asked that a ZBA member help upkeep the website. Mrs. Landman, Selectperson chair, noted that the Town has a Web Master to keep the site, the Town only needs the documents in MS Word to post on the site. The Board members are to see the Secretary to make the decisions of what to put on the site.

I. Minutes

- A. April 17, 2002; Mr. Field noted two corrections to the April 17, 2002 minutes, 2002:13 changed to 2002:14 and 2002:14 changed to 2002:15. Mr. Wollmar noted his give name was Dick not Richard and requested it to be changed.

Vote: Upon motion duly made by Mr. Wollmar and seconded by Mr. Turchan it was voted to accept the minutes as amended. The vote was 4-0. Mr. Field abstained.

- B. May 15, 2002;

Vote: Upon motion duly made by Mr. Johnson seconded by Mr. Checovich it was voted to accept the minutes as submitted. The vote was 4-0. Mr. Field abstained.

II. 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 and

- B. 2002:12 – 203 Lafayette Rd., Joe Roy, Request for a Variance to Article IV, Section 403 – Request to permit manufactured housing on a lot no individually owned.

2002:13 – 203 Lafayette Rd., Joe Roy, Request for a Variance to Article IV, Section 406.5 - To permit residential and commercial use on one lot.

2002:14 – 203 Lafayette Rd., Joe Roy, Request for a Variance to Article V, Section 501.2 – To permit the expansion of a non-conforming use.

2002:15 – 203 Lafayette Rd., Joe Roy, Request for a Variance to Article V, Section 503 & 504 – To permit manufactured housing and the expansion of a “Trailer Park”.

Mr. Field informed the Board that the above cases remained in suspense and the Applicants have not come forward to complete the Public Hearing process. He suggested that the cases be dismissed

Vote: Upon motion duly made by Mr. Johnson and seconded by Mr. Turchan it was voted to close the Applications on the above requests for Public Hearing. The vote was 4-0. Mr. Field abstained.

- B. 2002:21 – 101 North Rd, Sagamore Golf Center, Richard Luff, Requests a Variance to Article VI, Section 409.9 and asks that said terms be waived to permit an impermeable surface within the 50 foot wetland buffer.

- i. Jurisdiction. Properly Before the Board.

- ii. Case Presentation: Mr. Field swore in the witnesses for the Applicant. Mr. Bill Burbank with Abbellire, a Division of DTC, and Mr. Jim Gove with Gove Environmental were present to represent the applicant. Mr. Field noted for the record that Alternate Mr. Kierstead joined the meeting. Mr. Burbank presented to the Board the alterations that were made to the proposed plan. The proposed walkway was presented with a permeable brick versus asphalt. Mr. Burbank discussed with the Board that neither North Hampton Police Department nor the North Hampton Fire Department had any concerns for the plan. Mr. Gove discussed the drainage and run off for the wetland area and that it did not provide a wildlife habitat. The pond also does not recharge the water supply, as the ground is clay. The run off will be directed to a basin to be cleaned before it returns to the pond.

- iii. Five (5) Conditions: Mr. Burbank addressed the five (5) conditions, which must be satisfied to enable the granting of a Variance. The Board concluded that the five conditions were satisfied.
- iv. Board Observations/Special Considerations: The Board discussed and considered wetlands/aquifer/general water supply and protection issues.
- v. Public Comment: Mr. Mixer, Conservation Commission Chair, had concerns regarding the square footage within in the wetland buffer area.

Mr. Robert Gross, Drake Farm, was sworn in and voiced concerns regarding the traffic impact if the variance was granted. He asked that an independent traffic study be done because the intersection of North Road and Route 1 is the second worst intersection in North Hampton. Mr. Gross asked that a portion of the May 15th meeting be read into the record. The Board allowed that. (see transcript from Mr. Gross) Mr. Bob Landman, acting as the Technical Transportation Representative to the Seacoast Metropolitan Planning Organization, was sworn in and handed out a memo to the Board regarding traffic impact the proposed development will have on the intersection of North Road and Route 1. (see Mr. Landman's memo)

Mr. Burbank commented that for this meeting the applicant was only looking for relief of the 50' wetland buffer.

The Board continued discussion regarding the traffic impact and will suggest to the Planning Board a review of this issue.

Vote: Upon motion duly made by Mr. Johnson and seconded by Mr. Checovich it was voted to approve the variance to permit impermeable surface within the 50' wetland buffer with a recommendation to the Planning Board to seek an independent traffic study. The vote was 4-0. Mr. Field abstained.

There was a request to recess for five minutes.

Mr. Luff rejoined the Board to continue his appointed duties.

Mr. Field noted that there was a publication error. The Board would except evidence and table the cases until the July 17, 2002 meeting for final rendering of the decisions. Interested members of the "public" with standing, would be permitted to address the Board with any issue of concern both at this Meeting and the July Meeting.

III. New Business

- A. 2002:22 – 19 Maple Avenue, Peter Fuller, Requests a Variance to Article IV, Section 406 and asks that said terms be waived to permit a non-conforming lot.
 - i. Jurisdiction. Properly before the Board.
 - ii. Case Presentation: Ms. Sandra Woodworth was sworn in and was present to represent the Applicant. Ms. Woodworth explained that the lot line noted to be removed would not be removed as part of the approved plan. The proposed new lot would have 60' of frontage and is meant to be un-buildable.

- iii. Five (5) Conditions: Ms. Woodworth addressed the five (5) conditions, which must be satisfied to enable the granting of a Variance. The Board concluded that the five conditions were satisfied.
- iv. Board Observations/Special Considerations: Mr. Wollmar suggested a future conservation easement.

VOTE: It was the sense of the Meeting that the Applicant had satisfied the tests for the granting of the Variance; and, in the absence of compelling additional evidence to the contrary, it was likely the request would be granted at the July 17 2002 Meeting.

- B. 2002:23 – 4 Post Road, Pobama Trust, Requests a Variance to Article IV, Section 406 and asks that said terms be waived to permit construction of a single family dwelling that will be less than the required setback.

2002:24 – 4 Post Road, Pobama Trust, Requests a Variance to Article IV, Section 409.9 and asks that said terms be waived to permit construction of a single family dwelling that will be less than the required wetland setback of 50 feet.

Mr. Jack Murray, Jr., Trustee of Pobama Trust, the Applicant, was sworn in.

Mr. Wilson, Planning Board Chair, requested to speak prior to testimony being given. As a matter of comity, the Board permitted Mr. Wilson to proceed. Mr. Wilson requested that a joint meeting of the North Hampton Planning Board and the Hampton Planning Board to look at the plan setbacks and wetlands in Hampton.

Mr. Mixer, Conservation Commission Chair, was also recognized as a matter of comity and expressed concerns in support of Mr. Wilson's request for a site walk.

Mr. Field noted the need to hear the applicant properly before the Board. He requested that the applicant agrees to the site walk and save time and is heard on the 17th of July. Mr. Murray requested that Hampton, North Hampton, Conservation Commission and all interested Boards have a joint meeting. Mr. Field will consult Town Council as to how to proceed with the joint meeting.

VOTE: Upon motion duly made by Mr. Turchan, and seconded by Mr. Wollmar, it was voted to table the two cases until the July 17, 2002 meeting and request the ZBA of North Hampton, the Planning Board of Hampton, the Planning Board of North Hampton, and the Conservation Commission of North Hampton have a joint meeting. The vote was 4-0. Mr. Field abstained.

VOTE: Upon motion duly made by Mr. Turchan and seconded by Mr. Wollmar it was voted to conduct the site walk requested by the Conservation Commission before the meeting with the interested board. The Vote was 4-0. Mr. Field abstained.

Later in the Meeting it was agreed that a "site walk" would take place on the morning of June 21, 2002, at 8:15 am, following Posting of Notice.

- C. 2002:25 – 7 Hampshire Road, Michael & Tamera Saal, Requests a Variance to Article IV, Section 406 and asks that said terms be waived to permit the construction of a two car garage on the easterly side of the applicant's home.
 - i. Jurisdiction: Properly before the Board.
 - ii. Case Presentation: Ms. Michele Peckham, Michael and Tamera Saal were sworn in. Ms. Peckham was present to represent the Applicants. Ms. Peckham explained to the Board that the garage would stand 19' feet from the property line of the abutting property. She noted to the Board that

the Saal's garage was located under the house and a sharp left turn was required to enter the garage. Ms. Peckham also explained that the driveway was very steep and in winter and wet conditions it was very dangerous and the Saal's have "crashed" into their house. Ms. Peckham presented letters from Mr. David Peters, 6 Hampshire Drive and Mr. Richard Kaiser, Executor for the estate of Paul W. Hobbs in support of the Saal's building the garage.

The garage would be connected to the house by a pass through instead of the wall of the garage being attached to the house to allow light into the bedrooms on that side of the house. Mr. Field asked if the office space above the garage would be a business office or personal. Ms. Peckham confirmed it would be used for personal office space only.

Mr. Saal explained that the floor of the garage would be filled and a retaining wall placed to support the garage. There would be no storage under the garage.

The Board requested that the approved variance show that the upstairs level be noted as office space not living space.

- i. Five (5) Conditions: Ms. Peckham addressed each of the five (5) conditions, which must be satisfied to enable the granting of a Variance.
- ii. Board Observations/Special Considerations: Mr. Field noted that the upstairs level was to be used as office space and Ms. Peckham confirmed that.
- iii. Public Comments For – None

Sense of the Meeting: It was the sense of the Meeting that the Applicant had satisfied the tests for the granting of a Variance; and, in the absence of compelling evidence to the contrary, it was likely that the request would be granted at the July 17, 2002 Meeting.

IV. Other Business

Mr. Luff recused himself from the Board in order to discuss another issue relating to 101 North Road.

Due to an error on the Secretary's part the request for variance to expand a non-conforming lot was not Noticed. The Secretary requested the aid of the Board correct the mistake and have the case heard before the July 2, 2002 Town of North Hampton Planning Board Meeting. Mr. Luff will be before the Planning Board to discuss his request for site plan review. The Board noted that Saturday, June 29, 2002 at 9:00 am was the most convenient time for them to meet in Special Session.

VOTE: Upon motion duly made by Mr. Turchan, and seconded by Mr. Johnson, it was voted to notice the 101 North Road Application and schedule a Special Hearing for the Variance Request at 9:00 am on June 29, 2002. The vote was 3-0. Mr. Field abstained.

- V. The next regular meeting of the North Hampton Zoning Board of Adjustment will be held on July 17, 2002 at 7:00 p.m. in the Town Hall. A Special Meeting of the North Hampton Zoning Board of Adjustment will be held on Saturday, June 29, 2002, at 9:00 am.

VI. Adjournment

Chairman Field invited a motion to adjourn.

VOTE: Upon motion duly made by Mr. Johnson, and seconded by Mr. Turchan, it was voted to adjourn the meeting. The vote was 4-0. Mr. Field abstained.

The Meeting was adjourned at 9:45 pm.

A true record,

North Hampton Zoning
Board of Adjustment

By: _____
Krista Tischendorf,
Recording Secretary