

Minutes (Amended January 21, 2004)

North Hampton Zoning Board Of Adjustment

Meeting: September 3, 2003

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These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transaction. An audio recording device was present for the meeting. Note: This meeting is a re-scheduling of the August 20, 2003 ZBA meeting which was cancelled.

Attendance: Richard Luff, Mark Johnson, John Anthony Simmons, Ted Turchan, Robert Field, Sara Stevens (filling in for Krystina Arrain).

Alternates Present : Ken Worrell, Jennifer Lermer

Mr. Simmons called the meeting at 7:08pm.

Richard Luff Motions to designate Sara Stevens Pro- temp secretary for the evening of Wednesday, September 3, 2003. Seconded by Ted Turchan. Mr. Simmons' opinion was that the board does not staff this position and that nor does it have any connections with the employee in terms of pay, job description, The Town Administrator or someone else, other than us has deemed fit that Ms. Stevens, be sworn in for this hearing.

Vote 3-1 Mr. Johnson Opposed and Mr. Simmons not participating in vote.

I. Swearing in of the Witnesses:

Everyone rose and participated in the swearing in of witnesses.

II. Preliminary Matters/General Correspondence

Part A Preliminary Matters.

Mr. Simmons Speaking; Rules of procedure, Current rules will apply. For those who are familiar with them, I regret to add that we do not have the normal amount of literature on the table. You'll have to excuse us. If you have any questions I would be happy to entertain any of that.

Ken Worrell, will be sitting in for Mr. Simmons for the Craig Solomon Case. Mr. Simmons will be recusing himself from any votes taken. Unless, his vote would determine the outcome

Part B: General Correspondence:

Case #2003-27: Has been continued to the September 17, 2003 Meeting, at the request of the applicant. The applicant's attorney has sent a letter dated August 28, 2003, requesting that this matter be continued, for the reason of the canceled meeting in August, and that the attorney had a conflict with schedule. They requested to be continued to the September 17, 2003 meeting. Mr. Simmons, "Under other circumstances this would be a matter that this Board might vote on. But under the extenuating circumstances, as Chairman I have considered it a professional courtesy to have that matter continued to the September 17, 2003 Meeting. Considering that we contributed to this matter by canceling our August meeting."

Letter Dated August 3, 2003: Distributed to board members on August 15th. 2003. Letter is dated August 3, 2003, from a gentleman named, Wallace Berg, who sent us notice on his concerns a project for a Development, with 79 lots on it, on September Drive and Breakfast Hill, in Greenland. Mr. Field, Presents a case called Smagula vs. Hooksett that the Supreme court passed a law that notices be required to be given to abutters of adjoining properties, as well as a abutters of adjoining towns.

Memorandum: Dated August 15, 2003: Distributed to all Department Heads for the Fiscal year 2004, Concerning requesting funds and regarding budgets for 2004, that you need to submit or request for a proposal. ZBA does not have budget, so this memo does not apply. The whole memo was not read.

Memorandum: Dated August 19, 2003: On New Hampshire Municipal Training. On Work Environment Harassment and Sexual Harassment. Two sessions to be held, once session was held on August 26, 2003, from 1-4pm and the next one is to be held on September 29, 2003 from 6-9pm. Mr., Simmons "This is put on by the NH Municipal Association, and I attended the training and encourage any other members to attend."

Memorandum: Distributed to all board members. To The Chairman of all boards, for a training series for all elected officials. The lectures are Zoning Clinic, Land use and planning, Sensitive Street Design, and Suburban Place Making.

Memorandum: Dated August 25, 2003: From The Town Administrator. Three lectures from the Municipal Law Lecture Series Annual Fall Lecture, on its 28th year anniversary. Sponsored by the NHMA. Lectures being offered are 1.) Water, wetlands, and The Role of Local Governments, 2.) Where road Laws and Zoning Collide, 3.) Back to Basics on Zoning and Planning Boards.

Discussion: The Lectures are being offered on October 15, 2003, and they conflict with the Regular Monthly meeting of the ZBA. Which is already scheduled for that date.

Mr. Simmons makes motion to move October 22nd, 2003, meeting date to October 23rd, 2003, to accommodated the Board on being able to attend this lecture series. Seconded by Ted Turchan. Motion passes, giving the Board and the Alternates the opportunity of education themselves, especially for the ones who do not have a Legal or a Land Use background.

Vote 4-1 Opposed by Mr. Luff.

Discussion: Robert Field. Says he tried to get a hold of Mr. Simmons on August 29th. About the notice of the ZBA board. Mr. Field had noticed that the ad had not run in the Portsmouth Herald, but instead had run in the Hampton Union. He brings to the attention that if they do not chose a consistent publication, that a member of the public could raise the situation. The issue is raised and commented on by the board. The thought of using both papers is decided on as not a cost-effective option issue because of cost.

Mr. Field Makes a motion to Use the Hampton Union, rather than the Portsmouth Herald for all ZBA publications. Seconded by Mr. Simmons.

Vote 4-1 Mr. Field opposed.

Note: Chairman states that Mr. Fields opinion is to be recorded in the notes. Mr. Fields opinion is that they should use both papers or the Portsmouth Herald because, it is offered seven days a week. Rather than the Hampton Union, that is only offered two days per week.

III. New Business:

2003:25 - Applicants, Paul & Nancy Marquis, 24 Hobbs Road, North Hampton.

Representing Themselves.

Request: A Variance to (1) Article IV, Section 406 for the Relief of side setback requirement and (2) Article V, Section 501.2 for relief of the expansion of a non-conforming structure.

Property Location: 24 Hobbs Road, R-1 Zone District, Tax Map #006-099-000.

Marquis are here and have been sworn in. Paul Marquis presents their Request. An addition to their house. They want to add six feet to the front of their garage and six feet to the back of the garage. The garage is at an existing twenty-three feet long. Modifications internally, and on the backside of the house add a 12x14 room that would be used as a three-season room (as an extension of the garage).

A sketch was provided to the board and made available to the public.

8:03PM The meeting was opened to the public who wanted to speak in favor of the request.

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Raymond Belanger, 21 Hobbs Rd: Raymond and Lisa Support the variance.
Mildred Guth, 24 Hobbs Rd: Email sent to Kristina Arrain August 16, 2003. Stating she has No Objections to The Marquis addition. Email Read to public and board. Circulated the email.

Closed the public portion of the meeting at 8:04pm.

Mr. Johnson makes motion to approve (1) Article IV, Section 406 for the Relief of side setback requirement. Seconded by Mr. Luff.

Vote 4-0-1 With Mr. Simmons abstaining from vote.

Mr. Turchan moves to grant (2) Article V, Section 501.2 for relief of the expansion of a non-conforming structure. Mr. Johnson Seconds the motion.

Vote 4-0-1 With Mr. Simmons abstaining from vote.

Burden of Proof Board has found facts. Applicants have been notified of the 144 hours of getting letter of notifying approval. And that they should visit the building inspector as well as, that there are still 30 days left for the public to appeal.

Request for break made at 8:14PM

Reopened at 8:16PM with Mark Johnson sitting in as Chair.

2003:26 - Applicant, Craig N. Salomon, 8 Richard Street, Hampton, NH.

Request: A Special Exception to Article V Section 507 to permit a Law Office as a home occupation.

Property Location: 100 Woodland Road, R-2 district, Tax Map #006-099-000

Craig N. Solomon, states he has permission of the current homeowners "The Casey's" and that there should be a letter on file. The property is under agreement, with a closing date towards the end of October. Two driveways exist on the property to Woodland Road. His intent is to use the family room that is a little over 500 sq ft. as his office. Most modifications would take place inside the home, adding a bathroom to the first level. No intention to change the appearance of the outside of the property, except a sign under 2 sq. ft. He states he will only have one appointment at a time. He will have two employees a paralegal and a secretary. No new parking will be needed.

No retail activity. 507.4 No issues applying to this.

Drawing was done and explained on black board. Of property, used to explain to the board and to the public what his intentions are with the home and property.

The meeting was opened to the public who wanted to speak in favor of the request.

The meeting was opened to the public who wanted to speak who are opposed to the request.

Cahill's, 101 Woodland Rd. Are opposed they would like to see Woodland Road remain a residential area.

Mark Warner, 103 Woodland Road. Opposed and expects neighborhood to stay residential. Mr. Solomon states he expects one or two appointments a day, but there is nothing to prove that. I am also, opposed to the sign on our road.

Ralph White, 70 Woodland Road, Opposed, with a "Layman's Point of view." " That Woodland Road is clearly a residential area and should remain a residential area."
Mike Iaffola, 114 Woodland Road. "Home occupations tend to grow. No way of controlling traffic to and from location. Woodland Road is a nice rural road."

Susan Smith, 143 Woodland Road, "Why isn't he having an office in the commercial district?"

No control of more than two cars. No way to control that. This will change the flavor of the road has always been a backcountry road and is residential. If you grant this you will be opening Pandora's box. Allowing others to do the same. Very strongly opposed.

Peter Simmons, 29 Ocean Blvd. He should be in the IB district. Woodland Road is a R-2 Road and he should be in the IB district. Look at all the people who are opposed. He also stated that Woodland Road was a State road.

Letter: Dated August 30, 2003: Letter sent to Mr. Simmons stating that Mr. Richard Simmons and Mrs. Laura Simmons are strongly opposed and wish that the request be denied.

Closed the public portion of the meeting at 9:27pm with a recess.

Reopened at 9:35PM with Mark Johnson sitting in as Chair.

Robert Field, "The Site the space is more than sufficient. I feel no reason to deny the applicant."

Ken Worrell, "I see safety issues and concerns."

Mark Johnson, "I think that with so many people against this request and expressing the fears, we have no choice but to listen to them."

Motion made to Deny the applicant Craig N. Solomon and his request for a Special Exception, Article V, Section 507. Mr. Johnson Seconds the motion.
Vote 3-1.

IV. Acceptance of Minutes: Sara Stevens is present as a temporary secretary/recorder and does not have the minutes from the last meeting.

V. Other Business: John A. Simmons, Supports NHMA. Our job is to apply the ordinances, even when it comes to home occupation and other issues. The suggestion is a real public policy issue needs to be addressed by the planning board. Mr. Simmons volunteers to draft a letter to The Planning Board and bring it to the next meeting.

Mr. Simmons motions to write a letter to The Planning Board stating the problems with 5.07. Seconded by Mark Johnson.

Vote 5-0

Mr. Peter Simmons came back in to state that he would like to take back his statement that Woodland Road is a State road. When in fact it is a Town Road.

Robert Field makes a motion to adjourn. Seconded by Ted Turchan.

Vote 5-0.

Note: On the October 16, 2003 ZBA meeting it was voted that for a correct version of the meeting, the Board recommends consulting the audiotape record for the September 3, 2003 meeting.