



SPECIAL SESSION MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
September 10, 2003

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The Town of North Hampton Zoning Board of Adjustment (Board) met on Wednesday, September 10, 2003 for a special session at the North Hampton Town Office Conference Room. Notice of the meeting had been properly posted at the Library and Old Town Offices/Town Clerk on August 27, 2003 and published in the Hampton Union on Friday, August 29, 2003.

Attendance

Present: (1) John Anthony Simmons, Chairman; (2) Mark Johnson, Vice-Chairman; (3) Richard Luff; (4) Robert B. Fields, Jr., (5) Jennifer Lerner, Alternate was seated for Ted Turchan.

Members and Alternates Absent: (1) Ted Turchan, (2) Dick Wollmar, Alternate (3) Sam Checovich, Alternate and (4) John Woodworth, Alternate.

Staff Present: Richard Mabey, Building Inspector; Krystina Deren Arrain, Planning and Zoning Administrator/Recording Secretary.

Mr. Field protested that the meeting was posted for 7 PM and was being delayed. Mr. Simmons explained that Mr. Turchan was expected shortly. Mr. Simmons reconvened the meeting at 7:12 PM from the August 13, 2003 special session, of which this special session was a continuation. Mr. Simmons declared a quorum for the meeting and asked Ms. Arrain for a report on the posting. She reported that the notice was posted in two public places, the Library and Old Town Office/Town Clerk on August 27, 2003 and published in the Hampton Union on Friday, August 29, 2003.

Mr. Field challenged the legality of the posting because it had been published in the Hampton Union instead of the Portsmouth Herald. Mr. Simmons noted Mr. Field's comment and said the posting was adequate and legal. Again Mr. Field challenged that the change in newspapers was inappropriate. Mr. Simmons commented that the posting was appropriate by pointing out the notation in the Rules of Procedure.

Procedure — Swearing in of Witnesses

Mr. Simmons explained the standard Rules of Procedure would be applicable to this meeting to members of the audience. He swore in Joseph Kutt and Richard Mabey who would be giving testimony or presenting comments on matters to be considered by the Board. Mr. Simmons announced that the Recording Secretary would maintain an audio recording of the meeting. Arrangements should be made with the Recording Secretary if an individual is interested in listening to the recording of the meeting procedures. Minutes of the meeting shall be deemed to be "preliminary" in form and unofficial until the Board votes to approve it. The Application For Relief form has several requirements as part of the application filing process. Applicants who are in "non-

compliance” with prior orders, findings or decisions of the Board, will, in most instances, have any requests for further relief deferred until full compliance is attained or waived by the Board on a showing of good cause by the applicant.

Mr. Luff inquired why the meeting was being videotaped. Mr. Simmons noted that it was a preliminary move toward public broadcasting. Mr. Field questioned whether the Board should adopt videotaping into the Rules of Procedure. Ms. Lerner suggested that since there was an application request on the agenda, the Board should moved ahead to hear Case #2003:28.

Mr. Simmons explained that Mr. Kutt had applied to the Board for relief because during a recent Planning Board meeting it was discovered that he needed another variance. Mr. Field questioned why Mr. Kutt was before the Board again. Mr. Simmons explained that a third variance, beyond the two granted to Mr. Kutt on June 18, 2003, was needed.

New Business

2003:28 – Joe Kutt, P.O. Box 295, North Hampton, NH 03862 requests a Variance to Article IV, Section 406.8 for relief from the landscape buffer around the perimeter of the lot. Property location: 229 Atlantic Avenue, I-B/R zone district, Tax Map #007-148-000.

Case Presentation

Mr. Kutt opened his presentation by stating that although the Planning Board had granted him a waiver for a landscape buffer, he learned at said meeting that he needed a variance for Section 406.8; hence, his return to the ZBA. Mr. Kutt explained that he doesn’t have enough space on his property for the requisite 10-foot landscape buffer. He further stated that he has endeavored to maintain a maximum amount of landscaping on his property. Mr. Kutt noted that he had partaken in a valiant effort to save a beautiful birch, but lost the battle because NH DES would not approve his septic permit unless he cut down the birch tree. He further commented that his proposed addition would be a very attractive addition to his building.

Mr. Simmons moved and Mr. Johnson seconded the motion to include all of Mr. Kutt’s references made at the June 18, 2003 meeting to this hearing.

The vote was unanimous (5-0).

Findings of Fact (RSA 674:33)

Mr. Kutt addressed the five (5) conditions, which must be satisfied to allow the granting of a variance. The Board concluded that the five (5) conditions were met.

Public Comment

None in either support or opposition.

Board Observations/Comments

Mr. Simmons apologized to Mr. Kutt on behalf of the Town for the inconvenience he experienced in his requests for relief.

Mr. Field moved and Mr. Luff seconded the motion to approve the Variance to Article IV, Section 406.8 for relief from the landscape buffer around the perimeter of the lot.

The vote was unanimous (5-0).

The meeting adjourned at 7:45 PM.

Respectfully submitted,

Krystina Deren Arrain
Recording Secretary