



REGULAR MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
August 18, 2004

Page 1 of 8

The Town of North Hampton Zoning Board of Adjustment (Board) met on Wednesday, August 18, 2004 in the Conference Room of the North Hampton Town Offices.

Attendance

Present: (1) John Anthony Simmons, Chairman; (2) Michele Peckham, Vice-Chairperson; (3) Richard Luff; (5) Susan Smith; and (5) Ted Turchan.

Alternate(s) Present: (1) Ken Worrell.

Absent: (1) Jennifer Lerner, (2) John Woodworth, (3) Sam Checovich

Staff Present: (1) Richard Mabey, Building Inspector; (2) Krystina Deren Arrain, Planning and Zoning Administrator/Recording Secretary.

Mr. Simmons called the meeting to order at 7:05 PM.

2004:24 — **Russell W. Jeppesen, P.O. Box 990, North Hampton, NH 03862** - requests a Variance from Article IV, Section 409.9.B.1. for relief from the wetland buffer requirement to construct a commercial building that would encroach into the wetland buffer. Property location: *Property location: 62 Lafayette Road, I-B/R zone district, Tax Map #007-120-000.*

Mr. Simmons remarked that the Board received a letter dated August 13, 2004 from Atty. Michael J. Donahue, representing the applicant, in which he respectfully requested a continuance of the case until the next ZBA meeting.

Mr. Simmons moved and Mr. Turchan seconded the motion to continue the hearing until September 15, 2004.

The vote was unanimous (5-0).

Preliminary Matters; Procedure; Swearing in of Witnesses

Mr. Simmons remarked that the Rules of Procedure as well as other information was available on the literature table located in the rear of the meeting room. He swore in all persons present who would give testimony or present comment on matters to be considered by the Board.

Mr. Simmons distributed copies of (1) the August 16, 2004 work session draft minutes, (2) draft of proposed sign ordinance and (3) site plan review regulations dated August 16, 2004. Mr. Simmons noted that he believed that boards should work together and invited any member to provide input for

the sign ordinance update at the next ZBA meeting.

2004:18 — **Gary Stevens, 69 Lafayette Road, North Hampton, NH 03862** –requests a Variance from Article IV, Section 406.3.A. for relief from the minimum 100,000 square foot lot requirement for a duplex with a 60,000 square feet requirement of non-wetland area. The proposed duplex would be constructed on a lot comprising 34,800 square feet. Property location: 247 Atlantic Avenue, R-2 zone district, Tax Map #007-128-000.

Mr. Simmons stated that the Board received a legal opinion from LGC/NHMA. He emphasized that the LGC opinion was a client-privileged document and Mr. Stevens requested a copy. It was Mr. Simmons opinion that it was not advisable to release this information to the applicant because it would set a precedent. The Board was in agreement.

Report of Agenda Notice

Ms. Arrain, Recording Secretary, noted that notice of the meeting was properly posted at the (1) Library, (2) Post Office and (3) Old Town Offices/Town Clerk and the (4) North Hampton Town Website and published in the Hampton Union on Friday, August 6, 2004.

New Business

2004:19 — **W/S North Hampton Properties LLC c/o S. R. Weiner, 1330 Boylston Street, Chestnut Hill, MA 02467** - requests Variances from Article V, Section 506.3 E. to allow a 75.41 square foot wall sign where two (2) 12 square foot wall signs are allowed. *Property location: 33-49 Lafayette Road, I-B/R zone district, Tax Map #007-053-000.*

Atty. Bernard Pelech represented the applicant. He requested relief for a 75.41 square foot sign for Marshall's adjacent to Shaw's Market. He said the sign included 4 foot 2" letters for "M, h, l, l" and the remaining letters of the sign are 3 feet, whereas the Home Depot sign letters are 6 foot high and Hollywood Video are 3 feet high. Atty. Pelech referenced that from the bottom of the red bar to the top of the "M" is 5 feet. The Marshall's building is located over 500 feet from Lafayette Road and as such adequate visibility is very important. He asked for an area variance. Atty. Pelech observed that the store location is in a completely commercial area whose neighbors are businesses with a conservation area located in the rear of the building.

Atty. Pelech addressed the five criteria standards.

The Board did a comparison of the Marshall's sign to surrounding signs, i.e., Home Depot, Shaw's, Hollywood Video and Maurice's. Mr. Pelech noted that the town's sign ordinance is antiquated. Other communities base their signage on distance from road, building frontage, multi-tenant locations and etc. Mr. Turchan commented that he felt the primary issue was safety; the ability of customers to identify a business location.

Public Comments

Donita Wade, 29 Lafayette Road, is an optometrist who stated that for 40/20 vision and for the eyes to be able to process the information accurately, the sign should be 3 feet high and the letters should be spread out farther than what is proposed if located 600 feet from the road. (She identified this feature of vision as “vernier acuity”). Helen Savage, 3 Appledore Avenue, remarked that the community should welcome Marshall’s.

Mr. Luff moved and Mr. Turchan seconded the motion to approve the application as submitted noting the dimensions would consist of a maximum height of 5 feet which included the “M, h, l, l” characters of 4 feet 2 inches and the remaining letters of 3 feet. The sign shall have a maximum width of 21 feet, 10-1/2 inches.

Variance Request for Section 506.3.E.

The Board voted on the five standards.

Find-ings of Facts		Not Contrary to Public Interest		Unneces-sary Hardship Exists		Consistent w/Spirit of Ordinance		Substantial Justice Will be Done		Will Not Diminish Value of Surrounding Properties		Vote	Vote	Vote
		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	ABS
Board	Simmons	X		X		X		X		X		X		
	Peckham	X		X		X		X		X		X		
	Turchan	X		X		X		X		X		X		
	Luff	X		X		X		X		X		X		
	Smith	X		X		X		X		X		X		

The vote was unanimous (5-0).

2004:20 — Michael C. Burnett, P.O. Box 300, Rye, NH 03870 - requests a Variance from Article IV, Section 409.9.B.1. for relief from the 75-foot tidal wetland buffer requirement to construct a single family home that would encroach 31-feet into the tidal wetland buffer. Property location: *Property location: 1 Appledore Avenue, R-2 zone district, Tax Map #001-022-000.*

Atty. Bernard Pelech represented the applicant. He stated that the applicant received approval from the Little Boar’s Head ZBA (LBH ZBA). The property was known in the neighborhood as “The Stilt House.” Atty. Pelech reviewed the history of the neighboring lots owned by the Savages. The Savages sold the applicant’s lot to him. The existing house was not a practical house for the region. Pipes froze in winter and it was expensive to heat. A variance was needed because as a result of the Little River Restoration project the character of the rear portion of the applicant’s property had changed – the tidal waters were coming closer to the home site. Atty. Pelech read a letter from NH

Office of Energy and Planning (NH-OEP) that applauded the applicant on his cooperation on the restoration project. The applicant noted that because of the restoration project the mean high tide had moved up 30 feet from the original river's edge. Atty. Pelech remarked that the applicant received Conservation Commission approval as well as DES approval and LBH ZBA. The applicant explained his woes regarding freezing water and septic pipes and house movement during strong winds because of the house design.

Atty. Pelech addressed the five criteria standards.

Public Comments

Helen Savage, 3 Appledore Avenue, stated she was in support of the application. John Savage, 3 Appledore Avenue, voiced in favor of the application, as well. Jurgen Demitsch, 2 Boulter's Cove, an abutter, supported the Burnett application stating that it would enhance the neighborhood.

Variance Request for Section 409.9.B.1.

Mr. Simmons moved and Ms. Peckham seconded the motion to approve the request for a Variance from Article IV, Section 409.9.B.1. for relief from the 75-foot tidal wetland buffer requirement to construct a single family home that would encroach 31-feet into the tidal wetland buffer.

The Board voted on the five standards.

Find-ings of Facts		Not Contrary to Public Interest		Unneces-sary Hardship Exists		Consistent w/Spirit of Ordinance		Substantial Justice Will be Done		Will Not Diminish Value of Surrounding Properties		Vote	Vote	Vote
		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	ABS
Board	Simmons	X		X		X		X		X		X		
	Peckham	X		X		X		X		X		X		
	Turchan	X		X		X		X		X		X		
	Luff	X		X		X		X		X		X		
	Smith	X		X		X		X		X		X		

The vote was unanimous (5-0).

The meeting recessed at 8:52 PM

The meeting reconvened at 9:01 PM

2004:21 — A. Michael Burnell, 23 Atlantic Avenue, North Hampton, NH 03862 - requests a Variance from Article IV, Section 406 for the construction of a new garage that would encroach into

the side setback, leaving 7.6 feet from the property line where a 15-foot side setback is required.

Property location: 23 Atlantic Avenue, R-2 zone district, Tax Map #001-102-000.

Mr. Burnell noted that the LBH ZBA approved his application with a few conditions. None of his abutters were opposed to his application. Mr. Burnell explained the particulars of his application noting that the dimensions of his .62 acres (2/3 acres) lot create difficulties in meeting setback requirements. He explained there had been full disclosure of his application to the abutters. Mr. Simmons asked if there were any other possible locations for the garage. Mr. Burnell explained there were no other locations because of land formations, septic and proximity to neighbors. He explained that New England winters have taken a toll on his vehicles and he needed to garage his vehicles indoors.

Mr. Burnell addressed the five criteria standards.

Public Comments

No comments.

Variance Request for Section 406.

Mr. Turchan moved and Mr. Simmons seconded the motion to approve the request for a Variance from Article IV, Section 406 for the construction of a new garage that would encroach into the side setback, leaving 7.6 feet from the property line where a 15-foot side setback is required.

The Board voted on the five standards.

Findings of Facts		Not Contrary to Public Interest		Unnecessary Hardship Exists		Consistent w/Spirit of Ordinance		Substantial Justice Will be Done		Will Not Diminish Value of Surrounding Properties		Vote		Vote
		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	
Board	Simmons	X		X		X		X		X		X		
	Peckham	X		X		X		X		X		X		
	Turchan	X		X		X		X		X		X		
	Luff	X		X		X		X		X		X		
	Smith	X		X		X		X		X		X		

The vote was unanimous (5-0).

2004:22 — Bluefish Granite LLC, 121 Lafayette Road, Unit #9, North Hampton, NH 03862 - requests a Special Exception for Article IV, Section 405 to operate a light manufacturing business for granite fabrication. *Property Location: 121 Lafayette Road – Unit #9, I-B/R zone district, Tax Map #013-074-001.*

Mr. Turchan recused himself.

Mr. Worrell was seated for Mr. Turchan.

Mr. Simmons sworn in Jeff Forman and Stephen Marama. Mr. Forman noted that the Planning Board had approved his Change of Use request with a few conditions. One of the conditions included the granting of a Special Exception for light manufacturing from the ZBA. Mr. Forman explained the state-of-the-art equipment and a water recycling system he would use at his granite fabrication facility.

Ms. Peckham asked about the light manufacturing criteria. Mr. Forman said they meet all the requirements listed in the zoning ordinance. Mr. Forman explained that his equipment was quiet and there was no residual dust because of the water recovery system they would install. Mr. Worrell asked about the type of truck deliveries. Mr. Forman remarked that there would be one to two deliveries of a lumber-style delivery truck. Ms. Peckham asked about the neighbors and would they work after hours and on weekends. Mr. Forman explained that they don't plan to work extended hours and their neighbors are the GRS railroad, Shel-Al Mobile Home Park and Mr. Turchan. Mr. Forman explained that the stone dust cakes, waste products of the water recovery system, could be discarded into a dumpster and pose no environmental hazard.

Public Comments

No comments.

Mr. Simmons moved and Mr. Worrell seconded the motion to approve the request for a Special Exception from Article IV, Section 405 to operate a light manufacturing business for granite fabrication without conditions.

The vote was unanimous (5-0).

Mr. Worrell retired from the Board.

Mr. Turchan was reseated.

2004:23 — Richard P. Bartlett, 5 Lafayette Terrace, North Hampton, NH 03862 - requests a Variances to Article IV, Section 406 for relief for (1) sideline setbacks of 23 feet and 30 feet where 35 feet are required, and (2) to enclose a 10-foot by 20-foot deck in which the rear setback is 22 feet and the rear setback requirement is 35 feet. *Property Location: 5 Lafayette Terrace, I-B/R zone district, Tax Map #021-019-000.*

Mr. Bartlett explained that his lot is a small lot measuring .32 acres (1/3 acre). When current setbacks are applied, there remains only a sliver of land on which he could build. Mr. Bartlett came to the Board seeking relief to build a garden shed. He wanted to house his garden equipment and

fuels away from his house. He felt it was unsafe storing equipment fuels in his home. He also wanted to enclose his current deck and transform it into a three/four-season room.

Mr. Bartlett addressed the five criteria standards by submitting a written document that he distributed to the Board.

Mr. Simmons moved and Ms. Peckham seconded the motion to approve a Variance to Article IV, Section 406 for relief from sideline setbacks of 23 feet and 30 feet for a garden shed where 35 feet are required.

Special Conditions. The construction of the garden shed and enclosure of the deck will consist of the specifications as submitted by the applicant in Exhibit A.

Variance Request for Section 406.

The Board voted on the five standards.

Find-ings of Facts		Not Contrary to Public Interest		Unneces-sary Hardship Exists		Consistent w/Spirit of Ordinance		Substantial Justice Will be Done		Will Not Diminish Value of Surrounding Properties		Vote	Vote	Vote
		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	YES	NO	ABS
Board	Simmons	X		X		X		X		X		X		
	Peckham	X		X		X		X		X		X		
	Turchan	X		X		X		X		X		X		
	Luff	X		X		X		X		X		X		
	Smith	X		X		X		X		X		X		

The vote was unanimous (5-0).

Mr. Simmons moved Mr. Luff seconded the motion that action on porch did not involve ZBA jurisdiction.

The vote was unanimous (5-0).

Minutes from Prior Meeting

Review of July 21, 2004 Minutes

Because a quorum was not present of members who attended the meeting, review of the minutes was postponed until the September 15, 2004 meeting.

Rules of Procedure Updated

Mr. Simmons announced that the Rules of Procedure would be reviewed at the September 15, 2004 meeting.

Adjournment

Mr. Simmons moved and Ms. Smith seconded the motion to adjourn.

The vote was unanimous (5-0).

The meeting adjourned at 10:33 PM.

Respectfully submitted,

Krystina Deren Arrain,
Recording Secretary/Planning & Zoning Administrator