



**REGULAR MEETING MINUTES**  
**TOWN OF NORTH HAMPTON**  
**ZONING BOARD OF ADJUSTMENT**  
**March 16, 2005**

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The Town of North Hampton Zoning Board of Adjustment (Board) met on Wednesday, February 16, 2005 in the Conference Room of the North Hampton Town Offices.

## **Attendance**

**Present:** (1) John Anthony Simmons, Chairman; (2); Michele Peckham, Vice-Chair; (3) Susan Smith; (4) Ted Turchan and (5) Jennifer Lerner.

**Alternate(s) Present:** None.

**Absent:** (1) John Woodworth, Alternate; (2) Ken Worrell, Alternate; (3) Richard Mabey, Building Inspector.

**Staff Present:** (1) Krystina Deren Arrain, Planning and Zoning Administrator/Recording Secretary.

Mr. Simmons called the meeting to order at 7:08 PM.

## **Preliminary Matters; Recording Secretary Report**

Mr. Simmons introduced Ms. Arrain and the seated members of the Board noting that Ms. Lerner, after having served for two years as an alternate, was recently appointed as a regular member. He praised Ms. Lerner for her previous contribution and remarked that he looked forward to working with her on the Board. Mr. Simmons added that he was pleased to announce that Paul S. Marston was recently named as an alternate and welcomed Mr. Marston to the Board.

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 provide testimony or present comment on matters to be considered by the Board. Ms. Arrain, Recording Secretary, stated 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, March 4, 2005 as well as a re-posting on March 9, 2005 and publishing in the Hampton Union on March 11, 2005 for an amended agenda.

## **Old Business**

**2004:25 —Rehearing for Aquarion Engineering Services, 222 St. John St., Ste 314, Portland, ME 04102** - requests a Special Exception from Article IV, Section 405.2 for relocation of the operations building to a newly constructed building located on the same site. *North Hampton Property location: 7 Mill Road, R-1 zone district, Tax Map #003-004-000 and 003-048-000. Hampton Property locations: Map/Lot #57/5, 57/7, 58/1, 58/2 and 72/14. This case was postponed from the February 16, 2005 meeting.*

Mr. Simmons remarked that Ms. Arrain mailed a letter, dated February 24, 2004 advising Aquarion that (1) the continuation of their case was granted for March 16, 2005; and (2) that no further continuances would be granted. Aquarion withdrew their application in a letter dated March 4, 2005.

**Mr. Simmons moved and Mr. Turchan seconded the motion to accept the applicant's withdrawal with the understanding that the applicant would have to reapply and pay all fees when and if they decided to proceed with a similar application.**

***The vote was unanimous (5-0).***

**2005:04 —The UPS Store/The Sign Gallery, 800 Second Street, Manchester, NH 03102 -** requests a Variance from Article IV, Section 506.3 E to allow a 33 square foot wall sign for The UPS Store where no more than two (2) 12-square foot wall signs per unit are permitted. *Property location: 44 Lafayette Road, Lafayette Crossing, I-B/R zone district, Tax Map #007-053-000.*

Jeff Tuttle, Owner, The Sign Gallery  
Rich Pelletier, Sales, The Sign Gallery  
Roger Tuttle, Manager, The UPS Store

Jeff Tuttle explained that the salesperson assigned to the UPS Store left his or her employment suddenly and, as a result; no one from the Sign Gallery appeared at the February 16, 2005 meeting. He explained the need for a larger sign, comparable to the size of business located in the shopping complex. Mr. Simmons inquired if the UPS store would be included on the Lafayette Crossing marquee. Roger Tuttle stated that only larger stores were permitted space on the marquee. He also submitted photos of the current appearance of the store/mall front as well as neighboring store signs for comparison. The Board inquired about the length of time the sign will be lit. Roger Tuttle said the sign would be lit only during the shopping center's operating hours.

The applicant addressed the five criteria pertaining to an area variance that are included in the town's permanent record for this case.

Mr. Simmons opened the meeting to public comments. When no comments were made, Mr. Simmons closed the public meeting.

The Board voted on the five criteria elements below for Case #2005:04 UPS Store/ 44 Lafayette Road/Lafayette Crossing:

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 Surrounding Properties		Vote	Vote	Vote
		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		
	Smith	X		X		X		X		X		X		
	Lermer	X		X		X		X		X		X		

**Mr. Simmons moved and Ms. Peckham seconded the motion to grant the variance to Article V, Section 506.3 E. for relief to increase the allowable wall sign area from two twelve-foot square wall signs to a sign totaling 33 square feet with the following special conditions:**

**Special Conditions.** (1) The sign dimension will be 24 inches high by 16.5 feet wide; (2) Adherence to construction details as specified in “Exhibit A [Blair Sign Company Drawing No. UPS-27880-04]; and (3) Sign will be lit only during standard hours of operation comparable to the Lafayette Crossing mall hours or until midnight, whichever is earlier.

*The vote was unanimous (5-0).*

## New Business

**2005:05** —Francis & Karen McWilliams, 229 Post Road, North Hampton, NH 03862, requests a Variance from Article IV, Section 409.9.A.1 for relief from the 100 foot inland wetland buffer/setback to accommodate a standard dwelling footprint of 28 feet by 44 feet. *Property location: 229 Post Road, R-3 zone district, Tax Map #022-014-004.*

Mr. Simmons reviewed the recent history of the applicant’s subdivision request and appearance before the ZBA. Mr. McWilliams explained the sequence of events of the two-year process surrounding the subdivision of his lot. He remarked that the building envelope on the newly created lot was reduced from 2,000 square feet to 1,500 square feet. Mr. McWilliams stated that he would like to build a colonial-style home on the site. The proposed structure would encroach into the inland wetland setback by 3 feet and 6/10 inches to 5 feet and 3/10 inches for a total of 200 square feet. By increasing the size of the house Mr. McWilliams believed he would maintain the appropriate level of property value of neighboring homes. He believed a smaller house would diminish surrounding property values.

Mr. Simmons opened the meeting to public comments. When no comments were made, Mr.

Simmons closed the public meeting.

The applicant addressed the five criteria pertaining to an area variance that are included in the town's permanent record for this case.

The Board voted on the five criteria elements below for Case #2005:05 Francis & Karen McWilliams/ 229 Post Road:

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 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		
	Smith	X		X		X		X		X		X		
	Lermer	X		X		X		X		X		X		

Mr. Simmons moved and Ms. Lermer seconded the motion to grant the variance to Article IV, Section 409.9.A.1 for relief from the 100-foot wetland setback requirement for a 28-foot by 44-foot dwelling footprint.

*The vote was unanimous (5-0).*

## Review of February 16, 2005 Minutes

Ms. Smith moved and Mr. Simmons seconded the motion to accept minutes as submitted.

*The vote was 3-0 with Ms. Lermer and Ms. Peckham abstaining because they were not in attendance at the referenced meeting.*

## Rules of Procedure Update and Discussion – M. Peckham

Ms. Peckham suggested that the Board should set the fee for recording decision letters/notices at the Registry of Deeds at \$20.00 per applicant. The question arose about who had the authority to set ZBA fees. The Board requested that the Town Administrator verify if the Board of Selectmen had the authority to set the ZBA fees rate.

Mr. Simmons moved and Ms. Smith seconded the motion to establish the fee for recording decision letters/notices at the Registry of Deeds at \$20.00 per applicant.

*The vote was unanimous (5-0).*

## Other Business

Ms. Peckham noted that a clerical correction was required referring to the January 19, 2005 minutes. During the vote on the variance for Article V, Section 506.3.E, Case #2005:02 [Ken Linseman/Rite-Aid], Ms. Peckham stated that she voted in the negative. The minutes reflect that she abstained on the final vote. Ms. Arrain remarked that she would change the minutes to reflect Ms. Peckham's correction to the vote record.

**Discussion on Article IV, Section 406.2 regarding legal clarification**

Mr. Simmons referred to the February 24, 2005 letter from NHLGC that states, "I am in agreement with town counsel that Section 406.2 does not involuntarily merge lots. Nevertheless, I recommend that the Planning Board consider revising the Ordinance as its intent and purpose are unclear." Mr. Simmons remarked that the ZBA might want to address the Planning Board regarding the clarification of certain ordinances such as Section 406.2, signage issues in Section 506; and wetland buffer/setbacks issue in Section 409.9. It was suggested that the Board authorize Mr. Simmons to write a letter to the Planning Board Chairman to provide input to the Planning Board as it considers zoning ordinance changes. The Board unanimously agreed to authorize Mr. Simmons to draft and forward a letter to the Planning Board Chairman.

Mr. Simmons thanked Sam Checovich for his service to the town and the ZBA during his tenure as an alternate.

**Board Officers**

**Ms. Smith moved and Ms. Lerner seconded the motion that Mr. Simmons and Ms. Peckham remain as Chair and Vice-Chair, respectively.**

***The vote was unanimous (5-0).***

Mr. Simmons accepted the appointment adding that he dedicated his service for the upcoming year in memory of Myles Joseph Simmons, who would have been a year old and to New Baby Simmons #5. Mr. Turchan commented that in his position as Chairman over the past year, Mr. Simmons had done a great job and had improved the administration of the Board.

**Adjournment**

**Ms. Smith moved and Mr. Turchan seconded the motion to adjourn at 8:40 PM.**

***The vote was unanimous (5-0).***

Respectfully submitted,  
Krystina Deren Arrain,  
Recording Secretary/Planning & Zoning Administrator