



SPECIAL MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
July 6, 2005
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These minutes were prepared as a reasonable summary of the essential content of this meeting, not as a transcription. An audio recording of the meeting is available in the Town Office. In the event that a question arises about verbatim comments, it can be answered by listening to the recording.

The Town of North Hampton Zoning Board of Adjustment (Board) met for a Special Meeting on July 6, 2005

Attendance

Present: Ted Turchan; Acting Chair (2) Susan Smith; (3) Jen Lerner

Alternate(s) Present: None

Staff Present: (1) Richard Mabey, Building Inspector/Code Enforcement Officer [BI/CEO];

Mr. Turchan Convened the meeting at 12:07 p.m.

Mr Turchan asked if the meeting was properly posted.
Mr. Mabey replied that it was posted on July 1, 2005

Preliminary Matters

Mr. Turchan confirmed that this meeting is a special meeting concerning 2004:11 – Crown Properties concerning a request for a rehearing, he then proceeded to read the agenda.

Mr. Turchan suggested talking to the other Board Members amongst themselves to determine if there was sufficient evidence to grant a rehearing.

Ms. Smith asked why was Mr. Fitzgerald requesting a rehearing. She then asked if all she had was a copy of a letter that Mr. Fitzgerald had sent requesting the rehearing. She then expressed that Mr. Fitzgerald was looking for the Board's reasons for granting the variance. She then asked Mr. Mabey if this was the most recent request for a rehearing. Mr. Mabey replied that yes it was and that was why they were having a special meeting to meet the 30 day requirement. Ms. Smith mentioned that Mr. Fitzgerald stated that no hardship was met in the minutes of the last meeting. She then asked for the minutes of the last meeting.

Ms. Smith asked Mr. Fitzgerald if he saw how the Board had voted on this matter. Mr. Fitzgerald replied yes he did he was at the first meeting on May 18, 2005. She then stated that one of his complaints was that he was not notified of the May 18, 2005 meeting properly and on time. She then asked him if that was correct. Mr Fitzgerald replied that it was, but after he complained the

petitioner sent a letter letting him know when the meeting was. Ms. Smith stated that without taking up any more time, she stated that she was not going to speak to the other Board members about the hardship part of the application also she said that there were 4 other votes that had nothing to do with hardship, so, therefore she was going to stand by her original decision on the hardship issue from the May 18, 2005 stating that.

Ms. Smith motioned and Ms. Lermer seconded not rehear this case at the next meeting.

Mr. Turchan questioned that the meeting in May of 2004 was technically null and void and the process was started over in 2005. Then he stated that Mr. Fitzgerald didn't have adequate time to have representation present at the meeting. He then stated that the Board had to decide on whether or not he should be heard.

Ms. Lermer asked if the original applicant was present.

Atty. Chris Mulligan replied that the original applicant was present. He then requested to speak. He then stated that to grant a rehearing every ground must be specified to warrant this. He also stated that the only complaint was due to the five criteria were not met, saying that the five criteria was the only thing before the Board at this meeting.

Mr. Fitzgerald asked to be recognized

Mr. Turchan recognizes Mr. Fitzgerald.

Mr. Fitzgerald stated that there was nothing in the minutes of the May 18, 2005 meeting, and the Board did not hear sufficient evidence to support that the five criteria were met. He also stated that The Board did not consider anything before they put it to a vote. Mr. Fitzgerald expressed that he takes offense at the fact that just because that's the way the vote was in 2004 that the Board didn't even deliberate before taking a vote in 2005. He feels that this is a sufficient reason to be reheard.

Atty. Chris Mulligan stated that there were a couple of places in the minutes where Mr. Fitzgerald disputed meeting the five criteria. Mr. Mulligan then stated that the Board felt that the five criteria were met and the vote was taken in favor of the applicant. He also stated that a rehearing by legal standards should only be granted in only in unusual situations where an individual has had full and fair opportunity to air their grievances and didn't avail when in this case the complainant has basically filed for a rehearing in the interest of getting a do-over and that is not what a rehearing is for.

Board discusses the situation amongst themselves.

Ms. Smith stated to Mr. Fitzgerald that he had a right to request a rehearing or even change the reasons for wanting a rehearing before the 30 days is up. She then stated that she was still going with her original standing from the original meeting which was no on the rehearing.

Board has another Discussion amongst themselves

Ms. Smith motioned to not rehear the case and Ms. Lerner voted to rehear the case leaving Mr. Turchan to break the tie. Mr. Turchan also voted to rehear the case stating that if the case went to court it would only be brought back to the Board to be reheard anyway

Vote was (2-1)

Atty. Mulligan asked if he could bring in his own stenographer to the next meeting. Mr. Turchan said that he could or even tape it if he liked.

Mr. Turchan asked when the next meeting was. Mr. Mabey stated that it was July 26, 2005 with three new cases and the Cell Tower case last. It was decided to put this case on first then new business and last the Cell Tower.

Ms. Lerner moved and Ms. Smith seconded to adjourn meeting.

Meeting was adjourned at 12:39 p.m.