

*These minutes were prepared as a reasonable summary of the essential content of the meeting, not as a transcription. All exhibits mentioned in these minutes are a part of the Town Record.*

The Town of North Hampton Zoning Board of Adjustment met on Tuesday, October 25, 2005 in the Mary Herbert Conference Room on Atlantic Avenue.

### **Attendance**

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

**Alternate(s) present:** None

**Staff present:** (1) Richard Mabey, Building Inspector and (2) Wendy Chase, Planning and Zoning Administrator/Recording Secretary.

David McGilmore asked permission from the Board to videotape the meeting for a High School project. The Board granted him permission.

Mr. Simmons called the meeting to order at 6:19pm.

### **Preliminary Matters; Procedure; Swearing in of Witnesses: Recording Secretary Report**

Mr. Simmons explained to those in attendance that the Board intended to begin with the cell tower application, case number 2005:19 – Cellco Partnership d/b/a Verizon Wireless. Attorney Hilliard, who is representing the Town in this matter, informed Mr. Simmons that due to a prior engagement would not be in attendance until 7:00pm. Mr. Simmons tabled this case to 7:00pm.

Mr. Simmons recused himself from case 2005:26 – E. Stevens, Inc. stating that he had not yet received the agenda and did not have adequate time to make arrangements for an alternate to attend in his place. Mr. Simmons apologized and explained that if Mr. Stevens wanted to go forward with his application this evening any favorable action to his application would need 3 positive votes. Mr. Simmons stepped away from the table, joining the audience. Ms. Peckham assumed the Chair. Mr. Stevens requested that his application be placed on next month's agenda, November 22, 2005. The applicant requests a special exception Article V, Section 506.3 to replace existing manual changing reader board with an automatic changing reader board. Property Location 59 Lafayette Road, I-B/R zone district, Tax Map #007-065-000.

**Ms. Peckham moved and Ms. Lerner seconded to approve the applicant's request to table their application, case number 2005:26, until the November 22, 2005 meeting.**

**The vote was 4-0.**

Mr. Simmons rejoined the Board. Mr. Simmons announced that if anyone had questions that they please raise their hand and that a copy of the Rules of Procedure were available for anyone to view.

Mr. Simmons swore in all persons present who would provide testimony or present comment on matters to be considered by the Board. Richard Mabey, Building Inspector, stated that notice of the meeting was properly posted on October 11, 2005 at the Library, (2) Post Office, (3) Town Clerk's Office and the (4) North Hampton Town website. It was also published in the Portsmouth Herald on October 16, 2005.

Mr. Simmons explained that a member of the Board may be leaving early due to bronchitis and that there were no alternates present.

Mr. Simmons introduced Wendy Chase as the newly hired Planning and Zoning Administrator and Recording Secretary.

Mr. Simmons gave Mr. Haskell the opportunity to present his case, number 2005:26 while waiting for Attorney Hilliard and cautioned him that he may be cut off when Attorney Hilliard arrived. Mr. Haskell opted to present his application first.

## **New Business**

**2005:26 – W/S North Hampton Properties L.L.C. 1330Boylston Street Chestnut Hill, MA 021687, aka Lafayette Crossing Mall,** requests a variance from Article IV, Section 406.8 to create a lot without the ten foot landscaped buffer. Property location: Lafayette Road, I-B/R zone district, Tax Map #007-053-000.

William Haskell of Gorrill-Palmer Consulting Engineers, Inc representing W/S North Hampton Properties, LLC explained to the Board the applicant's proposal.

Mr. Haskell handed out a memo in support of the application to each of the Board members.

Mr. Haskell who qualified himself as a certified civil engineer explained to the Board that the applicant, W/S North Hampton Properties, LLC, currently has a site plan application and a subdivision application before the Planning Board to construct a restaurant in the I-B/R zone district Tax Map 007-053-000. They are seeking a Variance from the Zoning Board of Adjustment for Article IV, Section 406.8 that requires a 10 foot wide landscaped buffer around the perimeter of each lot in the Industrial Business/Residential Zone. Mr. Haskell went on to explain that the Applicant applied for and obtained a variance from Article IV, Section 406.8 on November 20, 2000 where Home Depot is

now located. The Applicant feels they meet the five (5) criteria pursuant to Section 602 of the Zoning Ordinance and the proposed two lots will meet the minimum lot size requirements and frontage requirements of the Zoning Ordinance.

Mr. Simmons questioned Attorney Pelech's signature on the application. Attorney Pelech informed the Board that he couldn't represent applicants before this Board due to a conflict of interest regarding a case before the Superior Court where he represents the Town of North Hampton.

Attorney Pelech did answer Ms. Peckham's question on why the lots in question needed to be subdivided after Mr. Simmons swore him in as a Witness. He explained that Lenders usually required subdivision of land for long-term leases.

Mr. Haskell stated for the record that the proposed restaurant is a TGI Friday's.

Ms. Smith questioned how it would affect the Video Store if the 10 foot landscaped buffer were in place. Mr. Haskell stated that it would eliminate parking and hamper access to emergency vehicles.

Mr. Simmons asked that Mr. Haskell submit the landscaping plan as Exhibit A and to please make ten (10) 8 1/2" x 11" copies for the Board.

Plan number L101 was submitted as Exhibit A.

Mr. Simmons opened the meeting to comments from the public either in support of or in opposition to the application. There were no comments.

Mr. Simmons closed the meeting to public comments.

The Board deliberated. Mr. Simmons stated that the applicant must have exhausted all options before being granted a variance. The Planning Board did a site walk of the property and the deciding factor for them was a report from the Police Chief stating that the road way should not be moved at all. Ms. Peckham would like a copy of this report. It was determined to be a verbal statement. Richard Mabey was also at the site walk and confirmed the statement to be true.

**Mr. Turchan moved and Ms. Lerner seconded the motion to grant the variance to Article IV, Section 406.8 for relief from the 100 foot landscaped buffer as denoted on plan number C103, Exhibit H as shown on the application with all cross easements as well as parking access and utilities with parcel A and B are in place and landscaping to be configured as shown in exhibit A, drawing L101. The vote was unanimous (5-0).**

## **Old Business**

Mr. Simmons recessed the meeting at 7:17pm to meet with Counsel.

Mr. Simmons reconvened the meeting at 8:05pm.

**2005:19 – Cellco Partnership d/b/a Verizon Wireless, 400 Friberg Parkway, Westborough, MA 01581**, requests a variance (1) from Article IV, Seciton 415.3 to locate a 120 foot stealth monopine telecommunication tower on Chapel Road; and (2) from Article IV, Section 409.9 for relief from the 100 foot wetland setback. *Property location: Chapel Road, R2 zone district, Ta Map #005-044-000.*

The next meeting is scheduled November 8, 2005 at the North Hampton School Cafeteria at 6:00pm to review the Grid Com telecommunication application and to approve the unfinished minutes of the Verizon telecommunication application.

**Mr. Simmons made a motion to schedule the adoption of all outstanding minutes in relation to case, 2005:19 on November 8, 2005, Ms. Peckham seconded. The vote was unanimous 5-0.**

The next regularly scheduled meeting will be November 22, 2005 in the Mary Herbert Room at 6:00pm. The deadline for applications for this meeting is October 28, 2005.

Ms. Peckham suggested that the Board schedule a separate meeting for deliberation of case 2005:19, Verizon cell tower application. After discussing alternative dates, the Board decided to deliberate at the regularly scheduled meeting on November 22, 2005.

**Mr. Simmons made a motion to continue this matter other than the minutes of November 8<sup>th</sup> to November 22<sup>nd</sup> for deliberation, Ms. Smith seconded. The vote was unanimous 5-0.**

**Mr. Simmons made a motion to put case number 2005:19 – Cellco Partnership d/b/a Verizon Wireless first on the November 22, 2005 Agenda, Ms. Smith seconded. The vote was unanimous 5-0.**

Attorney Hilliard assigned docket numbers to correspondence relating to both Verizon and Grid Com telecommunication applications. Mr. Simmons requested that after Attorney Hilliard had completed indexing this information to please forward a copy to all the other Attorneys involved.

This case is continued to November 22, 2005 and will be first on the docket.

### **Other Business**

Mr. Simmons reminded the Board that they do not meet in the Month of December.

**Mr. Turchan made a motion to have Mr. Simmons examine the legal bills pertaining to the Verizon Cell Tower case, Ms. Lerner seconded. The vote was unanimous 5-0.**

The Board members signed the amended Zoning Board of Adjustment Rules of Procedure. Wendy was directed to distribute the copies and file the original with the Town Clerk.

**Mr. Turchan made a motion to adjourn at 8:35pm, Ms. Smith seconded.  
The vote was unanimous 5-0.**

Respectfully submitted,

Wendy V. Chase  
Planning/Zoning Administrator