



REGULAR MEETING MINUTES

**TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
August 22, 2006 at 6:00pm
Mary Herbert Conference Room**

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.

Attendance

Members present: John Anthony Simmons, Chairman; Michele Peckham, Vice Chairman; Jennifer Lerner and Ted Turchan.

Members Absent: Susan Smith

Alternates present: Paul Marston

Staff present: Richard Mabey, Code Enforcement Officer and Wendy Chase, Recording Secretary.

Mr. Simmons called the meeting to order at 6:14pm.

Preliminary Matters; Procedure; Swearing in of Witnesses; Recording Secretary Report

Mr. Simmons informed the audience that there was a copy of the Rules of Procedure available and that if anyone had any questions to please raise their hand.

Mr. Simmons swore in Witnesses.

Ms. Chase reported that notice of the meeting was properly posted at the Town Office, Town Clerk's Office, Library, Post Office and the Town's website. The notice was also in the August 8, 2006 edition of the Hampton Union.

Approval of Minutes

The June 27, 2006 minutes were discussed. Mr. Simmons made corrections to the minutes.

Mr. Simmons moved and Mr. Turchan seconded the motion to approve the minutes as amended.

The vote passed in favor of the motion (4 yes, 0 no and 1 abstention). Mr. Marston abstained.

Old Business

2006:04 – Richard Skowronski, 142 Mill Road, North Hampton, NH 03862, requests a Variance from Article IV, Section 406 for relief from the minimum frontage requirement to create a single-lot subdivision. *Property location: Mill Road, zoning district R-2, M/L 012-047,064,065,067,068,069 & 070.*

In attendance for this application:

Attorney Robert Field
Richard Skowronski
Leila Hanna

Attorney Field explained to the board on behalf of his client Mr. Skowronski that the proposal is still a work in progress and that he and his client were before the board to give them a “status report”.

A conceptual drawing of the plan has been completed and the Skowronski's are working with Gove Environmental Services.

He explained that the proposal is to try to tie this particular project in with the Saunder's four-lot subdivision, which has been approved by the ZBA and Planning Board. Part of the Saunder's project was a joint use of the access way (shared driveway), which will be improved to allow emergency vehicles to better access.

Attorney Field distributed a tentative sketch after wetlands flagging. The Recording Secretary did not receive a copy of the sketch for the record.

Attorney Field on behalf of his clients requested a continuance of case #2006:04 until the September 26, 2006 meeting. He further explained that the request for continuance is partly due to this proposal being consistent with other long-term proposals that are being talked about with other town boards in some degree of confidence.

Mr. Simmons asked which boards Attorney Field had been in contact with?

Attorney Field answered that he had been in contact with the Vice Chairman of the ZBA, Michele Peckham, the Chairman of the Planning Board, Phil Wilson and the Co-Chairman of the North Hampton Forever Committee, Tim Harned.

Mr. Simmons asked Ms. Peckham if she had anything to say. She replied that she did not.

Mr. Turchan moved and Ms. Peckham seconded the motion to continue Richard Skowronski's Case# 2006:04, to the September 26, 2006 meeting.

Ms. Lerner stated that she would not be in attendance at the September 26, 2006 meeting.

It was agreed upon by all parties that it would be better to request a continuance to the October 24, 2006 meeting where there will be a full member board who were originally present at prior hearings regarding this case.

**Mr. Turchan changed his motion to continue Richard Skowronki's Case #2006:04 to the October 24, 2006 meeting seconded by Mr. Simmons. The vote was unanimous in favor of the motion (5-0).
New Business**

2006:14 – Lewis Roch, 21 Goss Road, North Hampton, NH 03862. Applicant Kevin Roy on behalf of owner Lewis Roch requests a Variance from Article IV, Section 409.9.B for relief from the wetlands buffer zone setback requirement for developed lots of record. *Property location: 21 Goss Road, North Hampton, Zoning district R-3, M/L 015-032-011.*

In attendance for this application:

Kevin Roy, Contractor/Builder, representing Lewis Roch

Mr. Roy reviewed the survey plan showing the delineated wetlands with the board members.

Mr. Roy explained that the proposed 16' by 20' addition will be 10.3 ft from the poorly drained soil area shown as "A" on the plan. He further explained that the entire proposed addition would be built on what is currently lawn area.

Ms. Peckham asked how long ago the lot was created. Mr. Mabey answered that the subdivision plan was approved in 1986.

Mr. Turchan stated that the entire project was granted a mass variance in the 1980s because the area has a lot of isolated wetlands. The topography of the property, with the amount of ledge that is in it creates a lot of puddles on the property that drains slowly enough that it supports wetlands vegetation.

Mr. Marston stated that he once owned the entire subdivision.

Ms. Peckham stated that the Zoning Ordinance shows that *isolated wetlands* are given the same protection as *wetlands*.

Mr. Roy stated the existing house currently encroaches the 100 ft. setback.

Mr. Marston pointed out that isolated wetlands on the lot are really just pockets of retained water or tree mat fallen down that composes itself retaining water and staying damp enough to support vegetation.

Ms. Peckham asked if Mr. Roy had any pictures of the property. He did not.

Mr. Simmons and Ms. Peckham commented on the vagueness of the plan presented. The wetlands 100' buffer was not shown on the plan. Mr. Roy explained that the 100' setback started at the poorly drained soil line shown as "A".

Mr. Marston pointed out that the development was created twenty years ago and the way wetlands have been delineated has changed dramatically through out the years.

Mr. Marston further commented that the area where the addition will be located is currently being maintained and mowed because it is a lawn. There is no habitat or wild life just poorly drained soils.

Ms. Peckham asked if the addition could be placed somewhere else. Mr. Roy explained that no matter where they put the addition they would still run into the same setback problem. Mr. Simmons read a letter from Joseph and Alice Carroll stating that they had no objections to a variance being granted to Lewis Roch. The letter was not signed, but Mr. Roy was sworn in as a witness and stated that the letter was indeed sent by the Carrolls.

Mr. Simmons opened the public hearing at 7:14pm.
Mr. Simmons closed the public hearing at 7:14pm without public comment.

Mr. Roy offered to take pre-construction photos for the board to review to show how unobtrusive the addition would actually be.

Mr. Simmons asked the applicant if the owner would be willing to agree that no other variance would be requested in the future if this variance were granted.

Mr. Roy stated that he could not be 100% sure but does not think the owner has intentions of further requests.

Mr. Marston moved and Ms. Lerner seconded the motion to approve the variance request from Article IV, Section 409.9B to build a 16' x 20' addition as depicted on exhibit "A".

Mr. Simmons directed Ms. Chase to label the wetland delineated survey plan as exhibit "A" and to have Mr. Roy sign it as to agree that it is an accurate representation of what he will complete.

Ms. Peckham suggested that the board vote on the criteria before voting on the motion.

Section 409.9.B: The board voted on the five criteria elements below for Case 2006:14 Lewis Roch, 21 Goss Road.

Findings of Facts		Not Contrary to Public Interest		Unnecessary Hardship Exists		Consistent w/Spirit of Ordinance		Substantial Justice Will be Done		Will Not Diminish Surrounding Properties	
		YES	NO	YES	NO	YES	NO	YES	NO	YES	NO
Chair	Simmons	x		x		x			x	X	
Vice Chair	Peckham	x		x			x		x	X	
	Lerner	x		x		x		x		X	
	Smith										
	Turchan	x		x		x		x		X	
Alternate	Marston	x		x		x		x		X	
Alternate	Batchelder										
Alternate	Goulet										

Mr. Simmons made a motion to amend Mr. Marston's motion by adding, to accept the applicant's voluntary limit for no future relief from setbacks or wetlands setbacks. The amended motion was not seconded. The amended motion failed.

In light of the fact that Mr. Simmons' amended motion failed, Mr. Simmons changed his original vote under *substantial justice will be done* (by granting the variance) from a yes vote to a no vote.

The vote passed in favor of the original motion (3 yes, 2 no and 0 abstentions). Mr. Simmons and Ms. Peckham voted against.

Mr. Simmons requested that Mr. Roy take the pre-construction photos for the board to review and to be added to the record.

Mr. Turchan moved and Ms. Peckham seconded the motion to adjourn at 7:35pm. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary