



REGULAR MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
November 28, 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: Michele Peckham, Vice Chairman; Jennifer Lerner and Ted Turchan

Members absent: Susan Smith

Alternates present: Richard Batchelder

Staff present: Richard Mabey, Code Enforcement Officer/Building Inspector and Wendy Chase, Recording Secretary

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

Mr. Simmons recused himself from the entire meeting and sat in the audience to represent his own case, 2006:17 before the Board.

Ms. Peckham assumed the Chair.

Ms. Peckham seated Mr. Batchelder for Mr. Simmons.

Ms. Peckham explained that a copy of the Rules of Procedure were available for anyone to review.

Ms. Chase stated that the agenda was properly posted in the Hampton Sunday on November 12, 2006, Post Office, Library, Town Clerk's Office, Town Office and on the Town's website.

Ms. Peckham swore in Witnesses.

Ms. Lerner informed the Board that televised meetings would begin in January 2007 and that the cable "drop" is currently at the Elementary School so any televised meetings would have to take place there in the music room. The Board discussed omitting the location place of the meetings in the Rules of Procedure because it is always stated in the public notice and to add language that meetings may be televised.

Ms. Peckham moved and Mr. Turchan seconded the motion to change the Rules of Procedure by omitting the location of the meeting and to add language stating that the meetings may be televised.

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The vote was unanimous in favor of the motion (4-0).

Minutes

Ms. Peckham moved and Ms. Lerner seconded the motion to table the acceptance of the October 24, 2006 meeting minutes to the January 23, 2007 meeting in the event there is a full Board.

Old Business

2006:16 – Luck Enterprises, 115 Lafayette Road, North Hampton, NH 03862, Owner, Edward Luck, requests a Variance from Article V, Section 501.2 to expand on a non-conforming use by replacing tents with permanent structures (cabins) at the campsite. *Property location: 115 Lafayette Road, zoning district I-B/R, M/L 013-071.*

Ms. Peckham read a letter from Mr. Luck requesting that he continue his case #2006:16 to the June 2007 meeting.

Mr. Turchan moved and Ms. Peckham seconded the motion to continue case #2006:16 – Luck Enterprises to the June 26, 2007 meeting.

The vote was unanimous in favor of the motion (4-0).

New Business

2006:17 – The Simmons Trust, 74 Lafayette Road, North Hampton, NH 03862 represented by John Anthony Simmons requests a Special Exception under Article V, Section 507, for a home occupation used as a home office. *Property location: 54 Walnut Ave., zoning district R3, M/L 014-161-000.*

In attendance for this application:

John Anthony Simmons, Applicant

Ms. Peckham explained to Mr. Simmons that there was a four member Board to hear his case and gave him the option to either continue to a future meeting in the event of a full five member Board or to proceed this evening. Mr. Simmons chose to proceed.

Mr. Simmons distributed copies of a letter of support for his application from one of his abutters, Mr. Ceasar Romano to each Board member and a copy for the permanent record. Ms. Peckham read the letter and assigned it as exhibit #1. Ms. Peckham read a letter from abutter Roger Stenson also in support of Mr. Simmons application and she assigned it as exhibit #2.

Mr. Simmons explained that the property is owned by The Simmons Trust. He further explained that the occupation would consist of lawyering and/or consulting one or two days per week and that his primary Office is located in Hampton, which he intends to keep.

Mr. Simmons went over each of the criterion under Article V, Section 507. Ms. Peckham noted for the record of a misprint on the Section numbers 506.1 through 506.5. The permanent record was

changed to reflect the correct Section number 507. Mr. Simmons explained that the home occupation would be occupied within the accessory structure on the property.

Ms. Peckham opened the public hearing at 6:12pm.

Ms. Peckham closed the public hearing at 6:12pm without public comment.

Mr. Batchelder stated for the record that it was an excellent idea.

Ms. Lerner moved and Mr. Batchelder seconded the motion to approve the Special Exception request for case #2006:17 under Article V, Section 507 to allow a home occupation used as a home office at 54 Walnut Ave.

The vote was unanimous in favor of the motion (4-0).

2006:18 – Barbara Coleman, PO Box 514, North Hampton, NH 03862. Applicant requests a Variance from Article IV, Section 409.8.A. to permit the construction of a new septic system within 75 feet of wetlands. *Property location: 22 Maple Road, zoning district R2, M/L 006-064-000.*

2006:19 – Barbara Coleman, PO Box 514, North Hampton, NH 03862. Applicant requests a Special Exception under Article IV, Section 409.12 and a Variance from Article IV, Section 409.9.A.2. to permit the erection of a new home to replace a previously burned-down home within 50 feet of inland wetlands on a vacant approved building lot of record. *Property location: 22 Maple Road, zoning district R2, M/L 006-064-000.*

In attendance for these applications:

Wayne Morrill, Jones and Beach Engineering

Charles Bagley, Home Builder

Barbara Coleman, Owner (Ms. Coleman came in during the presentation of her case)

Mr. Morrill began presenting the case in Ms. Coleman's absence. Ms. Peckham questioned whether or not there was an authorization letter from Ms. Coleman authorizing Mr. Morrill to represent her. There was not. Ms. Coleman and Mr. Bagley later came into the meeting and Ms. Peckham swore them in.

The Board decided to merge the two cases #2006:18 and #2006:19 together because they related to each other. Mr. Morrill had no objections to that.

Mr. Morrill went over a color coded plan explaining where the preexisting burned down home was and the proposed new home and proposed new septic would be located. He explained that the wetlands were flagged by NH Soils and the delineation of all the wetlands are hydric B soils with no hydric A soils. He further explained that the original septic system is actually in the water table and the State would never allow it to be used again. Mr. Morrill said that the proposed four-bedroom home is located in an area where they tried to conform to as many current regulations as possible and that the existing driveway, which cuts off of Maple Road will be used. The new leach field will meet the (50) fifty-foot building setback, which is also the wetlands setback requirement for NH DES.

Ms. Coleman stated for the record that the new home is a three-bedroom home not a four-bedroom home as shown on the plan.

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Ms. Peckham reminded the audience that the Board was discussing the Variance request for relief from the seventy-five foot wetlands setback to construct a new septic. Ms. Peckham opened the public hearing at 6:40pm.

Mr. Turchan commented that a new state of the art septic system will have to meet every current criteria of the DES and he would much rather see the house closer to the wetlands and have the new septic built in front of the house than where it originally was.

Ms. Coleman said that she mowed and maintained the property and that the wetlands were never really that wet.

Ms. Peckham closed the public hearing at 6:44pm.

Section 409 8. A.: The Board voted on the five criteria elements below for Case 2006:18, Barbara Coleman, 22 Maple 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										
Vice Chair	Peckham	x		x		x		x		x	
	Lerner	x		x		x		x		x	
	Smith										
	Turchan	x		x		x		x		x	
Alternate	Marston										
Alternate	Batchelder	x		x		x		x		x	

Mr. Turchan moved and Ms. Lerner seconded the motion to approve case #2006:18 for a Variance from Article IV, Section 409 8.A. to permit construction of a new septic system within seventy-five (75) feet of the wetlands as proposed on Jones and Beach effluent disposal design, sheet S1, dated October 6, 2006 and submit sheet S1 as exhibit #1 for the record. The vote was unanimous in favor of the motion (4-0).

The Board discussed Ms. Coleman's Variance request from Article IV, Section 409 9.2 to construct a new home within the (50) fifty-foot inland wetlands buffer.

Mr. Morrill explained that the proposed new home meets the building setbacks but not the wetlands setbacks.

Mr. Turchan requested a plan be submitted that shows the accurate location of the proposed new home that shows the set distances from the property line.

Mr. Morrill scaled the plan and said that the closest point to the wetlands would be approximately eight (8) feet.

Section 409.9.A.2: The Board voted on the five criteria elements below for case 2006:19, Barbara Coleman, 22 Maple 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										
Vice Chair	Peckham	x		x		x		x		x	
	Lermer	x		x		x		x		x	
	Smith										
	Turchan	x		x		x		x		x	
Alternate	Marston										
Alternate	Batchelder	x		x		x		x		x	
Alternate	Goulet										

Mr. Turchan moved and Mr. Batchelder seconded the motion to approve case #2006:19, Special Exception under Article IV, Section 409.12, from Article IV, Section 409.9.A.2 to permit the erection of a new home to replace a previously burned larger home with the fifty (50) foot wetlands setbacks on a vacant approved lot and approve the reduction of the 50 foot wetlands down to seven (7) feet as needed on one corner of the building, with the condition that the applicant provide an exhibit that shows the building envelope with the actual location of the building within 24 hours for the permanent record.

Ms. Peckham explained that the Special Exception had to be voted on separately because it has different criteria than a Variance.

Mr. Turchan moved and Ms. Lermer seconded to amend the motion to exclude *Special Exception under Article IV, Section 409.12.*

The vote was unanimous in favor of the amended motion (4-0).

The Board went over each of the five criteria under Article IV, Section 409.12 in regards to the requested Special Exception.

Mr. Turchan moved and Mr. Batchelder seconded the motion that under case 2006:19 a Special Exception for the erection of the proposed house, as required in the Special Exception Article IV, Section 409.12, be granted.

The vote was unanimous in favor of the motion (4-0).

Ms. Peckham explained to the applicant that there is a thirty (30) day appeals period and they should wait to “break ground” until that period is over.

Mr. Morrill said that he would submit a new plan with the building envelope and location within 24 hours. Mr. Turchan instructed Ms. Chase to assign the new plan as exhibit #2 for the record.

Ms. Peckham moved and Ms. Lerner seconded the motion to adjourn at 7:05pm.
The vote was unanimous in favor of the motion (4-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary