



REGULAR MEETING MINUTES
TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
Tuesday, January 22, 2008 at 6:00pm

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; Ted Turchan, Vice Chairman; and Jennifer Lerner.

Alternates present: Ron Dupuis and Marc Lariviere

Members Absent: Susan Smith and Richard Batchelder

Staff present: Richard Mabey, Building Inspector and Wendy Chase, Recording Secretary

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

Mr. Simmons convened the meeting at 6:08pm.

Mr. Dupuis was seated for Ms. Smith.

Mr. Lariviere was seated for Mr. Batchelder.

Mr. Simmons informed the Board that John Savastano is volunteering his services as the new Executive Producer for channel 22. He will be taping all Town Board meetings and explained that he was not present because he was filming the Budget Committee meeting at the Town Office.

Mr. Simmons swore in witnesses.

Ms. Chase stated that the January 22, 2008 ZBA Agenda was properly posted in the January 8, 2008 edition of the Hampton Union and at the Town Office, Town Clerk's Office and Library.

The November 27, 2007 meeting minutes were reviewed and Mr. Simmons made amendments to them.

Mr. Simmons moved and Mr. Turchan seconded the motion to accept the November 27, 2007 meeting minutes as amended.

The vote passed (3 in favor, 0 opposed and 2 abstentions). Mr. Dupuis and Mr. Lariviere abstained because they were not present at the November 27, 2007 meeting.

Mr. Simmons recommended that the Board vote on amending the application for relief to incorporate a disclaimer stating that the North Hampton Conservation Commission may review the applicant's application without notification to the applicant.

Mr. Turchan agreed that something needed to be done regarding the Conservation Commission reviews of ZBA applications and suggested that the disclaimer be added to the abutter notification letter too.

Mr. Simmons moved and Mr. Turchan seconded the motion to add a disclaimer to both the ZBA application for relief and the abutter notification letter stating that the Conservation Commission may review their application without notification to them. The vote was unanimous in favor of the motion (5-0).

New Business

No New Business

Old Business

2007:23 – William A. & Agnes Hawke Estate, C/O Citizens NH Investment Service, 875 Elm Street, Manchester, NH 03101. The applicant requests variances from (1) Article IV, Section 409.8.A to construct a septic system within 75-feet of the wetlands and (2) from Article IV, Section 409.9.A.2 to construct a new home within 50-feet of an inland wetland on an approved building lot of record. Property location: Maple Road, M/L 006-040, zoning district R-2. This case is continued from the November 27, 2007 meeting.

In attendance for this application:

Wayne Morrill, Jones and Beach Engineering

Mr. Morrill stated the following facts:

- Wetlands delineation on the property was preformed by West Environmental
- The subject property has been a *lot of record* since 1901
- Propose to build a 40' x 60' house 6' setback from the wetland boundary
- Proposed in-ground septic system that would meet State standards
- There is no need for a septic replacement site on the lot because the system would be replaced *in kind* if need be.
- The lot has .91 acre of contiguous upland

Mr. Simmons asked if the applicant or Mr. Morrill had a chance to review the comments made by the Conservation Commission resulting from their review of the application and he replied that neither he nor the applicant reviewed the comments or were aware that the Conservation Commission was reviewing the application at their November 13, 2007 meeting.

Mr. Morrill opined that the Conservation Commission reviewed a plan that was not a true depiction of what would be done on that lot and would have liked to go over the plan with the Commission to explain the proposal to them.

Mr. Morrill went over his responses to the five-point variance test and concluded that the applicant cannot make reasonable use of their lot or build a new home on the lot without a variance.

The deeds to the property were reviewed and it was determined that the proposed lot is a *lot of record* at least since 1949.

Mr. Simmons opened the meeting to all those in favor of the application. There was no public comment.

Mr. Simmons opened the meeting to all those opposed to the application.

Mr. David Buber, 4 Maple Road, said that he lives directly across the road from the subject lot and has concerns on squeezing a new home and septic on a lot that he believes to be unbuildable due to its seasonally flooded/saturated condition. He further stated that a small pond is located directly behind their home on land now or previously owned by Peter Fuller. He believes the pond may be spring fed, as it is visible year round. Seasonal run-off from the pond follows an undefined course along a stonewall separating their property from property previously owned by the Drew's. The run-off is on the Drew's side of the stonewall and heads toward Maple Road. It stops before crossing the road. It was his supposition however, that water might leach under the road to the subject property further contributing to its already saturated state.

Mr. Morrill explained that a culvert would be added and that any run-off water from the proposed building would be directed back into the wetlands.

Mrs. Buber questioned what impact from clearing the trees would have on the water table.

Mr. Morrill explained that the area for the proposed house and septic is all sand, which is great for drainage. He went on to say that many people believe that removing trees will help the soils to dry up, however they do not understand that once trees are removed many times it makes the situation worse.

Mr. Mabey stated that the proposed lot is "grandfathered" from zoning requirements except for the setback requirements to wetlands and the septic setback requirements from wetlands.

Mr. Phillip Thayer, 206B Atlantic Ave., questioned the distance from the corner of the proposed house would be from the wetlands setback. Mr. Morrill answered, "6-feet".

Mr. Simmons closed the public comment portion of the meeting.

Ms. Lerner commented that a small cottage would be better than a four-bedroom home on the lot and without an architectural design and landscaping plan it's hard to determine how it will look.

Mr. Dupuis said that because there is no floor design it's just too convoluted with "gray areas" that would need to be addressed before he would consider approval of the variance request.

Mr. Simmons stated that he is familiar with the site and agrees that there are water issues with the site being wet most of the year and voiced concerns on the fact that the proposed house would be extremely close to the wetlands.

Mr. Turchan said the proposed house is large and by decreasing the size by 10-feet would increase the distance from the wetlands to 16-feet.

Mr. Dupuis moved the question seconded by Mr. Simmons with all in favor (5-0).

Ms. Lerner moved and Mr. Dupuis seconded the motion to deny a variance from Article IV, Section 409.8.A to construct a septic system within 75-feet of the wetlands and a variance from Article IV, Section 409.9.A.2 to permit the erection of a new home 50-feet of an inland wetland on an approved building lot of record.

Mr. Turchan reminded the Board that if they vote in favor of the motion made then the second case before them, 2007:24 is a moot point because without a septic it would not matter if the applicant met the special exception requirements to build on that lot.

The vote was unanimous in favor of the motion (5-0).

2007:24 – William A. & Agnes Hawke Estate, C/O Citizens NH Investment Service, 875 Elm Street, Manchester, NH 03101. The applicant requests a special exception under Article IV, Section 409.12 to construct a home within 50-feet of an inland wetland on a vacant approved building lot of record. Property location: Maple Road, M/L 006-040, zoning district R-2. This case is continued from the November 27, 2007 meeting.

Mr. Simmons moved and Ms. Lerner seconded the motion to not act on case #2007:24 due to the disposition of case #2007:23.
The vote was unanimous in favor of the motion (5-0).

2007:25 – Erik Dodier, 149 Mill Road, North Hampton, NH 03862. The applicant, Custom Pool, 323 Shattuck Way, Newington, NH, requests a variance from Article IV, Section 409.9.B. to construct an in-ground pool within the 100-foot wetland setback. Property Owner: Erik Dodier, property location: 149 Mill Road, M/L 012-030-024, zoning district R-2. This case is continued from the November 27, 2007 meeting.

In attendance for this application:

Erik Dodier, Owner/applicant

Mr. Dodier explained to the Board that he would like his variance request before he went any further with the pool design. He gave a rough idea of where he would like to install the in-ground pool by pointing it out on the as-built plan in front of the Board.

Ms. Lerner inspected the site and commented that there was a lot of black top on the property.

Mr. Dodier said that there would be a raised deck and the pool would be off of that.

Mr. Simmons referred to the comments made by the Conservation Commission recommending the denial of the variance request, because the potential increased run-off from the swimming pool area

as well as the potential for chlorinated water infiltration into the wetland buffer that could present adverse impact to the nearby wetlands.

The Board concluded that they would need a final proposal before granting any type of variance.

Mr. Simmons suggested that the case be continued to give the applicant a chance to produce more information. Some of the things the Board would like to see (1) a pool design that captures spillage of pool water, (2) locating the pool closer to the house and parallel to the house and furthest away from the wetlands as possible depicting exact distances and measurements, and (3) the plan should depict the deck.

**Mr. Simmons moved and Ms. Lermer seconded the motion to hold the February 26, 2008 ZBA meeting in the Mary Herbert Conference Room due to School vacation.
The vote was unanimous in favor of the motion (5-0).**

**Mr. Simmons moved and Mr. Dupuis seconded the motion to continue case 2007:25 – Erik Dodier to the February 26, 2008 meeting.
The vote was unanimous in favor of the motion (5-0).**

**Mr. Dupuis moved and Mr. Lariviere seconded the motion to adjourn at 8:32pm.
The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Minutes approved February 26, 2008