



**TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
Tuesday, July 22, 2008 at 6:30pm
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: Richard Stanton, Chairman; Susan Smith, and Robert Field, Jr.

Alternates present: James Kierstead

Members Absent: Michele Peckham and Richard Batchelder

Staff present: Wendy Chase, Recording Secretary

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

Mr. Stanton called the meeting to order at 6:45pm.

Mr. Field called for a point of order. Mr. Stanton recognized Mr. Field.

Mr. Field voiced concerns over the amended Rules of Procedure and said that the only change that was made and voted on was adding the Pledge of Allegiance to the "Order of Business" and the amended Rules had more substantive changes to them.

Mr. Stanton said that he would address Mr. Field's concerns later in the meeting.

Mr. Stanton called for the Pledge of Allegiance.

Mr. Stanton explained that Ms. Peckham and Mr. Batchelder were absent and seated Mr. Kierstead to fill one of the vacant seats. Mr. Stanton gave the applicants the option of continuing their cases because there was not a full five-member board present.

Attorney Saari requested a continuance on the following cases to the August 26, 2008 meeting: Motion for rehearing on case # 2008:03 – William A. & Agnes P Hawks Estate, case #2008:06 – William A. & Agnes P. Hawks Estate, case #2008:07 – William A. & Agnes P. Hawks Estate and case #2008:09 – Christopher Bolton.

Mr. Stanton noted for the record that Attorney Peter Loughlin had requested a continuance due to a family emergency on behalf of his clients Stanley and Nina Knowles for case 2008:08 to the August 26, 2008 meeting.

Mr. Field moved and Ms. Smith seconded the motion to approve the postponement requests made by Attorney Saari for cases: Motion for rehearing for case 2008:03 – William and Agnes Hawks Estate, case #2008:06 – William and Agnes Hawks Estate, case #2008:07 – William & Agnes Hawks Estate and case #2008:09 – Christopher Bolton, and the postponement request made by Attorney Peter Loughlin for case # 2008:08 to be continued to the August 26, 2008 meeting.

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

Mr. Field pointed out that the proposed amendments to the Rules of Procedure were slated for discussion at the August 26th meeting and suggested moving that topic to the September ZBA meeting.

Mr. Stanton explained that at last month's ZBA meeting the board discussed meeting with the Conservation Commission to come up with a plan to develop better communication between the two boards. He informed the board that he attended the July 15th Conservation Commission special meeting and as a result of that meeting the Conservation Commission wrote a letter to the Zoning Board outlining their concerns about the following cases: request for rehearing on case #2008:03 – Hawks Estate, case #2008:06 – Hawks Estate and case #2008:09 – Christopher Bolton.

Mr. Stanton said that he had received an email from Michele Peckham updating the ZBA of her meeting with the Conservation Commission regarding better communication between the two boards.

Mr. Stanton had written a letter with the concurrence of the Board to Planning Board Chair, ~~Phil~~ Mr. Wilson, explaining an approved motion made at the May 27, 2008 Zoning Board meeting in which the ZBA determined that the section 409.12 terms: "building lot of record", "lot of record" and "approved building lot of record", in the singular or plural, will be considered indistinguishable from each other and mean the same as that of "lot of record" as defined in Article III (pg. 4). Mr. Stanton referred to Mr. Wilson's response letter for discussion.

Ms. Smith said that she had not yet read the letter and suggested that the topic of that discussion be tabled to the next meeting giving the board a chance to digest the letter's contents, and in fairness, to wait until there was a full-member board present to participate in the discussion.

Mr. Field asked to amend Ms. Smith's suggestion and address the letter because Mr. Wilson's letter contained pertinent information that should be considered and resolved before addressing the Hawks cases, particularly the request for rehearing for case #2008:03, whereas the decision was derived from that May 27, 2008 vote, from four members of the board, that determined "building lot of record", "approved building lot of record" and "lot of record" mean the same as that of "lot of record".

Ms. Smith said that she would not accept the amendment and that the Hawks case #2008:03 has already been voted on and the board should not be influenced by the contents of Mr. Wilson's letter regarding that case.

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Mr. Field pointed out that the purpose of a request for rehearing is to allow a board to correct or modify an action, which it may have taken in error either with the facts or the law. He further stated that it is the board's duty to correct any mistakes it may have made to protect the rights of the applicant.

Mr. Field commented that the only reason case 2008:03 was addressed is because it was concluded that two phrases meant the same thing and the board is now in receipt of information that there are "lots of record" that are not necessarily "building lots of record".

Mr. Stanton questioned how the issue between "lots of record" and "building lots of record" would be resolved unless there is a definitive act either by the Zoning Board or the Planning Board?

Ms. Smith moved and Mr. Stanton seconded the motion to table the discussion of Mr. Wilson's letter dated July 21, 2008 to the August 26, 2008 meeting. The vote was unanimous in favor of the motion (4-0).

Mr. Field moved and Mr. Stanton seconded the motion that Mr. Wilson's letter and the resolution of the issues raised therein by this board be made and perceived precede the consideration of any of the other continued business of that meeting.

Mr. Stanton clarified by stating that the motion meant that Mr. Wilson's letter be addressed and resolved prior to the requested rehearing of case #2008:03 –Hawks Estate and the other two Hawks Estate cases #2008:06 and 2008:07.

The vote passed (3 in favor, 0 opposed and 1 abstention). Ms. Smith abstained.

Minutes

The board decided to table the approval of the June 24, 2008 minutes for full board participation.

Mr. Stanton went back to Mr. Field's earlier point of order regarding the amended Rules of Procedure.

Mr. Field referred to the draft minutes, lines 78 through 85, *Mr. Stanton referred to "order of business", section 5M, page 8 and said that adding the Pledge of Allegiance was the only substantive change from the "Order of Business" in the current Rules of Procedure. Mr. Field questioned the reference to RSA 194:15-c and Mr. Stanton responded that it was the New Hampshire School Patriot Act and gave Mr. Field a copy. Mr. Stanton opined that kids can be taught patriotism by example and by reciting the Pledge of Allegiance while doing the People's business would be setting a good example to the kids.*

Ms. Smith moved and Mr. Batchelder seconded the motion to accept the change to the "order of business" by incorporating the Pledge of Allegiance into the "order of business".

Mr. Stanton explained that the only substantive change made was adding the Pledge of Allegiance to the order of business and that it was his intention that the whole section of "order of business" was to be changed.

Ms. Smith agreed with Mr. Field and said that the only change voted on was adding the Pledge of Allegiance.

Mr. Field disagreed and said that the rules were drastically changed without being voted on by the board. He further stated that he is not opposed to the changes but they have not been adopted yet.

Mr. Field suggested that the Rules be worked on by this board throughout the year but should be changed by and voted on by the newly elected board in March 2009.

Mr. Stanton suggested that the board hold a special work session meeting to work on the Rules of Procedure and to at least vote now on the change to the amended "order of business" portion of the rules.

Mr. Field commented that the full board was not present to participate in the discussion and vote on the proposed amendment to the rules.

Other suggestions of changes to the rules are as follows:

- Replace paragraph M of the draft rules under "order of business" with paragraph B of the previous rules of procedure.
- M.V. Preliminary Matters: amend to read *Persons, other than members of the board, shall be permitted to address the board in the order recognized by the Chair.*
- Remove the last sentence in M.V. *A group may have one-person act as its spokesperson and shall follow the same rules.*
- Modify the sentence in M.V.a. *The speaker shall not enter into any debate with anyone present and shall speak only to the subject matter then being heard.*
- Amend paragraph b: *preceding a recess the Chair shall state the time and place for reconvening. Said recess shall normally not exceed 15 minutes and the board will not discuss any business during the recess.*
- *Change Old Business to Unfinished Business*
- Add *public meeting* to M.VI and VII.

Mr. Stanton explained that the main reason for amending the Rules of Procedure was to have the deliberative process documented and to help the applicant better understand the way the ZBA conducts its business.

The board discussed the order of adoption of minutes on the agenda. Mr. Field opined that addressing the minutes late in the meeting was very rare. Mr. Stanton disagreed. Mr. Field suggested that the minutes of prior meetings be addressed first so that the meeting can proceed forward with a sound basis. He gave an example of: if an applicant requests a rehearing on a particular case and the prior minutes are dealt with at the end of the meeting and text pertaining to that case were changed then that would affect the decision made on that rehearing request?

Ms. Smith suggested that the board could decide whether or not the board addresses the previous meeting minutes in the beginning of the meeting or the end at each meeting.

- M.IX. add the notion *If there is a need to address the minutes earlier in the agenda, the Chair shall change the order of the agenda* and to remove the last sentence: *Corrections*

may be made to formally approved minutes by motion duly passed by a majority vote of the membership.

The board decided to have the Chair write up a draft of the changes made to the “order of business” under the Rules of Procedure and circulate them to each member so that the board can vote to approve the amended version at the August 26th meeting to be used at that meeting.

Ms. Smith moved and Mr. Field seconded the motion to adjourn the meeting at 8:15pm. The vote was unanimous in favor of the motion (4-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Minutes approved August 26, 2008