



**TOWN OF NORTH HAMPTON
ZONING BOARD OF ADJUSTMENT
Meeting Minutes
Tuesday, September 22, 2009 at 6:30pm
Mary Herbert Conference Room**

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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; Richard Batchelder, Vice Chairman; Susan Smith, and Robert Field, Jr.

Alternates present: Chuck Gordon, Jennifer Lerner, Ted Turchan, and Debbie Wood

Members Absent: Michele Peckham

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

Mr. Stanton convened the Meeting at 6:30pm and invited the Board and the audience to rise for a Pledge of Allegiance.

Mr. Stanton introduced members of the Board and Staff present.

Mr. Turchan was seated for Ms. Peckham.

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

Ms. Chase reported that the September 22, 2009 ZBA Agenda was properly posted in the September 11, 2009 edition of the Hampton Union, and posted at the Town Clerk's Office, Town Office and Library.

Unfinished Business

2009:03 – Vincent Peter Corbett, Jr., 134 Walnut Avenue, North Hampton.

This case is continued from the August 25, 2009 Meeting.

Mr. Stanton turned the Chair over to Ms. Smith and recused himself from the Corbett Case.

38 Mr. Field called for a point of order relating to the general Rules of Procedures of the Board, and not
39 specifically the Corbett Case.

Deleted: .

40
41 Mr. Stanton did not recognize the point of order because he turned the Meeting over to Ms. Smith as
42 Chair of the Corbett Case.

43
44 Mr. Field began to speak, and Mr. Stanton called him out of order.

45
46 Ms. Smith assumed the Chair.

47
48 Mr. Field disagreed, and said he was not out of order. He said that an Applicant, as a general precept of
49 New Hampshire law, reserves the absolute right to withdraw jurisdiction from the Board as to a pending
50 matter which the Applicant has initiated, at any time primarily for the reason that such Applicant may
51 wish not to be prejudiced by an adverse action of the Board. Based on such precept, the proper
52 procedure to follow is for the Board's administrator to "Report" to the Board that a matter has been
53 withdrawn. Such withdrawal effectively removes the matter from the further jurisdiction of the Board.
54 And, the Board would then move on to its next Agenda item of business. The Board's action in the
55 Corbett Case, in his opinion, prejudiced a citizen of our Town, and was improper.

56
57 Ms. Smith reminded Mr. Field that he recused himself from the Corbett case.

58
59 Mr. Field asked that his objection to the proceedings on the Corbett case be noted for the record.

60
61 Mr. Stanton recused himself.

62 Ms. Smith assumed the Chair.

63 Mr. Field and Mr. Batchelder recused themselves.

64 Mr. Gordon, Ms. Lerner and Ms. Wood were seated for Mr. Stanton, Mr. Batchelder and Mr. Field.

65
66 Ms. Smith explained that the Board was in receipt of a letter, postmarked from North Hampton, dated
67 August 25, 2009, from Mr. Vincent Peter Corbett, Jr., stating that he has withdrawn, without prejudice,
68 his application, case #2009:03.

69
70 Ms. Smith presented a timeline pertaining to the Corbett Case, and asked the Board to review it. She
71 asked that it be submitted into the record. Mr. Field recused himself from the Board, and was in the
72 public audience, and stated that it was improper for the Case designated Chair to proceed to continue to
73 deal with the Corbett Case, and take any action on same, and he considered Ms. Smith's submittal into
74 evidence of a "pre-prepared" timeline of the Case, authored by her, and that such action constituted a
75 prejudicial error of both procedure and judgment.

76
77 Mr. Gordon moved and Mr. Turchan seconded the motion that it be noted for the record that the
78 Applicant, Mr. Vincent Peter Corbett, Jr., has withdrawn his case.

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

80
81 Mr. Gordon moved and Ms. Lerner seconded the motion that Ms. Smith's written timeline on the
82 Corbett case #2009:03, be added to the record.

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

84

Ms. Smith said that she took photos of the Corbett property and asked that they be added to the record of Mr. Vincent Peter Corbett, Jr., case #2009:03.

Mr. Gordon moved and Ms. Lermer seconded the motion to add Ms. Smith's photos to the permanent record.

Mr. Field spoke from the audience and advised that Ms. Smith be sworn in if she were submitting any evidence into the record. He called to Ms. Smith's attention the several difficulties that attendant to her efforts to personally generated photographs of the Corbett property for admission into the Case record. In addition to the concerns expressed above in regard to the "time line", it was called to Ms. Smith's attention that the photographs were not to his recollection taken during the "site walk" as she had no camera with her. Further, there was no basis on which to corroborate the authenticity of the photographs; and, in any event, it was improper for her, as a member of a "quasi judicial" panel to be introducing any evidence in the Case record, whether after withdrawal or at any time. It was not made clear as to whether or not the Applicant authorized access to the property given the fact that the "Site Walk" had formally concluded, and the Applicant had indicated that he would be moving to New York State for the summer and fall.

Ms. Smith swore that the photos she took to admit into evidence is the truth, and nothing but the truth.

It was determined that the photos were not taken during the actual site walk on the Corbett property conducted June 8, 2009.

Mr. Gordon suggested that the photos not be introduced as evidence because they were not taken at the actual site walk.

Mr. Gordon withdrew his motion.

Mr. Stanton, Mr. Batchelder and Mr. Field were reseated.
Mr. Stanton resumed the Chair.

Mr. Field called for a point of order.

Mr. Stanton recognized his point of order.

Mr. Field read from an opinion from the Local Government Center, *an applicant has the right to deny this Board jurisdiction on an application at any time.* Mr. Field said that he wanted to register his opinion by saying that the legal opinion regarding the matter of the Corbett Case 2009:03, that once the Applicant had withdrawn, it had no business coming before this Board, and it causes great problems bringing it before the Board. He said that he thought it was wrong of the Board the way they handled it and it should not be set as a precedent.

Mr. Turchan asked who authorizes that the withdrawal letter comes in and acknowledges the withdrawal. He said that all the Board did was acknowledge that the Applicant withdrew his application.

Mr. Field said that the Secretary just informs the Board that the case has been withdrawn.

Mr. Stanton said that an email sent to Ms. Chase from Planning Board Chair, Phil Wilson where he had solicited an opinion of a withdrawal by an Applicant. Mr. Stanton said that the Corbett withdrawal letter

was sent to the North Hampton Planning Board, and said that it cannot be assumed that the withdrawal was for an application before the ZBA. He opined that it was proper to place the case on the agenda to set the record straight, that the letter was going to be acknowledged by the Chair at the time, and so dispose of the case.

Mr. Field suggested getting a legal and clear opinion on the subject.

New Business

2009:12 – Jason Chenard, 4 Hillside Drive, North Hampton. The Applicant requests a variance from Article IV, Section 406 to construct a deck 18-feet from the side setback where 25-feet is required. Property owner: Jason Chenard, Property location: 4 Hillside Drive, M/L 008-072, zoning district R-1.

In attendance for this application:

Jason Chenard, Owner/Applicant

Mr. Stanton swore in Witnesses and read the juror caution, asking whether anyone wished to request any regular or alternate member of the Board sitting tonight should be disqualified, and if so to identify the member or alternate and state the reason why.

There was no request for disqualification.

Mr. Chenard presented his case to the Board. He explained that his house is 50 to 60 years old and that the house is 18-feet away from the side boundary line, and he would like to construct a deck along the home in back of the house extending 20-feet toward the rear. He further explained that the deck structure would not encroach any further into the side setback than where the existing home sits.

Mr. Chenard submitted photos and a plan of the deck to the members.

Ms. Smith did a site walk and said that there is a privy hedge between Mr. Chenard and his neighbor.

Mr. Chenard addressed the variance criteria under the Boccia analysis.

I. Would granting this variance not be contrary to the public interest?

Mr. Chenard said that he did not perceive that the proposed deck would be contrary to public interest.

II. Boccia Criteria

- a. Would not granting this variance create an unnecessary hardship because an area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property?**

Mr. Chenard said that there is no other feasible way to construct the deck.

- b. Would not granting this variance create an unnecessary hardship, including a financial hardship, because the benefit sought by the applicant cannot be achieved by some other reasonably feasible method?**

Mr. Chenard said that the primary issue is access to the structure, and there is no other option for access from within the structure.

III. Would the use contemplated by petitioner as a result of obtaining this variance be consistent with the spirit of the ordinance?

Mr. Chenard said that the setbacks were established for privacy, and the house is already 18-feet from the side setback.

IV. By granting this variance, would substantial justice be done?

Mr. Chenard said that the proposed deck would not do any harm and would enhance his enjoyment of his property.

V. Would granting this variance result in a diminution in value of surround properties?

Mr. Chenard did not provide proof that it would or would not diminish value of surrounding properties. He said that the only neighbor that would be affected by his proposal is his neighbor at 2 Hillside Drive. He said she verbally related to him that she had no objections to his deck proposal. Mr. Chenard did not have anything in writing from his neighbor stating that there was no objection. The certified mailing return receipts proved that the abutters were notified.

Mr. Stanton opened the public hearing to those in favor of the application. There was no public comment.

Mr. Stanton asked for comment from anyone opposed to the application. There was no public comment. Mr. Stanton closed the public hearing.

The Board deliberated and went over the variance standard test under the Boccia analysis. The Board, by discussing each according to the Variance Worksheet, concluded that the criteria were satisfied.

Mr. Turchan moved and Mr. Field seconded the motion to approve the application for the construction of a 12' x 20' deck along the north/west corner of the house, 18-feet from the side setback with the following condition: The 20-foot dimension of the deck shall remain in-line with the end of the house, and not protrude into the side setback any further than that. The vote was unanimous in favor of the motion (5-0).

Mr. Stanton reminded the Applicant of the 30-day appeal process.

2009:13 – Liyuen Buesing, Trustee, Liyuen Buesing Rev Trust, 114 Lafayette Road North Hampton. On behalf of the owner, the Applicant Jacob Wing, 328 Lang Road, Portsmouth, NH requests a variance from Article IV, Section 405, to permit a church in the I-B/R district where it is a prohibited use. Property owner: Liyuen Buesing, Trustee, Liyuen Buesing Rev Trust. Property location: 112 Lafayette Road, M/L 013-029, zoning district I-B/R.

In attendance for this application:
Pastor Jacob Wing, Applicant

229 Mr. Stanton swore in witnesses.

230

231 Mr. Wing presented his case.

232

233 **I. Would granting this variance not be contrary to the public interest?**

234 Mr. Wing answered, "Yes". He said that the Church would not compromise safety or health, and would
235 serve the needs of the community.

236

237 **II. Simplex Criteria**

238 **a. Would not granting this variance create an unnecessary hardship because it interferes with the**
239 **reasonable use of the property considering the unique setting of the property in its**
240 **environment?**

241

242 Mr. Wing said that he feels the lot size and the septic and well for the size of the facility would not
243 impose a problem on the environment.

244

245 **b. Would not granting this variance create an unnecessary hardship because there is no fair and**
246 **substantial relationship between the general purposes of the zoning ordinance and the specific**
247 **restriction of the property?**

248

249 Mr. Wing said that the general purpose is to protect the environment and the businesses and the church
250 would be well within the infrastructure of the Town.

251

252 **c. Would not granting this variance create an unnecessary hardship because there is no injury to**
253 **the public and private rights of others?**

254

255 Mr. Wing said that the church will not affect the safety or welfare of the residents. There would be no
256 form of pollution, dust or noise that will affect the residents. He said that the primary service will be on
257 Sundays when most surrounding businesses are closed.

258

259 **III. Would the use contemplated by petitioner as a result of obtaining this variance be consistent with**
260 **the spirit of the ordinance?**

261

262 Mr. Wing said that allowing the church it would be consistent with the spirit of the ordinance because
263 the church would be an asset to local businesses. He said that the surrounding businesses are usually
264 closed on Sundays and should not be affected by the church.

265

266 **IV. By granting this variance, would substantial justice be done?**

267

268 He said that substantial justice would be done because they would be meeting the needs of the
269 property owner in eliminating the financial burden by renting out her space, and providing a place of
270 worship.

271

272 **V. Would granting this variance result in a diminution in value of surround properties?**

273

274 He said that it would not diminish the property values. He said that small churches don't usually
275 promote an increase in traffic, and would only affect Sunday traffic, so it shouldn't affect surrounding
276 properties in any way.
277
278 Mr. Wing explained that there are 20 to 30 people currently within his congregation and they are hoping
279 to increase it to 60 people; the Services are held on Sundays from 10:00am to 12:00pm with Sunday
280 school sessions held on Wednesday and Friday evenings consisting of 15 to 20 people.
281
282 Ms. Smith commented that the Sunday service may not cause problems with parking, but the
283 Wednesday and Friday night sessions may cause a parking problem.
284
285 Mr. Stanton commented that regarding Mr. Wing's application the agenda mistakenly described the use
286 as a *prohibited use* and should have read *not permitted use*.
287
288 Mr. Field said that churches are permitted in two zoning districts in North Hampton and the
289 business/commercial area is a limited area. He said that there are some businesses that are not
290 permitted if a church is nearby and asked why Mr. Wing chose that particular space.
291
292 Mr. Wing said that they have been actively looking for a space in area towns for over four months and
293 they could not find a place, especially in the residential area, that would meet their financial criteria and
294 handicapped accessibility needs.
295
296 Mr. Stanton opened the Meeting for public comment to anyone in support of the Application.
297 There was no public comment.
298
299 Mr. Stanton opened the Meeting for public comment to anyone against the Application.
300 There was no public comment.
301
302 Mr. Stanton closed the public portion of the Hearing and the Board began deliberation.
303
304 Mr. Field commented that the proposal is contrary to public interest because there is a limited business
305 district, and there are ample opportunities to locate a church other than the I-B/R district. He said the
306 Zoning Ordinance does not permit a church in the I-B/R, not even by special exception. Mr. Field
307 referred to Section 401.5 of the Zoning Ordinances where it states that North Hampton encourages
308 business development and growth in the I-B/R District because businesses provide jobs, and make
309 significant contributions to the tax base.
310
311 Mr. Turchan said that a variance was granted to the church on Hobbs Road. The property is in both the
312 residential and I-B/R zones. Mr. Stanton had a copy of the Hobbs case #98:46 decision and submitted it
313 into evidence by citing it as a public document. In October of 1998 the Board granted a variance to
314 permit the church at 6 Hobbs Road where it contains 290-feet of frontage with 200-feet of the frontage
315 in the I-B/R zoning district.
316
317 Mr. Turchan said that even if the ZBA grants the variance, the Applicant should apply to the Planning
318 Board for a Site Plan Review because there are parking requirements under the Site Plan Review. He
319 said that the septic would need to be looked at and there will be a life safety code with the Fire
320 Department that would need to be addressed.
321

Mr. Batchelder asked if the church was registered as a business. Mr. Wing said it was registered as a 501.C.3 non-profit organization. Mr. Wing explained that the Senior Pastors are on the payroll and as the congregation grows more of the Pastors will be added to the payroll.

Mr. Stanton said that he felt that churches are very much in the public interest because they are part of our heritage. He opined that by granting the variance it would not be contrary to public interest.

Ms. Smith voiced concerns about the parking situation where the other businesses parking privileges may be infringed upon during the church services.

Mr. Wing said that the owner of North Hampton Chiropractor said that the church would be allowed to use his parking lot on Sundays.

II. Simplex Criteria

a. Would not granting this variance create an unnecessary hardship because it interferes with the reasonable use of the property considering the unique setting of the property in its environment?

Mr. Field did not see any uniqueness to the setting.

Ms. Smith said that the uniqueness is that there are other businesses there to consider. She said that if he obtained an occupancy permit allowing 200 people, then the current parking spaces would not suffice, and it would be a detriment to future businesses around him that may need more parking.

Mr. Stanton said that an approval of this variance would have to be subject to Planning Board Site Plan Review approval, where they address parking.

Discussion ensued on the occupancy limit for the building.

Mr. Wing said that they will be using a room for a nursery and a room for storage.

c. Would not granting this variance create an unnecessary hardship because there is no injury to the public and private rights of others?

Mr. Stanton did not see that anyone's rights were being infringed upon.

Mr. Field disagreed. He said that certain uses would be denied because of the location of a church. He said that sexually oriented businesses are not permitted within 500-feet of a church.

Mr. Mabey said that there is only one location on Route 1 that a sexually oriented business is allowed, and the subject property is not located in an area where one is allowed. Mr. Mabey created a map, and it is on file in the town office.

Mr. Turchan said that there is a publishing business that has been in existence prior to 1984, and located in the basement of one of his buildings located near 112C Lafayette Road. The business may fall under Section 416.C.1. of the Sexually Oriented Businesses Ordinance, and located within 500-feet of 112C Lafayette Road. Mr. Turchan explained that the tenant does not operate the presses, and has not for several years, but maintains that address and pays a monthly rent. Mr. Turchan said that material is not

sold there, but is stored there, and that there is no interface with the public. Chair Stanton suggested that such testimony might be “hearsay”.

III. Would the use contemplated by petitioner as a result of obtaining this variance be consistent with the spirit of the ordinance?

Mr. Field said that it is inconsistent with the spirit of the ordinance, because the ordinance is very clear that churches are not permitted in the I-B/R district.

IV. By granting this variance, would substantial justice be done?

Mr. Stanton agreed that substantial justice would be done.

V. Would granting this variance result in a diminution in value of surround properties?

Mr. Field said that it would diminish the business value of the shopping center. By allowing a Church at that center it will eliminate the option to lease to sexually oriented businesses.

Mr. Turchan asked whether or not anyone wanted him to step down from the case because he testified on the case. The Board had no objection to Mr. Turchan sitting on the case.

Mr. Mabey said that there is one common septic system for the site. Mr. Mabey looked at the septic system; it is designed for 1,500 gallons per day. He also commented that that is one of the issues the Planning Board examines during the Site Plan Review Application process.

Mr. Stanton read from the Site Plan Review Regulations. The Planning Board has the authority to waive any regulations within the Site Plan requirements. Mr. Stanton said that the Planning Board determines whether or not there are sufficient parking spaces through the Site Plan Review process.

Mr. Stanton moved and Mr. Batchelder seconded the motion to approve the use variance to the Applicant, Church Alive, with Mr. Jacob Wing as Pastor for the property located at 112C Lafayette Road and whose owner is Liyuen C. Buesing; this use variance is for a Church to be a permitted use in the I-B/R district. Such approval shall be subject to the North Hampton Planning Board Site Plan approval, if required, in accordance with the North Hampton Site Plan Review Regulations, specifically Section V, paragraph B, section 12, and also subject to a certificate of occupancy by the Building Inspector in accordance with such Site Plan Review.

Mr. Field asked for a division of the vote and that each member states their reason for approval or denial on the vote.

Mr. Turchan asked that if the motion was passed would the ZBA be putting the Planning Board’s “backs against the wall”. The Zoning Board may want to consider putting in conditions if approved.

Mr. Mabey said that the Planning Board looks at the whole site and takes all the businesses there into consideration. He said that each business is required to have a certain amount of parking spaces available, and it is within the Planning Board’s purview to waive the number of parking spaces required if deemed appropriate.

417 Mr. Wing said that it is written in the lease agreement with the owner that if his congregation outgrows
418 the church they can “break” the lease without consequences.

419
420 Mr. Field said that it would be the Lessor that would be getting the variance if approved, so if the Church
421 Alive moves out the owner may rent the space to another church.

422
423 Mr. Buber spoke from the audience and referred to Section 405.1 – permitted uses. He said that the
424 “key” sentences within the paragraph describes where it encourages business development, and growth
425 in the I-B/R because businesses provide jobs, make a significant contribution to the tax base, and serve
426 the needs and convenience of our citizens. He opined that by allowing a church in the I-B/R district it
427 would be defeating the intent of the ordinance. Mr. Buber said that the Board may grant a use variance
428 if all of the criteria are met, and it is his opinion that the criterion that the proposed use must be
429 consistent with the spirit of the ordinance has not been satisfied.

430
431 Mr. Batchelder said that it is the property owner that is contributing to the tax base, and the church
432 would bring people into town that would support businesses in Town by buying gas, eat out at a
433 restaurant, and go shopping. Mr. Stanton agreed.

434
435 Mr. Buber and Mr. Field agreed that businesses provide jobs, and jobs lead to people moving to Town.

436
437 Mr. Field pointed out to the Applicant that he is entitled to withdraw his application or request a
438 postponement at any time giving the Applicant time to work with the Planning Board to address some of
439 the concerns raised by the Zoning Board this evening. He explained that if the Application were denied
440 by the ZBA the Applicant would not have another opportunity to reapply for this same request.

441
442 Mr. Wing said that he wanted to proceed with his Application.

443
444 Mr. Stanton modified his motion that a church be permitted in the I-B/R district, and that the use
445 variance is solely for the Church Alive. Mr. Batchelder seconded the modification.

446
447 Mr. Turchan voted in favor of the Motion. He said that a burden will be placed on the Planning Board
448 because they will have to address parking, septic and occupancy.

449
450 Ms. Smith voted against the Motion. She said that the shopping center was originally designed for small
451 businesses. She is concerned with the safety of children and the close proximity to Route 1. She is
452 concerned with the total infringements to the businesses there now and the businesses in the future.

453
454 Mr. Field voted against the Motion. He said he agreed with all the points that Ms. Smith made and
455 added that he thought it violates the spirit of the ordinance because it is a business district with business
456 purposes. He said he thought it diminishes the value of abutting property rights. He said it would not
457 do substantial justice to the other businesses in the shopping center. He said he thought it impacted the
458 private rights of others adversely in addition to property values. He said that it may deny other
459 businesses from going in there, and it conflicts with an existing business within 500-feet of the site
460 according to testimony provided by Mr. Turchan.

461
462 Mr. Batchelder voted in favor of the Motion. He said that it is through the Planning Board Site Plan
463 Review process that will regulate what can and can’t be done at the site. He opined that it would not
464 diminish surrounding property values.

Mr. Field stated that he questioned the propriety of Chair Stanton conducting "independent homework" of cases coming before the Board in advance of the Meeting. He also stated his concern that it was improper of the Chair (or any member of the Board) to espouse positions on what is, and what is not, proper religious content and practice. Mr. Field further expressed his concern that the Chair, by his comments, suggesting that those who might disagree with him were less religious or respectful of the protective position, and place of religion in our society than he was.

Mr. Stanton voted in favor of the Motion. He said that church is an important part of our culture and promoting that use should be something that should be encouraged. He said that parking, sanitation and occupancy are all issues above the Zoning Board's realm of expertise, and that those concerns will be addressed by the Planning Board during the Site Plan Review process.

The vote passed in favor of the Motion (3 in favor, 2 opposed and 0 abstentions). Mr. Stanton, Mr. Batchelder, and Mr. Turchan voted in favor and Mr. Field and Ms. Smith were opposed.

Mr. Stanton explained the 30 day appeal period.

Minutes

July 28, 2009 Meeting Minutes – Ms. Smith amended the minutes to strike the word "only" from line 130.

Ms. Smith Moved and Mr. Batchelder seconded the Motion to approve the July 28, 2009 Meeting Minutes as amended.

The vote passed (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained.

August 25, 2009 Meeting Minutes – Ms. Smith made an amendment to line 100 to "thought it was reasonable to continue". Mr. Field commented on lines 725, 731 and 776 and said that it was a dangerous direction for the Board to allow members to submit evidence, and if they do submit evidence they need to be sworn in like everyone else.

Ms. Smith Moved and Mr. Batchelder seconded the Motion to approve the August 25, 2009 Meeting Minutes.

The vote passed (4 in favor, 0 opposed and 0 abstentions). Mr. Field did not vote.

The Board discussed changes to the Rules of Procedure, and the following changes were made:

A. Change 1 was approved on September 22, 2009

1.1 Page 3, Section 3B, line 2: insert "first" before scheduled meeting and delete: 'for the month'.

1.2 Page 4, Section 4A, line 5: delete 'normally in April'.

1.3 Page 6, Section 5C, add sentence: "When an Alternate has been seated for a Primary Member due to recusal, such Alternate Member shall, to the extent possible, sit for the entire application, including any and all appeals."

The Board discussed changes to the ZBA Application instructions and the following changes were made:

508 1.4 Application Instructions, Page A-3, Section 2A to read:

509 **A. Appeal from an Administrative Decision: Use Form 1 – APPLICATION FOR RELIEF and Form 2 –**
510 **PETITION FOR ADMINISTRATIVE APPEAL.**

511 If you have been denied a building permit or are affected by some other decision regarding the
512 administration of the North Hampton Zoning Ordinance, including a decision of the Planning Board,
513 and you believe that the decision was made in error under the provision(s) of the ordinance,
514 provided such appeal is permitted by statute, you may appeal the decision to the Zoning Board of
515 Adjustment within 45 days from the date of the order from which the appeal is taken (see Rules of
516 Procedure, Section 6A, for specific rules on timeliness).

517 If you are appealing an administrative decision, a copy of the decision appealed from must be
518 attached to your application.

519 1.5 Application Instructions, Pages A-3, A-4 and A-5, Sections 2A, 2B, 2C, 2D – insert Use Form 1 –
520 Application for Relief.

521 Mr. Field suggested creating another way of dealing with building permit and occupancy permit appeals.
522 Mr. Field said that there is an imbalance that is created when dealing with a certificate of occupancy or a
523 building permit appeal. He said that the ZBA does not sit as a Zoning Board and that a distinction needs
524 to be made between building code of appeals and a zoning board of appeals. He commented that the
525 Board can improve the process to make it easier for the person seeking relief.

526
527 Mr. Stanton suggested that Mr. Field provide a model application form for the Board to review.

528
529 It was decided that more “homework” needed to be done on the subject.

530
531 Ms. Chase informed the Board that Mr. Buber brought up a good point about a recent case before the
532 Board where most of the primary members were asked to recuse themselves from. Currently the
533 Application requires that the Applicant provide 11 copies of the completed application. This would not
534 be enough to provide copies to the five Alternates. The copies would need to be increased to at least 14
535 copies. The Board voiced concerns of the added costs to the Applicants. No decision was made.

536
537 Mr. Stanton reminded the Board that it’s getting to that time of year when the Planning Board
538 addresses any proposed zoning ordinance changes. He suggested that the Zoning Board request that
539 the Planning Board consider addressing a wind power systems ordinance. The Zoning Board used the
540 state’s model ordinance when addressing the variance request for the small wind systems at Sagamore
541 Country Club because there was no Town Zoning Ordinance. He also said that the Planning Board may
542 want to discuss whether or not changes need to be made to the permitted uses or the special
543 exceptions of the I-B/R district regarding churches, and to suggest to them that it would be helpful to
544 have a definition of churches in Section III.

545
546 **Mr. Field Moved and Mr. Turchan seconded the Motion to authorize the Chair to write a letter to the**
547 **Planning Board discussing two zoning issues that have come to the Zoning Board’s attention during**
548 **the year that the Zoning Board members feel needs attention (1) create a wind powered systems**
549 **ordinance, and (2) reexamination of the uses section of the ordinance; specifically to look at the lack**

550 of a church being included in the I-B/R, and whether or not that is consistent with contemporary
551 | community values and principles, and that the proposed letter be circulated prior to sending it to the
552 Planning Board.
553 The vote was unanimous in favor of the Motion (5-0).
554
555 The Meeting was adjourned at 10:04pm.
556
557 Respectfully submitted,
558
559 Wendy V. Chase
560 Recording Secretary

DRAFT