



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, February 23, 2010 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: Robert Field, Jr., and Ted Turchan

Members absent: Richard Stanton, Richard Batchelder and Michele Peckham

Alternates present: David Buber, Jennifer Lerner, and Chuck Gordon was in the audience

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. Field explained that the Chair and Vice Chair were not present and referred to the Board's Rules of Procedure under Section 3. B., which states, *the Primary Member present with most seniority shall exercise the duties of the Chair*. Mr. Field, having the most seniority, assumed the Chair.

Mr. Field seated Ms. Lerner and Mr. Buber for absent members Richard Stanton and Richard Batchelder.

Mr. Field convened the Meeting at 6:30pm. He introduced himself and members of the Board and Staff.

Mr. Field announced to those present for Case #2010:05 – Brewster Investment, LLC., that at the request of the Applicant's Engineering Firm, Jones and Beach Engineering, the case will be postponed until March 23, 2010, and those who wished to leave the Meeting could do so without prejudicing themselves.

Mr. Field announced to those present for Case #2010:06 – Chelsi Christensen, that due to publication deficiencies, the case will be postponed until March 23, 2010, and those who wished to leave the Meeting could do so without prejudicing themselves.

Mr. Turchan arrived at 6:40pm.

Mr. Field invited those present to rise for a Pledge of Allegiance. He explained that reciting the Pledge of Allegiance is in the Board's Rules of Procedures, but is purely voluntary, and that failure in saying it or participation in saying it will have no impact on anyone's case before the Board.

Mr. Field explained that according to the Board's Rules of Procedure all Applicants are entitled to have five (5) ZBA Members hear their case. He explained that there were four (4) Members present this evening, and gave the Applicant for Case 2010:04 – Sylvia Cheever the option to request a continuance to a Meeting where there would be a full complement of the Board.

Unfinished Business

- 1. 2010:04 – Sylvia Cheever, 264 Atlantic Ave., North Hampton.** The Applicant requests a variance from Article V, Section 508.4 to be allowed more than four (4) chickens for family use within 200-feet of a neighboring property, but not housed within 50-feet of a neighboring property. Property owner: Sylvia Cheever; property location: 264 Atlantic Ave.; M/L 014-034; zoning district R-1.

In attendance for this Application:

Sylvia Cheever, Owner/Applicant

Ms. Cheever requested a continuance to the March 23, 2010 Meeting due to the lack of a full member Board, and to also have time to do research on a Court Case she recently received that she thought may relate to her case before the Board.

Mr. Turchan Moved and Ms. Lermer seconded the Motion to continue Case #2010:04 to the March 23, 2010 ZBA Meeting.

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

Mr. Field gave everyone present the opportunity to take a copy of an opinion from the Local Government Center (LGC) on what the definition of a "farm building" is. He explained that Chairman Stanton requested the opinion from the LGC. Mr. Field said that the LGC opinion was public information, and offered it to anyone interested in it.

New Business

There was no new business before the Board.

Other Business

Minutes

February 10, 2010 meeting minutes were reviewed by the Board. Mr. Buber made the following recommended changes:

Line 116 – change the date to read September 22, 2009.

Mr. Buber Moved and Ms. Lermer seconded the Motion to make the above change to the February 10, 2010 Meeting Minutes.

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

Line 118 – change the date to read February 9, 2010.

Mr. Buber Moved and Ms. Lermer seconded the Motion to make the above change to the February 10, 2010 Meeting Minutes.

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

Line 132 – change *than* to *then*

Mr. Buber Moved and Mr. Turchan seconded the Motion to the above change to the February 10, 2010 Meeting Minutes.

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

Line 177 – Mr. Buber explained that he misspoke when he said that he researched the By Laws of the LGC. He asked that a correction be made to the minutes to read: *Mr. Buber said he read the LGC's "Legal Services for Municipalities" section on the LGC's website.*

Line 179 – change to read: *He said that once a member seeks information from the LGC, they do so as a representative of the municipality and not as an individual personally.*

Mr. Buber Moved and Ms. Lermer seconded the motion to make the above changes to the February 10, 2010 Meeting Minutes.

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

Line 425: insert the following: *Point 3 – Would substantial justice be done by granting this variance?*

Insert after line 425 – *Mr. Buber distributed to all Board members present, a two page excerpt from a publication written by Cordell Johnston of the LGC titled "Basics For Planning and Zoning Board Members". On page one of the text, (publication page 4) under Paragraph 4.b "Planning board rules of procedure" and on the second page of the text (publication page 9) under subparagraph (b) "ZBA rules of procedure", Attorney Johnston makes the same statements regarding Robert's Rules of Order as applied to land use boards.*

Mr. Buber suggested adding two more paragraphs pertaining to the aforementioned to the February 10, 2010 Minutes. Mr. Field suggested that Mr. Buber state what he wanted to state into tonight's record and not add the following two paragraphs into the February 10, 2010 Meeting Minutes, because he didn't say it at that meeting.

Mr. Buber Moved and Mr. Turchan seconded the Motion to insert the above paragraph into the February 10, 2010 Meeting Minutes.

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

Mr. Buber suggested that the Primary Members may consider amending the Rules of Procedure to include an agreeable process when seeking advice from the Local Government Center. It was determined that the Board agreed with Mr. Buber's suggestion. (Recommended changes to the Rules of Procedure can only be voted on by Primary Members of the Board).

Mr. Field Moved and Ms. Lerner seconded the Motion to approve the February 10, 2010 Meeting Minutes as amended.

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

Mr. Buber distributed copies of a printout he downloaded from the LGC's website regarding the services they provide. He had "highlighted" a couple of sentences:

Our attorney/client relationship is with your municipality, not the caller personally.

We cannot provide private citizens with opinions on municipal law, nor can we advise municipal officials on their own private legal issues. Our role is to advise public officials on matters relating to the official duties they perform for their town or city.

Mr. Field commented that it was unclear. Ms. Lerner suggested going into nonpublic session when trying to determine, as a Board, the best way to ask a question of the LGC on a particular matter. It was in her opinion that that type of discussion does not have to be brought up at a regular meeting, taking up the Applicant's time.

Mr. Mabey explained to the Board that there is a Town Policy in place that all questions to the LGC must receive prior approval from the Town Administrator, and if the Town Administrator decides not to forward the request to the LGC, then the person, or group has the right to ask that the matter be brought before the Select Board for their review and consideration.

Mr. Field noted for the record that Chair Stanton was correct at the February 10, 2010 Meeting when he said the Chair appoints the alternates at a meeting when regular members are absent.

Mr. Buber quoted from the publication written by Cordell Johnston that he had distributed to the Members at the February 10, 2010 Meeting. "You do NOT – NOT – NOT need to follow Robert's Rules of Order. If your rules contain a statement that Robert's Rules shall govern, get rid of it. Almost no one understands Roberts's Rules, and trying to apply them to a planning board meeting (p. 4), or a ZBA meeting (p. 9), is insane".

Mr. Buber said he brings Attorney Johnston's points to the Board's attention as a result of past discussions held between various Board members regarding the applicability (or not) of Robert's Rules and their relevance to ZBA meetings. Mr. Buber's thoughts were that by introducing a second party's input on the subject might lead to a positive resolve of the matter.

Mr. Buber commented on the amount of cases slated for the March 23, 2010 Meeting and suggested holding a second Meeting in March to act on some of those cases.

The Board discussed notification issues, but agreed that it would be a good idea.

Mr. Field said that it would be up to the Chair to decide if another meeting should be scheduled and asked Ms. Chase to inform Mr. Stanton of the Board's discussion on the matter.

Mr. Turchan Moved and Mr. Buber seconded the Motion to adjourn the Meeting at 7:29pm. The vote was unanimous in favor of the Motion (4-0).

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved May 4, 2010