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**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Continuation of the May 25, 2010 Meeting
Wednesday, June 9, 2010 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.

This meeting was transcribed by a video recording of the meeting.

Attendance

Members present: Robert F. Field, Jr., Chair; Michele Peckham, Vice Chair; Richard Stanton, David Buber, and George Lagassa

Members absent: None

Alternates present: Jennifer Lerner

Staff present: Richard Mabey, Code Enforcement Officer/Building Inspector

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

Mr. Field announced that the Meeting was a continuation of the May 25, 2010 ZBA Meeting; he convened the Meeting at 6:30pm.

Mr. Field suggested to the Board that due to the Recording Secretary's absence, they should designate a Recording Secretary pro-tem for tonight's Meeting and also act to designate or approve that the video recording of this Meeting will be the official recording from which the Minutes will be drafted.

Mr. Field asked Attorney Pelech and members of the audience if they had any objections to the procedure in appointing a Recording Secretary pro-tem. There was no objection and Mr. Field, as a recused member of case 2010:02, but an interested party noted for the record that he had no objections.

Mr. Field asked if anyone would be interested in volunteering to be the Recording Secretary pro-tem for this Meeting.

Ms. Peckham asked what the necessity was to have a Recording Secretary pro-tem since Ms. Chase would be drafting the minutes from the video recording. Mr. Field said that the tape is not always perfect and it would be better to have a "human being" present as Recording Secretary pro-tem to work

with Ms. Chase on drafting the minutes from the recording. Mr. Field suggested using the video recording as the official record of this Meeting.

Mr. Stanton said that the written minutes should be the official record of this Meeting; not the video recording. Mr. Field said that the video recording would be the primary instrument used in drafting the written minutes, and agreed that the written minutes are the official record. He asked for a volunteer to sit as Recording Secretary pro-tem.

Ms. Lermer spoke from the audience and said that she felt it would be difficult to sit on the case and take the minutes.

Mr. Field explained that there is a need for a person to be present as Recording Secretary pro-tem; not to take notes, but to work with Ms. Chase if she had any questions of what took place at the Meeting. Ms. Lermer volunteered to be the Recording Secretary pro-tem.

Mr. Buber Moved and Mr. Lagassa seconded the Motion to nominate Jennifer Lermer as Recording Secretary pro-tem to work with Wendy Chase to interpret any questions on the video recording she may have when drafting the Minutes from the video recording.
The vote passed in favor of the Motion (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained.

Mr. Field noted for the record that Attorney Pelech, Counsel for case 2010:02, members of the audience and himself concede to the process of appointing a Recording Secretary pro-tem.

Mr. Field invited the Board and members of the audience to rise for the Pledge of Allegiance and noted that unwillingness or inability to participate will not be held against anyone in the deliberation of any action of this Board.

Mr. Field did a roll call of the Members present (stated above).

Mr. Field noted that the Meeting was a continuation of the May 25, 2010 Meeting and it was not necessary to notice the Meeting in the newspaper.

Mr. Field swore in witnesses.

Mr. Field explained the normal proceedings of the Board:

1. The Applicant presents his/her case
2. Opportunity for those in favor of the application to speak
3. Opportunity for those in opposition of the application to speak
4. Rebuttal opportunity given on new information presented
5. In conclusion of the evidence the Meeting is closed
6. Board deliberation
7. If the Board makes a decision, there is a 30-day appeal period giving the opportunity for a request of a rehearing on that decision
8. The Applicant is notified of the decision within the time period required by law

The May 25, 2010 Minutes were addressed by the Board.

Mr. Field suggested the following amendments to the May 25, 2010 Meeting Minutes, and noted for the record that he would not be commenting on the portion of the Minutes dealing with case #2010:02 because he is recused from the case:

Line 40 – Mr. Field had changed his vote (noted in lines 88 and 89) to an abstention and asked that it be reflected in the original vote.

Line 675 – Mr. Field suggested change the word “adjourn” to “recess” because the Meeting was continued to this evening.

The Board addressed the April 27, 2010 Meeting Minutes and the continuation of that Meeting held on May 4, 2010.

Mr. Buber Moved and Mr. Stanton seconded the Motion to approve the April 27, 2010 Meeting Minutes held on April 27, 2010 and continued to the May 4, 2010 Meeting.

The vote passed in favor of the Motion (4 in favor, 0 opposed and 1 abstention). Mr. Lagassa abstained because he was not a Member of the Board at that time and was not present at either Meeting.

Mr. Field seated Ms. Lermer.

Mr. Field recused himself.

Ms. Peckham assumed the Chair.

Ms. Peckham asked that the Board take up the portion of the May 25, 2010 Meeting Minutes concerning case 2010:02 – Peter Horne.

The Members corrected a few typographical errors.

Mr. Stanton Moved and Mr. Buber seconded the Motion to approve the Meeting Minutes of May 25, 2010 as amended.

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

Ms. Peckham received into evidence a “signed” letter from the Historical Society. Ms. Penny Holbert read it into the record at the May 25, 2010 Meeting and was asked by Ms. Peckham to provide a “signed” copy for the permanent record.

Ms. Peckham swore in Mr. Field. Mr. Field commented that he was not sure if he was sworn in at the May 25, 2010 and affirmed that being sworn in tonight covers his testimony from the May 25, 2010 Meeting.

Ms. Peckham noted that the last Meeting was left at Mr. Field giving testimony, asked him to continue with his presentation.

Mr. Field submitted a “signed” copy of a letter from Carter Bishop that he had read into the record at the Meeting on May 25, 2010, that was not “signed” at that time.

Mr. Field submitted a letter dated March 22, 2010 from John Rice incorporating by reference his letter dated February 23, 2009. Mr. Rice stated in his letter that in his opinion as to the “diminution of value” and the marketability and value of surrounding and/or abutting properties, including Mr. Field’s, is

140 based upon his professional experience that degradation of the subject lot when subdivided and
141 developed as proposed by the Applicant will negatively impact the Little River, the Mill Pond and the five
142 antique homes in the immediate area.

143
144 Mr. Stanton referred to the letter from Mr. Rice where he indicates that Mill Road is a "Scenic Road".
145 He said that he went to the Town Office and asked for a list of "Scenic Roads" in Town and was informed
146 that there are no roads designated as "Scenic Roads" in North Hampton.

147
148 Mr. Field submitted copies of NH RSAs pertaining to "Scenic Roads". He did research with NH DOT and
149 concluded that Mill Road has not been designated as a "Scenic Road". Mr. Field referred to a copy of
150 Minutes from the 1973 Town Meeting where a proposed Warrant Article made by Mrs. John Osborne,
151 the previous owner of Mr. Horne's property, asking to have Mill Road made a "scenic road". The Article
152 was discussed and by a show of hands the motion was defeated 160 to 34. A motion was made and
153 seconded to amend the Article, and Ms. Osborne withdrew it.

154
155 Mr. Stanton said that within RSA 253 it states that it is required that all towns keep a list of roads that
156 have been designated as "scenic roads" and there is no such list in the Town of North Hampton.

157
158 Mr. Field said that the 1973 Minutes prove that people in the Mill Road area wanted to designate the
159 road as a "scenic road". Mr. Field conceded that he made a mistake stating that Mill Road was a "scenic
160 road".

161
162 Mr. Field submitted copies of information on nonconforming uses, titled Chapter 8 - Nonconforming
163 uses. He said that the Applicant is proposing to create two non-conforming lots from one conforming
164 lot, and it is the desire of zoning to make lots more conforming; not more non-conforming. Mr. Field
165 referred to court case McKenzie v. Town of Eaton Zoning Board of Adjustment. He read a portion of the
166 case into the record, "the spirit of zoning is to restrict, rather than increase, nonconforming uses and to
167 eliminate such uses as speedily as possible. Accordingly, the ordinance's purpose of reducing
168 nonconforming uses is a legitimate governmental interest". Mr. Field said that it is "alien" to the
169 principle of zoning to use the principle of a variance to allow the creation of two non-conforming lots
170 from one conforming lot.

171
172 Mr. Stanton asked what the source was on the document submitted on nonconforming uses. Mr. Field
173 was not sure and said he would supply that information.

174
175 Mr. Field also referred to NH court case Hurley v. Town of Hollis, and read a section, "Well established
176 policy of zoning law is to carefully limit enlargement and extension of nonconforming uses, and
177 ultimately to reduce them to conformity as completely and rapidly as possible".

178
179 Mr. Lagassa said that it was the nature of a variance to create a non-conforming use.

180
181 Mr. Field said that variances are not usually granted because there are high standards to overcome in
182 order to receive a variance. He said that Mr. Lagassa was correct in that a variance always creates some
183 element that is non-conforming with the ordinance, but it's a high burden to prove to get a variance.

184
185 Mr. Field submitted a summarized copy of court case Nine A, LLC v. Town of Chesterfield. Mr. Field said
186 that he submitted it into evidence because it deals with pond and waterfront areas, and the over-

development and overcrowding on a lake that the Court deemed the “spirit and intent” of the ordinance was to limit such issues.

Mr. Field referred to information he received from Chris Ganotis, Chair of the Conservation Commission, and provided a copy to Attorney Pelech and the Board Members. Mr. Field explained the correspondence to be accumulated effects of the encroachment on shore lines and water courses in New Hampshire, and how it is adverse to public health and safety. He said that the information submitted is in the public interest, health, safety and welfare to ensure that the shoreline and wetlands are not harmed by the cumulative effects of development along shorelines.

Mr. Field submitted a letter from Mrs. Lisa Wilson, and read it into the record. In the letter Mrs. Wilson states that in view of the valid opposition to this variance request from the North Hampton’s Conservation Commission, Heritage Commission, and Historical Society, she asks that the Zoning Board of Adjustment deny the variance request to ensure the protection of the land and bodies of water in town.

Mr. Field submitted copies from the “handbook” of Local Officials. He made the following comments on the criteria of the variance test:

- The Horne property is not uniquely situated. Mr. Field and his wife own property across the Street from Mr. Horne that has a dam and a pond, and has the same characteristics of the Horne property.
- The Applicant needs to meet the burden of proof, by demonstrating that the variance is warranted under the circumstances.
- Financial hardship is not enough, and creating a lot to compensate him for the money he put into repairing the dam should not be considered as “hardship”.
- Basic zoning objectives is not to create non-conforming uses. The Board heard testimony from Dr. Lord and other Town Commissions and Committees that the pond cannot sustain further development.
- The Horne property has had multiple subdivisions. Mr. Field said that the interest of the Town surmounts the desire of Mr. Horne to “squeeze” one more subdivided lot that has already had multiple subdivisions on it.
- Mr. Field said that the “spirit of the ordinance” is not being observed if the Board grants the variance.

Mr. Field said that North Hampton Forever was voted upon by almost 75% of the townspeople in 2001 and they approved the committee to spend 4 million dollars to protect land and ruralness of the town until the money is exhausted. In addition to the authorized 4 million dollars nearly 3.5 million has been obtained by matching grants. Mr. Jeppesen is currently in discussions with North Hampton Forever to transfer interest of his property to help protect the future’s valuable resources such as the Little River and the Mill Pond.

Mr. Field said that Mill Pond provides a water source for fire suppression. He said that insurance companies take an interest in those types of ponds. He said the closest fire hydrant on Mill Road is located at the intersection of Atlantic Ave., and Mill Road.

ZBA Meeting Minutes

232 Mr. Field submitted a letter from Chris Ganotis, Chair of the Conservation Commission received by the
233 Town on June 8, 2010. Ms. Peckham said that she would accept it into the record because it was
234 addressed to the Board.

235
236 Mr. Pelech noted for the record his objection to Mr. Field receiving Board correspondence with regard
237 to an application upon which he has recused himself.

238
239 Mr. Mabey went upstairs and made copies for the Board and Mr. Pelech.

240
241 Ms. Peckham called for a recess at 8:15pm.
242 Ms. Peckham reconvened the meeting at 8:25pm.

243
244 Mr. Field said that he received an email from Mr. Ganotis stating that the aforementioned letter would
245 be found in each member's mailboxes prior to the Meeting. Ms. Peckham said that she submitted her
246 copy into the record.

247
248 Mr. Field asked to submit a history of prior activities and variance requests dealing with the Horne
249 property.

250
251 Ms. Peckham said that the Board was familiar with the history.

252
253 Mr. Pelech objected to Mr. Field submitting it into the record and said that it was not relevant to this
254 proceeding.

255
256 Mr. Field said that there are new members of the Board that did not have this information, and he has
257 not discussed this information in this particular case. He said that he has never known of an abutter
258 being prevented from introducing information on a case that he/she feels is important.

259
260 Mr. Pelech asked if the material in question was submitted as evidence in the previous variance
261 requests. Mr. Field confirmed that it was. Mr. Pelech stated for the record that he has no objection of
262 making the record of the past two variances and Mr. Field's unsuccessful administrative appeal and
263 appeal be made part of the official record.

264
265 Ms. Peckham said that the previous record is available for anyone to review.

266
267 Mr. Field said based upon Mr. Pelech's agreement, the matters of Case #2008:12 – request for rehearing
268 dated 2/25/2009 is incorporated by reference and information submitted to the Planning Board on
269 Planning Board Case #09:02. Mr. Pelech objected to Mr. Field submitting the information on Planning
270 Board Case #09:02 into the record.

271
272 Mr. Buber affirmed with Mr. Field that the information on Planning Board Case #09:02 had bearing on
273 this ZBA case and asked that it be allowed into evidence.

274
275 It was agreed upon that the Planning Board records for Mr. Horne's property be included as part of the
276 official record for ZBA Case #2010:02.

277
278 Mr. Field requested that he be given the opportunity to rebut any new matters that Mr. Pelech may
279 present.

ZBA Meeting Minutes

Mr. Pelech said that Mr. Horne has no intention of draining Mill Pond, and the reason it was mentioned as an alternative was because reasonably feasible alternatives is one of the hardship tests under the Boccia standard. He referred to his memo to the Board that draining the Pond was an alternative, but stated that they did not agree that that would be a reasonably feasible thing to do from a fire protection standpoint and environmental standpoint. Mr. Pelech said that the Applicant will stipulate that he will not drain the Mill Pond.

Mr. Pelech said that neither Mr. Horne nor his father has ever subdivided his property. He said that any subdivisions were done prior to their ownership and approved by the Planning Board with no objections from Mr. Field as an abutter.

Mr. Pelech referred to the email sent from Chris Ganotis, Chair of the Conservation Commission with an attached copy of the USGS Study. Mr. Ganotis described it as a new study and Mr. Pelech said that it is the same USGS study used by Dr. Lord in the VHB report to the Conservation Commission back in June 2008.

Mr. Mabey made copies of the VHB report for each of the members.

Mr. Pelech entered the following information on his rebuttal to Mr. Field's testimony into the record:

- #1 – Vanasse Hangen Brustlin, Inc. (VHB) report to the Conservation Commission from Dr. Leonard Lord dated June 29, 2008
- #2 – copies of approved subdivision plans on the Horne property
- #3 – Copy of Dr. Leonard Lord's Peer Review of the impact analysis report prepared by NHSC, Inc., dated July 2009
- #4 – Copies of the Town Meeting vote in 1973 on Article XII and non-vote on Article XIII.
- #5 – A memo on "Great Ponds". Mr. Pelech said that he spoke to Mr. Mark Stevens of the Dam Bureau and he said that Mill Pond would not be considered a "Great Pond" because an artificially impounded body of water would never reach the status of a "Great Pond". He said that Mill Pond is not a public body of water, and has no public access.

Mr. Pelech said that they have never indicated that there was any kind of financial hardship on the Applicant's part, and Mr. Horne does not want to subdivide his land to compensate for the money he put into the dam restoration.

Mr. Pelech commented that State laws allow any individual to seek relief from local Zoning Ordinances.

Mr. Pelech referred to the letter from the Heritage Commission and asked whether or not the Board requested advice from them regarding this case. He explained that according to State Statute, the only authority the Heritage Commission has is to give advice when it is requested; he submitted a copy of RSA 674:44-b, and read section (d) *Advise, upon requests, local agencies and other local boards in their review of requests on matters affecting or potentially affecting cultural and historic resources*. He said that he does not remember the Board making a request to the Heritage Commission but concurs with statements made in the letter regarding the protection of the Mill Pond. Mr. Pelech said that Mr. Horne does not plan on doing anything in the Mill Pond or the wetlands buffer.

Mr. Pelech referred to Mr. Rice's letter submitted by Mr. Field. He said that Mr. Rice was given the wrong information and used that wrong information for the basis of his opinion. Mr. Rice was led to

believe that Mill Road is a "Scenic Road" and that the property was used as a commercial enterprise. Mr. Horne does not rent out all of the houses on his property; he lives at that property.

Mr. Pelech said that the property is bounded on two sides by the Mill Pond, and submitted a copy of a portion of the tax map where Peter Horne's property is located. Mr. Pelech explained that there is no other alternative other than to use part of the Mill Pond to satisfy the 2-acre lot size requirement or receive a variance to allow lots less than the 2-acre lot size requirement.

Mr. Pelech said that Mr. Horne would like to subdivide his land to create an additional lot to build on.

Ms. Lerner asked for clarification on the Mill Pond being a "great pond". She read from the May 25, 2010 Meeting Minutes where Mr. Coldwell said ponds over 10-acres are considered "great ponds", and are public. Mr. Pelech testified this evening that Mill Pond was not a "great pond". Mr. Coldwell said that he did state that about the "great ponds" but referred to the Mill Pond as "private" so it is not classified as a "great pond".

Mr. Buber referred to RSA 412:13 that deals with the proper procedures for dam owners on lowering water levels, and asked if the law applied to both "private" and "public" bodies of water. Mr. Pelech said that it does.

Mr. Pelech referred to material submitted by Mr. Field on non-conforming lots. He said that the current lot is "conforming". Mr. Pelech showed possible "building envelopes" on the new proposed lot. He confirmed that one new lot would be built upon and that a structure already exists on what would be the other lot if subdivided.

Mr. Pelech said there is an approved septic system on the site designed to "handle" an additional lot. Mr. Oles said that the septic system is designed for a 4-bedroom dwelling.

Mr. Buber said that he would like to visit the property. Mr. Pelech said that he would be welcomed to and it would be best to do it on his own so that it would not be considered an official Meeting of the Board. Mr. Buber will contact Mr. Pelech to set up a time. Mr. Lagassa was welcome to join them.

Mr. Pelech handed out a copy of Court Case Simplex Technologies, Inc. v. Town of Newington into the record for the Board's review.

Mr. Pelech said that if the Zoning Ordinance allows the use of wetlands to satisfy the zoning requirement for lot size, and asked for what reason does it give that bodies of water, which are wetlands, cannot be used to satisfy the lot size requirement. He said that the copies of the 1978 Planning Board Minutes of the 1970s fail to disclose why they distinguished "bodies of water" from "wetlands" when they are one in the same.

Mr. Pelech said that there is no "fair" and "substantial" relationship between the general purposes of the zoning ordinance and the specific restriction on the property.

Mr. Pelech said that there would be no building in the buffer zone; they have state approval; they did an environmental study on the property and Dr. Lord agreed that there would be no adverse affect on the Mill Pond, and they meet all the other zoning requirements other than the 2-acre lot size requirement.

Mr. Pelech gave a brief history of the land use applications on the property:

- Mr. Horne applied for a subdivision with the Planning Board and it was determined that since the existing structures were in the buffer zone (making it a non-conforming use,) that subdividing would make it more non-conforming and advised the applicant to seek a variance.
- Mr. Horne applied for a variance to Section 501.2 to allow a lot line relocation on lots that contain non-conforming structures with the condition that the structures on the lots were not to be expanded, that no new structures be added, and that the structures remain accessory structures.
- Mr. Horne applied for and was granted a variance for the in-ground pool
- The ZBA granted a variance to Mr. Horne's razing and rebuilding a garage
- Mr. Field filed an Administrative Appeal on the Occupancy Permit for the garage and an appeal to the variance to Section 501.2 which were resolved in Mr. Horne's favor.

Mr. Pelech said that they are seeking one of two variance, (1) a use variance to allow Mill Pond to be used in the lot size calculation to satisfy the 2-acre requirement or (2) a variance to allow the lots to be less than the 2-acre requirement per lot.

Ms. Lermer asked if there was a condition on the approved variance for the garage not to allow plumbing, and Mr. Pelech said that there was not.

Ms. Lermer asked if the pool was already in the ground when the variance was granted, and Mr. Pelech confirmed that it was.

Ms. Lermer questioned the contents of the May 25, 2010 minutes regarding testimony from Mr. Coldwell and Mr. Long on the wetlands and definition of "body of water".

Mr. Long said that he explained that in the classification of wetlands, wetlands are considered anything saturated or inundated with water. He said that up until 6.6 feet of water it is considered a wetland because plant life can grow; once it reaches past the 6.6 feet it becomes a deep water habitat in the classification system the State uses.

Mr. Buber referred to the Minutes of May 25, 2010 (line 458 and 459) "Mr. Long said that "they" use the 1979 Fish and Wildlife Services Classification of Wetlands and Deepwater Habitats to define wetlands". He asked for clarification on who "they" were. Mr. Long said that he works for GZA Environmental Services, Newmarket, NH formally known as NHSC Environmental Inc. Mr. Buber asked if the aforementioned document was submitted into evidence. Mr. Long said that he had submitted information on classifications from the publication dated December 1979. Mr. Buber asked if the 1987 federal manual for a "wetland", referred to in the May 25, 2010 minutes, was submitted into evidence. Mr. Long did not submit the manual but submitted a copy of RSA 482-A – Title L Water Management and Protection.

Mr. Long referred to a Section of RSA 482-A under Administrative Rules Ent-Wt 301.01 – Delineation of Wetlands Boundaries and quoted "Wetlands shall be delineated on the basis of hydrophytic vegetation, hydric soils, and wetlands hydrology in accordance with the techniques outlined in the Corps of Engineers Wetlands Delineation Manual, Technical Report Y-87-1, January, 1987.

Mr. Buber read sections from a copy of *Classification of Wetlands and Deepwater Habitats of the United States*. It states that there is no single, correct sound definition for wetlands because of the diversity of

wetlands and the demarcation between dry and wet environments. Mr. Buber said that Dr. Lord has referred to this document and agrees with his analysis that it is an ecological classification, not a regulatory or statutory definition.

Mr. Long submitted a copy of the definition of “wetlands” from the Army Corps of Engineers. The same definition is used by the State.

Mr. Buber referred to page 20 of the copy of RSA 482-A submitted by Mr. Long. He read Section Env-Wt 101.103, “Wetland” means “wetlands”, as defined by RSA 482-A:2.X namely “an area that it inundated or saturated by surface water or ground water. Mr. Buber said that “saturated” and “inundated” do not mean the same thing to him. He said that North Hampton adopted Chapter 482-A when defining wetlands and has nothing to do with the Army Corps of Engineers or the 1987 federal manual. Mr. Buber said that the town has the right to adopt its own definitions as long as they don’t supersede the State laws.

Mr. Buber read portions of RSA 674:55 – Wetlands, *Where ever the term “wetlands,” whether singular or plural, is used in regulations and ordinances adopted pursuant to this chapter, such term shall be given the meaning in RSA 482-A:2,X and the delineation of wetlands for purposes of such regulations and ordinances shall be as prescribed in rules adopted under RSA 482-A.* Mr. Buber said that he did not see how the other publications matter when North Hampton’s regulations and RSA 482 are very specific and “linked” together.

Mr. Long referred to a copy of North Hampton’s definition of wetlands, and it was determined that he was using an obsolete definition.

Mr. Long said that when Section 411 of the ordinance was adopted there wasn’t the scientific research that there is today.

Mr. Buber said that the issue at hand is the delineation of where the “wetlands” are.

Mr. Coldwell explained that any soil scientist in the State that went out to delineate a “wetland” pursuant to RSA 482-A on the Horne property would include the light blue shaded area depicted on the map of the Horne property as “wetlands”. Mr. Long concurred.

Ms. Peckham allowed Mr. Field a 30-second rebuttal.

Mr. Field said that it has been conceded that Section 411 of the Ordinance was adopted in 1979 and that neither the Classification of Wetlands and Deepwater Habitats of the United States or the 1987 federal manual were in existence when it was adopted. Mr. Field said that Section 411 should be redesigned or reconstructed to include the updated information if the Town chooses to do so. He said that the Board needs to consider the information available when the ordinance was written and not interject information that came into effect after the fact.

Mr. Pelech entered letters into the record; copies were distributed to the members.

- Letter from Helen Flynn, 106 Mill Road, requesting the Board to be fair and impartial regarding the Horne decision.

- Letter from Michelle Perkins, 108 Mill Road, requesting the Board to be fair and impartial regarding the Horne decision.

Ms. Peckham said that case will remain open to give the opportunity to anyone wishing to speak “for” or “against” the application.

Mr. Field submitted a letter from Carolyn Congdon, 116 Mill Road into the record.

Ms. Peckham suggested that the case be continued to the next meeting.

Mr. Buber Moved and Mr. Stanton seconded the Motion to continue case #2010:02 – Peter Horne to the June 22, 2010 Meeting.

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

Ms. Lermer stepped down.

Mr. Field was reseated and resumed the Chair.

Other Business

Mr. Field said that the meeting tonight is an open agenda and will be continued to June 22, 2010.

Mr. Field suggested tabling the discussion on Alternates to the next Meeting.

Mr. Stanton suggested noticing the alternate vacancies on the website. Mr. Buber suggested that the Board should first come up with a procedure on appointing alternates before noticing it.

The Board is in receipt of a letter of interest from Mr. Robert Landman and Mr. James Kierstead to serve as Alternates on the ZBA.

The Board decided to take up the discussion of Alternates at the June 22, 2010 Meeting.

Mr. Field asked to have the public notification signed by the Zoning Administrator and the Board had no objection.

Mr. Field said that he would also like to discuss the non-public session that was conducted on March 23, 2010. Mr. Field said that he would like to discuss it further at another meeting. He would also like to discuss RSA 91-A – the right to know law.

Mr. Field forwarded information to the members on his meeting with Mr. Fournier pertaining to proper protocol when dealing with Town Staff and asked for any comment. Mr. Fournier will be forwarding information.

Mr. Lagassa noted his objection to receiving information pertaining to the Horne case from Mr. Ganotis so late in the day. Ms. Peckham said that it is no different from when the applicant or abutters submit evidence at the Meeting.

Mr. Field said that information should be allowed to be admitted into evidence on cases that are still “open”.

518

519 **Mr. Stanton Moved and Mr. Buber seconded the Motion to continue Case 2010:02 – Peter Horne on**
520 **June 22, 2010 and to adjourn this meeting at 10:18pm.**

521 **The vote was unanimous in favor of the Motion (5-0).**

522

523 Respectfully submitted,

524

525 Wendy V. Chase

526 Recording Secretary

527

528 Approved June 22, 2010