



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, July 27, 2010 at 6:30pm
Mary Herbert conference Room**

6

7
8 These minutes were prepared as a reasonable summary of the essential content of the meeting, not as a
9 transcription. All exhibits mentioned in these minutes are a part of the Town Record.

10
11 **Attendance**

12
13 **Members present:** Robert B. Field, Jr., Chair; Richard Stanton, David Buber, and George Lagassa

14
15 **Members absent:** Michele Peckham, Vice Chair

16
17 **Alternates present:** Jennifer Lerner

18
19 **Staff present:** Wendy Chase, Recording Secretary

20
21 **Preliminary Matters; Procedure; Swearing in of Witnesses; Recording Secretary Report**

22
23 Mr. Field convened the Meeting at 6:30pm.

24
25 Mr. Field Invited the Board members and those in attendance to rise for a Pledge of Allegiance.

26
27 Mr. Field noted that reciting the Pledge of Allegiance is for those who choose to do so and has no
28 bearing on the decision making of the Board or the rights to appear before the Board.

29
30 Mr. Field seated Ms. Lerner for Ms. Peckham.

31
32 Mr. Field introduced the Members of the Board.

33
34 Ms. Chase reported that the July 27, 2010 ZBA Agenda was properly posted on July 12, 2010 at the Town
35 Clerk's Office, Town Office and Library. The Agenda was not published in the newspaper because there
36 were no new applications.

37
38 **Minutes**

39
40 **June 22, 2010** – Typographical and grammatical changes were made to lines 13, 86, 179 and 180 of the
41 Minutes; there were no substantive changes.

42 **Mr. Stanton Moved and Mr. Buber seconded the Motion to approve the June 22, 2010 Minutes as**
43 **amended.**

44 **The vote passed (4-0-1). Ms. Lerner abstained.**

45 **Unfinished Business**46 **1. 2010:02 – Peter Horne, Trustee F.S. 123 Nominee Trust, PO Box 1435, North Hampton, NH 03862.**

47 The Applicant requests a variance from Article IV., Section 411 to allow a body of water to be used to
48 satisfy minimal lot area requirement; in the alternative, the Applicant requests a variance from Article
49 IV., Section 406 to allow lot areas of 75,000 s.f. and 68,480 s.f. where 87,120 s.f. is required. Property
50 owner: Peter Horne, Trustee F.S. 123 Nominee Trust; property location: 112 Mill Road; M/L 006-147-
51 002; zoning district R-2. The Application was submitted on December 29, 2009. This case is continued
52 from the June 22, 2010 Meeting.

53

54 In attendance for this Application:

55 There was no one in attendance for this Application.

56

57 The Board was in receipt of a letter from Attorney Bernard Pelech requesting a continuance of Case
58 #2010:02 – Peter Horne to the August Meeting, so that a full complement of the Board would be
59 present to take action on the Application. It was noted that Mr. Pelech's letter was dated June 18, 2010
60 and received by the Town on July 19, 2010.

61

62 Mr. Field explained to the Board that he would not be available for the August 24, 2010 Meeting, and
63 asked the Board Members if they would consider changing the Meeting date to August 31, 2010. The
64 Board had no objections.

65

66 **Mr. Buber Moved and Mr. Stanton seconded the Motion to change the Meeting date from August 24,**
67 **2010 to August 31, 2010, and to continue case #2010:02 – Peter Horne to the August 31, 2010**
68 **Meeting.**

69

70 Ms. Lerner voiced concern over whether or not Ms. Peckham would be available on August 31st,
71 because if she were not, it would leave the Board in the same predicament of not having a full
72 complement of the Board.

73

74 The Board agreed to cross that hurdle if need be.

75

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

77

78 **2010:01 – Francois Boueri, C/O Wholey & Pelech Law Office, PO Box 395, Portsmouth, NH 03802.** The
79 Applicant requests a variance from Article IV., Section 406.1 to allow a front setback of 28-feet where
80 35-feet is required to allow a 10' x 18' addition to the front of the existing structure, and a variance from
81 Article IV., Section 409.9.1 to allow a wetlands setback of 15-feet where 50-feet is required to allow a
82 24' x 24' addition to the rear of the existing structure. Property owner: Jean Moran, 862 Jefferson Way,
83 West Chester, PA 19380; property location: 66 Woodland Rd; M/L 006-108; zoning district R-2. This case
84 is continued from the April 27, 2010 ZBA Meeting. The application was filed on December 29, 2009.

85

86 In attendance for this Application:

87 There was no one in attendance for this Application

88

89 The Board was in receipt of a copy of an E-Mail sent from Attorney Pelech's Office informing the Board
90 that Case #2010:01 would not be presented this evening.

91

92 Mr. Buber noted that case #2010:01 – Francois Boueri was presented by Mr. Pelech on January 26, 2010
93 and continued to the March 23, 2010 Meeting, and then continued to the July 27, 2010 Meeting.

94

95 Mr. Stanton commented that there has been a significant amount of time that has passed since the first
96 presentation of case #2010:01, and suggested that the case be re-noticed at the expense of the
97 Applicant.

98

99 Mr. Field asked Ms. Chase to notify Mr. Pelech's Office tomorrow that the Board voted to change their
100 Meeting date from August 24, 2010 to August 31, 2010, and to also inform them that Case# 2010:01 –
101 Francois Boueri will need to be notified at the expense of the Applicant.

102

103 **Mr. Stanton Moved and Ms. Lerner second the Motion to continue Case #2010:01 – Francois Boueri**
104 **to August 31, 2010 provided that the Abutters are notified by certified mail at the Applicant's**
105 **expense.**

106

107 Ms. Lerner asked if there were any other applications before the board scheduled for the August
108 Meeting. Ms. Chase informed the Board that as of today there were no new applications before the
109 Board for the August Meeting; the Application deadline is Friday, July 30, 2010.

110

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

112

113 The Board was in receipt of a letter from Jerome Day and a letter from the Conservation Commission
114 concerning the Horne case #2010:02. Mr. Stanton suggested tabling any action taken on the letters until
115 the August 31, 2010 Meeting when Ms. Peckham would be present.

116

117 Ms. Lerner noted for the record that the Horne case #2010:02 was continued to August at Mr. Horne's
118 Attorneys' request, and not the Board's.

119

120 **Mr. Stanton Moved and Mr. Buber seconded the Motion to acknowledge receipt of the two letters**
121 **and to table any discussion and decision on those letters until August 31, 2010, and ensure that Mr.**
122 **Horne or through his Attorney Mr. Pelech has copies of each.**

123 **The vote passed in favor of the Motion (4 in favor, 0 opposed and 1 abstention). Mr. Field abstained**
124 **because he has recused himself from the Horne case #2010:02.**

125

126 Mr. Stanton noted for the record that the letter from the Conservation Commission is dated June 7,
127 2010 and received by the Town on July 15, 2010, and Mr. Jerome Day's letter is dated July 23, 2010.

128

129 **New Business**

130

131 There was no new business before the Board.

132

133 **Other Business**

134

135 **Status/Selection Alternates** – Mr. Field noted that the Board has two Alternate Member vacancies for a
136 term to expire in 2011 and two vacancies for a term to expire in 2013. The Board received letters from
137 Mr. Robert Landman, Mr. Kierstead and Mr. Turchan indicating that they would like to be considered as

138 Alternates to the Zoning Board. Mr. Kierstead withdrew his letter of interest dated June 30, 2010. Mr.
139 Landman requested a term to expire in 2013 and Mr. Turchan requested any term available.

140
141 Ms. Lerner suggested that Alternate Members receive same packet of information as the Primary Board
142 Members receive for each Meeting. She explained that Alternate Members are sometimes called at the
143 last minute to sit in on a case and are unprepared because they were not given the opportunity to
144 review and digest the case information.

145
146 The Board agreed, and voted on changing the Rules of Procedure and all documents where it states the
147 number of copies the Applicant is responsible for providing to the Board from 11 to 13 copies so that
148 each Alternate will be supplied with the same information as the Primary Members.

149
150 **Mr. Stanton Moved and Mr. Buber seconded the Motion to change the Rules of Procedure on page 1,**
151 **paragraph 1.D. - Site plan, from 11 copies to 13 copies.**

152
153 Mr. Field said pursuant to Section 9, Subsection A – Amendments/Waivers of the Rules of Procedures
154 that the Board make the following amendments:

- 155 • Instructions for Appeals to the ZBA - **1. General Provisions Subsection d. - Site Plans** - change
156 Eleven (11) copies to Thirteen (13) copies
- 157 • **Section 6 – Application Decision Subsection B. 5.** - change Eleven (11) copies to Thirteen (13)
158 copies
- 159 • **Section 7 – Board Communications, Subsection D** - change Eleven (11) copies to Thirteen (13)
160 copies.

161
162 **Mr. Stanton Moved and Mr. Buber seconded the Motion to amend the Rules of Procedures listed**
163 **above.**

164 **The vote passed in favor of the Motion (4-0). (Voted on by Primary Members only).**

165
166 Mr. Field suggested the Board discuss the ZBA Vacancy Administrative Procedure. Mr. Buber offered the
167 majority of the following changes (shown in *italic*) to the current Alternate Vacancy Administrative
168 Procedure:

169
170 **A. PURPOSE:**

171 This policy provides guidance to both the general public and *the Zoning Administrator regarding*
172 *the procedures interested persons should follow for Board consideration during the selection*
173 *process of qualified town residents for the filling of Alternate Member and Primary Member*
174 *vacancies until the next Town Election.*

175 **Mr. Stanton Moved and Mr. Lagassa seconded the Motion to approve the above amendments.**
176 **The vote was unanimous in favor of the Motion (5-0).**

177
178 *It also provides a formal written record of the appointment process for Town records. The*
179 *Zoning Administrator shall be responsible for administering these policies and procedures.*

180 **Mr. Stanton Moved and Ms. Lerner seconded the Motion to approve the above amendments.**
181 **The vote was unanimous in favor of the Motion (5-0).**

182
183 **Mr. Buber Moved and Mr. Stanton seconded the Motion to change Alternate Board Member to**
184 **Alternate/Primary Board Member in paragraph one under Section B – Filling Vacancies.**

185 **The vote was unanimous in favor of the Motion (5-0).**
186

187 **Mr. Stanton Moved and Mr. Lagassa seconded the Motion to keep the notice given by the Zoning**
188 **Administrator at the discretion of the Board of vacant or expiring Alternate/Primary positions to 21-**
189 **days.**

190 **The vote was unanimous in favor of the Motion (5-0).**
191

192 **It was a consensus of the Board to change the word “citizen” to “resident” on line 2 and line 8 of**
193 **paragraph 2.**
194

195 **The letter of intent shall include identification of the position and term sought, a brief description of**
196 **the applicant's qualifications and experience to fill the position, and/or a brief statement as to why**
197 **the applicant wishes to fill the position. *The letter must be dated and signed by the applicant with an***
198 ***original signature. The Board will not accept letters sent via email, facsimile or other forms of***
199 ***electronic transmission.***
200

201 **Mr. Buber Moved and Mr. Stanton seconded the Motion to approve the above amendment.**
202 **The vote was unanimous in favor of the Motion (5-0).**
203

204 *Interviews will be conducted at a public meeting of the Board.*
205

206 **Mr. Buber Moved and Ms. Lerner seconded the Motion to approve the above amendment.**
207 **The vote was unanimous in favor of the Motion (5-0).**
208

209 **C. APPOINTMENT PROCESS:**

210 *Each letter of intent will be considered by the Elected Members of the Board during the selection*
211 *process. All applicants will be invited to address the Board at a public meeting during which*
212 *each applicant will be provided the opportunity to make a brief statement of interest and*
213 *qualifications. Each applicant will be allowed to speak for up to 3 minutes at the podium*
214 *followed by questions from the Board, if any. All applicants will be vetted by the Board. There*
215 *will be no public participation allowed during this process. The Chair shall seek separate*
216 *motions for appointments for each vacancy to be filled, if any, and for the term specified.*
217 *Applicant(s) receiving the majority of the votes by Elected Members will be appointed to fill the*
218 *vacant position(s).*
219

220 **Mr. Buber Moved and Ms. Lerner seconded the Motion to approve the above amendments.**
221 **The vote was unanimous in favor of the Motion (5-0).**
222

223 *In order to be qualified as an Alternate or Primary Member of the Board all appointees shall*
224 *make and subscribe the oath or declaration as prescribed by Part 2, Article 84 of the Constitution*
225 *of New Hampshire within ten (10) business days of their appointment.*
226

227 **Mr. Lagassa Moved and Ms. Lerner seconded the Motion to approve the above amendments.**
228 **The vote was unanimous in favor of the Motion (5-0).**
229

230 **It was a consensus of the Board to change the word “than” to “then” in the last sentence under F. –**
231 **Resignations and to underline each paragraph heading within the document.**

232 Mr. Field asked that Ms. Chase provide a final version of the vacancy procedure document to each
233 member and to designate the adoption of it as an Agenda item for the August Meeting.

234

235 Mr. Stanton suggested adopting the amended Vacancy Procedure this evening.

236

237 Mr. Buber noted that Primary Member Ms. Peckham was not present to vote on it.

238

239 **Mr. Stanton Moved and Mr. Buber seconded the Motion to adopt the North Hampton Zoning Board of**
240 **Adjustment Vacancy Procedure now known as Appendix C, Attachment 1 effective 27 July 2010 as**
241 **amended by both vote and consensus through the editing process, and therefore will change the table**
242 **of contents to reflect the same, as well as the record of changes, so each Member will have a**
243 **completed copy for the next meeting.**

244 **The vote was unanimous in favor of the Motion (4-0). (Vote taken by Primary Members only).**

245

246 **Mr. Stanton Moved to invite the two Alternate Applicants to the August Meeting and that the Board**
247 **consider holding a separate Meeting to consider the two Applicants.**

248 **There was no second, the Motion failed.**

249

250 Mr. Field asked Ms. Chase to invite the two Alternate Applicants to appear before the Board at the
251 August 31, 2010 Meeting, and to place them on the Agenda as the first item of business.

252

253 Mr. Stanton said that, in his opinion, the Board should set a goal to go to a full complement of
254 Alternates, and that the Board can make a decision on a month by month basis.

255

256 Mr. Field suggested posting the Alternate vacancies in the same manner as the Board did at the end of
257 June, but not to commit the Board to post beyond the August Meeting until after review, which will be
258 done on a month by month basis.

259

260 Mr. Stanton suggested adding to the notice that those interested can plan on being interviewed at the
261 August 31, 2010 Meeting. The Board agreed to set the cutoff date on Friday, August 27, 2010 and begin
262 noticing on Friday, August 6, 2010.

263

264 The following changes were made to the Alternate Vacancy notice:

265

- Change #4 to *Applicants can anticipate being invited to appear before the Board at a public meeting on August 31, 2010.*

266

- Change the original #4 to #5 *Following the Public Meeting, each candidate will be notified in writing of the findings and appointment decisions made by the Board, if any; and, it should be emphasized that the Board is not under any legal obligation to make an/or any Alternate appointment(s).*

267

268

269

270

271

272 **Non-Public Meeting Minutes March 23, 2010** – Mr. Field said that he would defer any action on the
273 Non-Public Meeting of March 23, 2010 until Ms. Peckham is present.

274

275 **ZBA Rules of Procedure change/addition** - The Board agreed that at some point the Rules of
276 Procedure should be thoroughly reviewed by the Board to determine whether or not any changes or
277 amendments need to be made to them.

278

279

280 **Any other business to come before the Board -**

281

282 Ms. Chase will forward a copy of the amended ZBA Vacancy Administrative Procedure to Mr. Buber to
283 proofread, and then send out a copy to each of the Members.

284

285 Mr. Field reported to the Board that he wrote to Steve Fournier to ask how the protocol to use the
286 Administrative Assistants was going to be set up and has not heard back from him.

287

288 Mr. Field asked Mr. Lagassa, Member of the Ad hoc Code of Ethics Committee, representing the ZBA, to
289 briefly report to the Board on his future meetings with the Ad hoc Code of Ethics Committee. Mr. Field
290 indicated that as individual public citizens all Members may take an active interest in the business of
291 the Ad hoc Committee on their own devices.

292

293 Mr. Lagassa said that he has no problem reporting back to the Code of Ethics Committee any concerns
294 the ZBA has as a Board; not particular individuals concerns or comments.

295

296 Ms. Chase was given permission to order the booklets from the LGC on the five variance criteria for
297 each Member of the Board including Alternates.

298

299 **Mr. Stanton Moved and Mr. Buber seconded the Motion to adjourn at 8:02pm.**

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

301

302 Respectfully submitted,

303

304 Wendy V. Chase

305 Recording Secretary

306

307 **Approved August 31, 2010**