



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, September 28, 2010 at 6:30pm
Mary Herbert conference Room**

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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:** Michele Peckham, Vice Chair; Richard Stanton, David Buber, and George Lagassa

14
15 **Members absent:** Robert B. Field, Jr.

16
17 **Alternates present:** Jennifer Lerner

18
19 **Staff present:** Richard Mabey, Code Enforcement Officer/Building Inspector, and Wendy Chase,
20 Recording Secretary.

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

23
24 Ms. Peckham convened the meeting at 6:30pm, and introduced the Members of the Board and Staff.

25
26 Ms. Peckham invited the Board Members and those in attendance to rise for a Pledge of Allegiance.

27
28 Ms. Chase reported that the September Agenda was posted on September 13, 2010 at the Town Office,
29 Town Clerk's Office and Library.

30
31 Ms. Peckham assumed the Chair in Mr. Field's absence.

32 Ms. Peckham seated Ms. Lerner for Mr. Field.

33
34 **Unfinished Business**

35
36 **1. 2010:02 – Peter Horne, Trustee F.S. 123 Nominee Trust, PO Box 1435, North Hampton, NH 03862.**

37 The Applicant requests a variance from Article IV., Section 411 to allow a body of water to be used to
38 satisfy minimal lot area requirement; in the alternative, the Applicant requests a variance from Article
39 IV., Section 406 to allow lot areas of 75,000s.f. and 68,480 s.f. where 87,120 s.f. is required. Property
40 owner: Peter Horne, Trustee F.S. 123 Nominee Trust; property location: 112 Mill Road; M/L 006-147-
41 002; zoning district R-2. The Application was submitted on December 29, 2009. This case is continued
42 from the August 31, 2010 Meeting.

43

ZBA Meeting Minutes

44 In attendance for this application:

45 Attorney Pelech, Wholey & Pelech Law Offices

46

47 Ms. Peckham addressed the two letters sent to the Board by Attorney Pelech by giving a brief synopsis.
48 The letter dated September 3, 2010 to the Board indicates that the Applicant would like to continue his
49 case #2010:02 to the October 26, 2010 Meeting, and that both "parties" involved are agreeable to it.
50 The letter dated September 14, 2010 indicates that the "parties" have been engaged in negotiations and
51 resolutions in the case, and they suggested that the Board contact the Town's Attorney to discuss
52 potential resolutions of the case; the two "parties" are agreeable to discuss the potential resolutions
53 with the Board in a non-public meeting.

54

55 Ms. Peckham requested comments from the Board.

56

57 Mr. Stanton said that it's unusual to request a non-public session for something that might lead to a
58 potential law suit. He said that the ZBA always runs the risk of being sued by either party on any
59 decision, and the key to successful court challenges is to do everything in a proper manner. It was in Mr.
60 Stanton's opinion that the Board not entertain going into non-public session. Mr. Stanton said that in
61 the best interest of the Applicant, the Board should proceed in their normal deliberative fashion and
62 reach a decision on case 2010:02. He said that he is also opposed to granting the continuation request.
63 Mr. Stanton informed the Board that he will not be at the October 26, 2010 ZBA Meeting.

64

65 Mr. Lagassa said that after reading the letters from Attorney Pelech, he concurred with Mr. Stanton and
66 questioned whether the Board could legally go into non-public session as requested by the Applicant
67 and Objector.

68

69 Ms. Peckham said that after she received the letters from Attorney Pelech she presented them to the
70 Town Administrator, Steve Fournier, who gave her permission to consult with the Town's Attorney. Ms.
71 Peckham said that Town Counsel replied to her and said that the request for non-public session does not
72 fall within the State Statute.

73

74 Mr. Buber said that he was against having a non-public session as requested in Attorney Pelech's letter,
75 but has no issue with granting the request for a continuance of case 2010:02. He suggested that if there
76 were no objections, the Board grant the continuance to November 30, 2010.

77

78 Ms. Peckham said that she is in favor of the continuance request because it was requested by the
79 Applicant and it would be beneficial for Mr. Field to be present to hear the deliberations in case the
80 decision is unfavorable to him and he chooses to take the matter further with appeals.

81

82 Mr. Pelech had no objections to continuing case #2010:02 to the November 30, 2010 Meeting.

83

84 Ms. Lermer had no objections to the continuance request.

85

86 Mr. Stanton asked if the case would be opened to more public input, and Ms. Peckham said, "No". She
87 explained that the Public Hearing has been closed and that they will be moving forward with Board
88 deliberation.

89

90 Mr. Buber suggested that if a new application is submitted, as stated in Mr. Pelech's September 3, 2010
91 letter to the Board, that it be placed as the first order of business for the November 30, 2010 Meeting.

92 He said that it would behoove everyone involved to reach an amicable resolution, and as an outcome of
93 that discussion the Board can then proceed with deliberations for case 2010:02.

94

95 **Mr. Buber Moved and Ms. Peckham seconded the Motion to continue case #2010:02 – Peter Horne to**
96 **the November 30, 2010 Meeting.**

97 **The vote passed in favor of the Motion (4 in favor, 1 opposed and 0 abstention). Mr. Stanton opposed.**

98

99 The Board discussed the new proposal that may be submitted by Attorney Pelech, and Mr. Buber
100 suggested that, if submitted, it be placed as the first order of business on the Agenda.

101

102 Ms. Peckham said that Mr. Pelech can work with Ms. Chase when and if the new proposal is submitted.

103

104 **Other Business**

105

106 **Minutes**

107

108 **August 31, 2010 Minutes** – typographical and grammatical changes were made to the Minutes.

109 **Mr. Stanton Moved and Mr. Buber seconded the Motion to approve the August 31, 2010 Minutes as**
110 **amended.**

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

112

113 Mr. Lagassa updated the Board on the Code of Ethics Ad hoc Committee. He said that there are no new
114 members of the general public serving on the Committee, but if anyone is interested in participating
115 they would be welcomed by the Committee. He explained that the members reviewed copies of
116 adopted Code of Ethics from various municipalities, and from the Executive Branch. The Committee
117 favored the Code of Ethics from the Towns of Merrimack, New Durham, Bedford and the City of Dover.
118 He said that the Committee agreed that the document they prepare will be in three parts (1) state the
119 purpose and preamble, (2) the actual code itself and (3) an adjudication process. The Committee agreed
120 to include a list of principals as the core of the Code. He said that the Committee plans to have a first
121 draft completed by January 15, 2011 and the final draft to be completed by February 15, 2011.

122

123 Mr. Lagassa said that the Committee was favorably disposed to appointing a “standing committee” to
124 avoid politics and conflicts of interest. He said that the “standing committee” would consist of a
125 representative from each of the elected bodies, appointed on a yearly basis. The next meeting is
126 scheduled for October 6, 2010 at 2:00pm.

127

128 Ms. Peckham said that after last month’s Meeting there was concern voiced by some of the Members
129 regarding safety issues. She said that it is very dark in the parking lot at night and some Meetings end
130 very late at night. Ms. Peckham contacted the Police Department and they suggested a call be placed
131 after the Meetings which would be forwarded to the Dispatch Center, and they would dispatch a Police
132 Officer to the Town Hall to escort people to their vehicles.

133

134 Mr. Stanton reminded the Members that the annual fall Planning and Zoning Conference offered by the
135 Office of Energy and Planning (OEP) is scheduled for Saturday, November 13, 2010. He said that he
136 attended it last year and it was a worthwhile experience.

137

138

139 **Mr. Buber Moved and Mr. Lagassa seconded the Motion to adjourn the Meeting at 7:00pm.**
140 **The vote was unanimous in favor of the Motion (5-0).**

141
142 Respectfully submitted,

143
144 Wendy V. Chase
145 Recording Secretary

146
147 **Approved October 26, 2010**