



**Meeting Minutes  
Town of North Hampton  
Zoning Board of Adjustment  
Tuesday, September 27, 2010 at 6:30pm  
Town Hall**

6

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 B. Field, Jr., Chair; Michele Peckham, Vice Chair (arrived at 6:50pm); David Buber, George Lagassa, and Phelps Fullerton.

**Members absent: None.**

**Alternates present:** Lisa Wilson, Dennis Williams and Robert Landman.

**Staff present:** Wendy Chase, Recording Secretary.

**I. Preliminary Matters.**

**Call to order; Pledge of Allegiance; Roll call/Introduction of Members/Alternates; Recording Secretary Report; Swearing in of Witnesses (RSA 673:15); Preliminary Matters; Minutes of Previous Meeting – August 23, 2011.**

Chair Field called the Meeting to Order at 6:30pm.

Pledge of Allegiance -Mr. Field invited the Board Members and those in attendance to rise for a Pledge of Allegiance and noted that reciting the Pledge of Allegiance is solely for those who choose to do so and failure, neglect or inability to do so will have no bearing on the decision making of the Board or the rights of an individual to appear before, and request relief from, the Board.

Introduction of Members and Alternates -Mr. Field introduced Members of the Board and acknowledged the Alternate Members present (stated above).

Chair Field seated Ms. Wilson for Ms. Peckham.

Recording Secretary Report - Ms. Chase reported that the September 27, 2011 Agenda was properly posted on September 12, 2011 in the Portsmouth Herald and at the Library, Town Clerk's Office, Town Office and the Town's website.

Swearing In Of Witnesses – Pursuant to RSA 673: 14 and 15, Chair Field swore in all those who were present and who intended to act as witnesses and/or offer evidence to the Board in connection with any Case or matter to be heard.

Chair Field explained the Board's operating Rules and Procedures.

**Minutes – August 23, 2011** – Chair Field referred to the portion of the Minutes regarding the vote on Case #2011:04 - John Normand. He said that subsequent to the vote, the Rockingham County Registry of Deeds returned the "Septic Plan" to the Town indicating that they could not record the septic design plan. The Zoning Administrator, Wendy Chase, received a copy of a document that was recorded by Stockton Septic Services regarding the septic system. She informed the Board that she sent the decision letter and the Building Inspector's letter to the Registry and both documents were recorded. The Board reviewed a copy of the document recorded by the Septic Designer. The Chair, who was not present at the August 23<sup>rd</sup> meeting, asked if the document reviewed was what the Board intended to be recorded at the Registry of Deeds. Mr. Landman said that the Board intended to have the map, submitted at the Meeting, recorded at the Registry. Chair Field asked the Board to confirm whether or not it was the Board's intention that a Plan, delineating the exact location of the septic field and septic systems, be recorded at the Registry of Deeds along with the Decision Letter. The Board confirmed that to be true. Chair Field said that his suggestion to the Board would be to advise the Applicant that the decision is suspended until conformity with that filing is in place and certified to the Recording Secretary. Chair Field said that it was in his opinion that the Registry did not accept the Plan as submitted because it was not properly "signed" and "sealed". Mr. Buber inquired whether or not the Registry would record the Plan once it was "signed" and "sealed". Chair Field said that in the absence of any other reason, he didn't see any reason why the Registry of Deeds would not record the Plan with the appropriate "signatures and seals".

**Chair Field invited a Motion from a Member of the Board to suspend the approval as set forth in the August 24, 2011 decision letter until such time as a plan, in properly recordable form, is presented to the Zoning Administrator for the Zoning Administrator to deliver to the Rockingham County Registry of Deeds for recording. Moved by Mr. Buber and Seconded by Mr. Lagassa. The vote passed in favor of the motion (4 in favor 0 opposed and 1 abstention). Ms. Wilson abstained.**

Chair Field asked Ms. Wilson to step down, and seated Mr. Landman to address the August 23, 2011 Meeting Minutes because he served as an Alternate in the Chairman's stead at the August 23, 2011 Meeting. Typographical corrections were made to the Meeting Minutes.

**Mr. Landman Moved and Mr. Fullerton seconded the Motion to approve the August 23, 2011 Meeting Minutes as amended.**

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

Mr. Landman stepped down.

Ms. Wilson rejoined the Board.

Chair Field explained that Board Member Michele Peckham requested the Chair change the order of the Agenda because she was going to be late for the Meeting and planned to recuse herself from the second Case #2011:07 – Glenn Martin. Chair Field ruled in favor of Ms. Peckham's request to change the order of the Agenda, and take up Case #2011:07 first, before Case #2011:06 – John and Pamela Bateman.

Chair Field noted for the record that he was recently advised that the Conservation Commission met on September 13, 2011 and considered Case #2011:07. A letter was sent to the Zoning Board yesterday, September 26<sup>th</sup> stating that they were unable to render an opinion because the record they received was incomplete. The letter mentioned that if the Applicant were to request a continuance to next month's meeting they would seek the additional information and take it up at their next Conservation Commission Meeting and have an opinion ready for next month's ZBA Meeting.

Chair Field said that he wanted to make it clear that it is New Hampshire practice that if a Variance Application is denied, an Applicant is not generally permitted to bring forth the same, or substantially similar, request for relief for a lengthy period of time. He stated that the law seeks finality as to Zoning Decisions.

**#2011:07 – Glenn Martin, 150 Mirona Road, Portsmouth, NH 03801. Property Location: 9 Hampshire Road, North Hampton, NH; M/L 007-136; zoning district: R-1.** The Applicant requests Variances from Article IV, Sections 406 – Yard and Lot Setback Requirements to allow a “building envelope” that would accommodate a two (2) bedroom house 17 +/- feet from the side setback where twenty-five (25) feet is required; Article IV, Section 409.9.A.2 – Buffer Zone Restrictions Undeveloped Lots of Record, to allow a “building envelope” 15 – 25 +/- feet from the wetlands buffer where fifty (50) feet is required; and Article IV, Section 409.8.a – Prohibited Uses in Wetland Conservation District, to install a septic leach field 67 +/- feet within the Wetlands Conservation District where seventy-five (75) feet is required. Property owner: Glenn Martin, 150 Mirona Road, Portsmouth, NH 03801.

In attendance for this application:

Sandy Breton, Breton Septic Consultant

Glenn Martin, Owner/Applicant

Ms. Breton represented Mr. Martin. She informed the Board that she is a New Hampshire Licensed Septic Designer and has fourteen (14) years of experience in site and environmental design and permitting. Her response to the letter from the Conservation Commission was that Mr. Martin attended that meeting and said that the Conservation Commission voted to take “no action” on Mr. Martin's Case. Ms. Breton said that she confirmed with Ms. Chase, via E-mail, that the Conservation Commission received a complete application, the same materials submitted to the Zoning Board. Ms. Breton said that she received a copy of the letter from the Conservation Commission and takes issue with their statement that they did not receive the information they needed.

Ms. Breton stated everything she submitted to the Board, and the Board Members confirmed that they were in receipt of everything stated:

- Application for Relief
- Petition for Variance Page B-3-1 and B-3-3
- The five (5) criteria worksheet
- An agreement between Mr. Martin and the Abutters to the west, Michael and Tamera Saal, dated June 2002. (The Agreement is between Land Owners and does not involve the Town at all).
- Tax Map depicting the location of the lot.
- Abutters list.
- Monumentation sketch prepared by James Verra.

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- Sheets 1, 2 and 3 depicting proposed septic design and layout of the lot along with soils information and other information pertaining to the leach field including setbacks and location of proposed and existing structures.
- Fiduciary Deed
- Letter of authorization
- Letter from the Building Inspector (Ms. Breton did not have a copy of the letter from the Building Inspector, but was aware of it).

Ms. Breton addressed the Conservation Commission letter:

- She said the Conservation Commission received the same materials as the ZBA, including plans that show the specific location of the proposed structure and septic system and their proximity to wetlands and wetland setbacks.
- The Conservation Commission states that they need further supporting details. Mr. Martin was at the meeting and was not informed of the additional information they needed.
- She said that, in her professional opinion, there will be no contamination to “Hobbs Marsh” and the Little River due to this proposal; there will be no impact in the wetlands, but there will be work done in the wetlands buffer due to the size of the lot.
- She said there will be no “grading” other than putting in the lawn.

Mr. Field asked Ms. Breton if she read the report from Mr. Ganotis titled North Hampton’s Little River Continues to Deteriorate at Accelerated levels. She responded that she did not, but did state that she has done a lot of work in this area and is aware of the concerns of the Conservation Commission. Mr. Martin was aware of the document and said it was discussed at the meeting, but he did not discuss the document with Ms. Breton. Mr. Martin said he was surprised by the “tone” of the Conservation Commission’s letter because what was in the letter did not reflect what actually took place at the Meeting.

Mr. Field said that the Conservation Commission has the position that it would like more of an opportunity to examine potential impacts to the wetlands, and Ms. Breton’s opinion is that the project has no impact on the wetlands; therefore she does not feel that the Conservation Commission needs more opportunity to examine it. Ms. Breton said that Mr. Field’s synopsis was basically correct.

Ms. Breton continued addressing the Conservation Commission letter.

- She said that they propose an enviro-septic system, which is “state of the art” technology.
- Wetland delineation on the property was conducted by NH Soils in 1994 and Ms. Breton went out and verified where the wetland line was, and still is, by taking soil samples and inspecting the site by visual observation of the property.
- She said the structure itself conforms to State Administrative Rules.

Ms. Breton addressed the five (5) Variance Criteria:

**1. Would granting this variance be contrary to the public interest?**

This is a lot of record that is “grandfathered” by Zoning Ordinance 406.2.2. The wetlands located on the property are of low value in habitat and conservation. Silt fencing will be added with Best Management Practices to protect the wetlands during construction. The leach field will be located at the front of the

property, furthest from the wetlands, and buffered by the proposed structure. Side setbacks will exceed what has been previously allowed for abutting properties.

**2. Would granting this variance be consistent with the spirit of the ordinance?**

The lot meets the property frontage requirements for a lot of less than 1.0 acre according to Section 406.2.2. Municipal water supply is provided in this neighborhood, and all septic setbacks have been met. The Variance requests are for the Town setback to wetlands for a leach field wetland buffer setback and front and side setbacks in accordance with other lots in the neighborhood.

**3. Would substantial justice be done by granting this variance?**

Substantial Justice will be obtained through the granting of this variance. An agreement between Mr. Martin and the Saals, who abut Mr. Martin on the westerly side, was signed and a precedent was set in granting setback relief for an attached garage to the primary structure, Tax Map 7, lot 135.

Mr. Field commented that the ZBA handles each case on its own merits and because a variance was approved in the past, the Board is under no obligation to approve the same variance request.

**4. Would granting this variance result in diminished values of surrounding properties?**

This is a lot of record that, by variance, will be developed in likeness to the surrounding neighborhood. The neighborhood is substantially complete and built with lesser setbacks due to the time period in which it was developed.

Mr. Field asked if Ms. Breton had a professional opinion on the diminution of value. Ms. Breton responded that she did not; she used her own opinion.

**5. Would literal enforcement of the provisions of the ordinance result in an unnecessary hardship?**

Precedent has already been set by allowing expansion of the primary structure on the westerly abutting property. Unnecessary hardship would certainly occur should this lot be denied the right of development. The property would not be viable with any other type of development.

Mr. Field commented that there are always new engineering techniques and the new septic systems claiming to do "everything", but the Board is finding out that they are not "cracked up" to what they claim to be. Ms. Breton said that maintenance of the proposed septic system includes pumping the tank every two (2) to three (3) years, checking the distribution box and using common sense when putting anything down the drain.

Mr. Martin said that the proposed house would be approximately 1,150 – 1,180 square-feet, two (2) story, two (2) bedroom home with a "walkout" basement.

Mr. Field explained that under the criteria dealing with Public Interest, the Board looks at how the structure sits on the lot and if it will be consistent with the neighborhood. He commented that the Board has nothing showing how the proposed structure looks in relationship to the other houses. He said the Board is being asked to approve a septic system for a two (2) bedroom house without knowing

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how much water usage there will be going into the system, and then not having any control of what will be built.

Ms. Breton said that it would be up to the Building Inspector to approve the house plan and if it did not conform to the Zoning Ordinances the Applicant would be directed to seek relief from the ZBA. She said the whole purpose for the variance requests is to make the lot "saleable", and that if the owners of the lot that were building the house did not meet the Zoning Ordinances then they would need to apply for variances.

Mr. Martin explained that his Grandfather was the original developer of the subdivision in 1961 and that there were fifty-two (52) lots; his lot is the last of any original lot in the development.

Chair Field opened the Public Hearing to those in favor of the Application:

**Arthur Nadeau, 34 Pine Road** – said that he was at the Conservation Commission Meeting on September 13<sup>th</sup> and the Commission voted to take "no action" on Mr. Martin's Case. He said that the letter submitted to the ZBA by the Commission does not reflect how the Conservation Commission voted at the Meeting. He said many neighbors dump their leaves and debris on the vacant lot. Mr. Nadeau commented that most of the houses in the subdivision were built by the same builder and built before there was a Zoning Board.

**Don Corcoran, 11 Hampshire Road** – said he does not object to Mr. Martin developing his lot but has concerns that a house so close to his lot line might diminish his property value and affect his privacy. He said a proposal for a smaller house that would not require variances to the side setbacks would be more prudent.

**Michael Saal, 7 Hampshire Road** – said He and Mr. Martin have a signed Agreement (a copy submitted by the Applicant) pertaining to the westerly side setback which he has no objection to. He said his primary objection is that there is no "plan". He said all the water runoff from surrounding properties runs around his property and settles in the back of Mr. Martin's lot. He is concerned with the surface water runoff and how it would affect his lot if the subject lot was developed.

**Floris Peters, 6 Hampshire Road** – said that she has lived at 6 Hampshire Road for 43 years and is concerned that the leach field will be put in above grade and diminish her property values. She said sometimes septic systems get approved and if they fail they are replaced in a manner that is way above grade. Ms. Breton referred to the plan and said that the leach field will be 24-inches below grade and 2-feet above the road.

**William Needham, 15 Hampshire Road** – said he is opposed to the application because the area is very wet and the lot and the lot behind it are wet all year. He is concerned that there is no real plan on drainage and is uncertain where the surface water runoff is going to go.

**James Wieczorek, 6 Kimberly Drive** – said that he owns the vacant lot (13-67) on Kimberly Drive and lives at and owns 6 Kimberly Drive. He commented that he had to install a \$10,000 drainage system because the area is so wet. He said that there are two culverts; one is on the right side of his 6 Kimberly Drive property. He said all the water drains into the culverts and goes under Kimberly Drive draining into Hobbs Field. He is concerned that water runoff will go onto his property. He said that he would have no issues with Mr. Martin developing his lot if he met the setback requirements.

**John Killmorgen, 8 Hampshire Road** – said he does not have a professional opinion, but in his own opinion, he felt that a house being built on that lot would result negatively on the value of his property and neighboring properties.

**Ms. Breton's Rebuttal –**

Ms. Breton said that Mr. Corcoran's lot is not much bigger than the Applicant's lot but has a house twice as large as what the Applicant is proposing, and his new leach field is closer to the wetlands than the Applicant's would be.

Ms. Breton said that there are plans attached to the application that show grading and elevations.

Ms. Breton asked if the Abutters that have concerns with surface water runoff had a drainage study done. It was determined that there was no drainage study done by any of the Abutters present. Ms. Breton said that she is not a Soil Scientist, but has a large soils background.

Mr. Fullerton said that it would be helpful to have a Stormwater Management Plan to see how surface water runoff would be dealt with. He commented that it would give the Board a greater comfort level if they knew a drainage plan were in place.

Ms. Breton said they don't typically do drainage studies on ¼ acre lots, and they are not changing much of the grade on the lot.

Ms. Breton explained the septic approval process:

1. The septic design plans are submitted to the Building Inspector, who reviews for conformance with the Town's standards.
2. The plan is submitted to the State of NH DES for approval.
3. If the State denies the plans, the septic is redesigned and submitted to the Building Inspector for review; if the new plans don't meet the Zoning Ordinances the Applicant is directed to seek variances from the Zoning Board.
- 4.

Mr. Field said that there are a lot of "unknowns". He asked if the Applicant would be willing to agree to continue the case to next month in order to gather additional information.

Ms. Breton requested a five minute recess to confer with her Client.

Chair Field called for a five minute recess.

Chair Field reconvened the Meeting at 8:43pm.

Ms. Breton asked what additional information the Board wanted from the Applicant.

The Board requested the following information:

1. Stormwater Management Plan
2. The Applicant to address the five (5) issues stated in the letter submitted by the Conservation Commission and a report from the Conservation Commission relative to the five (5) issues and relative to any environmental impact.
3. The percentage of impervious surface.
4. An actual house plan

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5. A Soils Scientist's verification that the proposed septic system is the best system for that particular lot.
6. The proposed house to be reduced to fifty (50) feet so that it would meet the sideline setbacks and not require a variance to that.
7. Request a variance from the required 100-feet of frontage where 99.88-feet is proposed.

Chair Field commented that the Little River is the aorta of this Town; water quality is very important to the people in Town.

Ms. Breton asked for permission from the Abutters for pedestrian access onto their property to conduct the drainage study. Mr. Wiczorek asked that those involved with the drainage study accessing his property be properly insured.

Ms. Breton asked how many copies of the drainage study the Board wanted; they agreed to three (3) copies; one copy for the permanent file and two copies for the Board. The copy for the permanent file will be available to the public for review and copies can be made at their expense.

Chair Field would like the Applicant to show proof of insurance for those conducting the drainage study and the results should show how runoff affects other properties. The plan should also show the structures of the surrounding properties. Ms. Breton said that she can do an aerial of the site showing surrounding properties; Mr. Field was agreeable to that.

Mr. Buber said that he would like an easel presentation with a "full blown" plan of the house that is going to be built; where it's going to be located and the front elevations.

Ms. Breton said that the Board would be holding her client to a specific house that the new owner of the lot has to build.

Mr. Field said that the new owner has the right to go back before the ZBA to request a material change to the plan.

Ms. Breton withdrew the Application on behalf of her Client, Mr. Martin.

Ms. Wilson stepped down.

Ms. Peckham joined the Board.

Chair Field called for a five minute recess.

Chair Field reconvened the Meeting at 9:10pm.

**#2011:06 – John and Pamela Bateman, 16 Meadowfox Road, North Hampton, NH. Property location: 16 Meadowfox Road, North Hampton; M/L 008-055-000; zoning district: R-1.** The Applicants request a Variance from Article IV, Section 406 and 406.1 – Yard and Lot Setback Requirements to allow the construction of a two-car garage, 0.2-feet from the side-yard setback where thirty (30) feet is required, because the side-yard abuts a street. Property owners: John and Pamela Bateman, 16 Meadowfox Road, North Hampton, NH.



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In attendance for this application:

John and Pamela Bateman, Owners/Applicants

Robert Sinibaldi, General Contractor

Mr. Sinibaldi represented Mr. and Mrs. Bateman, who were present. He submitted photos of the house and surrounding properties and an aerial photo of the Bateman house to the Board.

Chair Field asked why the proposed garage could not be built on the lot where it would conform to the Ordinance, and gave an example of placing it where the existing shed is. Mr. Sinibaldi explained that they thought the leach field was in that vicinity; it did not appear on the plan but they found the "candy cane" shaped septic vent sticking out of the ground in that location. Mr. Sinibaldi "hand drew" the location of the septic tank and leach field on Chair Field's plan for the Board to review.

Mr. Sinibaldi said that the Director of Public Works, John Hubbard, wrote a letter to the Bateman's stating that the proposed new driveway located at the front of the house will have a positive impact on snow removal operations on Meadow Fox Road. Chair Field acknowledged that the Board was in receipt of Mr. Hubbard's letter, dated September 7, 2011.

Mr. Sinibaldi submitted a petition to the Board, signed by some of the Abutters, in support of the proposal. (Attachment 1).

Mr. Field said that the Board was in receipt of a letter received tonight from Donald E. Alexander, 16A Meadowfox Road. Chair Field read it into the record. (Attachment 2).

Ms. Peckham asked how the Applicant is able to access town-owned property. She asked if they had an easement to use the area for their own private use. Mr. Sinibaldi said that within a development the lots have a buffer (town owned property) to pass over to access their property.

Mr. Lagassa referred to the plan and asked about a driveway depicted on the plan. Mr. Sinibaldi said that in his opinion it is access way for a land-locked piece of property, and the Owners of that lot were granted access rights to access the property (the house is shown on the aerial photo).

Mr. Bateman's lot abuts town-owned land, known as the "Town Forest", which won't be developed. Mr. Sinibaldi explained that part of the driveway is town-owned land, approximately 30 to 35 feet.

Chair Field commented on the unique situation that the Owners can access their property on two different sides; the proposed side they would like to access would pass over 30-35 feet of town-owned property where the other access would pass over much less town- owned property.

Mr. Buber said that the proposal would change the town-owned land from a "cut through" to an actual "driveway".

Mr. Bateman said that the subject driveway was there when he purchased the house. He said that someone received permission at some point to put the curb cut there to access the property.

Chair Field agreed, but said that there is no evidence of that "permission". He said that Mr. Bateman's deed references a subdivision plan and that plan may have notes on it that would prove how they were able to put that particular curb cut in.

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423 Mr. Sinibaldi said that he could change the plan and access the garage from the front driveway and not  
424 use the side driveway to access it.

425  
426 Mr. Sinibaldi asked that if they can demonstrate that they have a right to access the garage from the  
427 east side would they be able to go back before the Board and modify the plan so that the garage doors  
428 face the east side.

429  
430 Mr. Field said that the Board would entertain the request, but he couldn't answer how they would vote.

431  
432 Mr. Field opened the Public Hearing to those in favor of the Application.  
433 There was no public comment.

434  
435 Mr. Field read the letter from Mr. Donald Alexander into the record. (Attachment 2).

436  
437 Ms. Peckham commented that the Owners may discover that they have restrictions on their access  
438 rights that would not give them the luxury of moving their driveway.

439  
440 Chair Field referred to Mr. Alexander's letter and said that construction of the garage will impact the  
441 relationship Mr. Alexander and the Batemans have. He suggested they needed more information as to  
442 what the Town's interests are.

443  
444 Ms. Peckham said that she would like to visit the site again and look at it with the other driveway in  
445 mind and try and figure out whether or not there would be a sightline issue.

446  
447 Mr. Lagassa said that the Board has concerns with the proposed driveway, such as ownership interests,  
448 and sightline concerns on the new proposed driveway. He asked if the Owners would be willing to  
449 modify the plan and position the garage doors towards the front and keep the existing driveway where  
450 it is.

451  
452 Mr. Buber agreed, and suggested taking the proposed driveway on the east side out of the equation.

453  
454 Ms. Peckham said that it would not solve the sightline issues.

455  
456 The Board determined that there would be no sightline issues with the suggested modification.

457  
458 Mr. Sinibaldi said that the Batemans would be willing to abandon the driveway on the east side, dig it  
459 up, and add loam and seed it.

460  
461 Mr. Bateman requested that the Petition he submitted in favor of his Application be added to the  
462 record. Chair Field confirmed that it was part of the record.

463  
464 The Board agreed that the change to the proposal is not a material alteration and does not affect the  
465 Meeting publication and Notice to the Abutters.

466  
467 Mr. Sinibaldi said that the kitchen is on the side of the house where the proposed garage is going to be  
468 built.

469  
470 Chair Field closed the Public Hearing.

471 **Mr. Buber Moved and Mr. Lagassa seconded the Motion that the application be designed from a**  
472 **perspective of a southerly entrance rather than an easterly entrance.**  
473 **The Vote was in favor of the Motion (5-0).**

474  
475 The Board addressed the five Variance Criteria:

476  
477 **1. Would granting this variance be contrary to the “Public Interest” or “Public Safety”?**

478  
479 The Board declared that the proposal is not contrary to the “Public Interest” or “Public Safety”.

480  
481 **2. Would granting this variance be consistent with the “Spirit of the Ordinance”?**

482  
483 Ms. Peckham commented that, in any situation, to propose a building so close to the property line  
484 makes it hard to satisfy this criterion, however, in this particular case the property abuts a street; not a  
485 house. Mr. Buber agreed. He said there seems to be a substantial buffer between the property and the  
486 turn-around.

487  
488 The Board agreed that the “Spirit of the Ordinance” is observed.

489  
490 **3. Would “Substantial justice” be done by granting this variance?**

491  
492 The Board determined that no injustice to the abutters or the Town would be done in granting this  
493 application. The Board agreed that “Substantial Justice” is achieved.

494  
495 **4. Would granting this variance result in “Diminution of Values” of surrounding properties?**

496  
497 The Board relied on their own observations, by visiting the site, that surrounding property values would  
498 not be diminished. They agreed that adding a garage would improve the property.

499  
500 **5. Would literal enforcement of the provisions of the ordinance result in an “Unnecessary Hardship”?**

501  
502 The Board agreed that there are “Special Conditions” relating to the lot. They agreed it would be  
503 unreasonable to deny the variance request based on the “side yard” setback.

504  
505 **Mr. Lagassa Moved and Mr. Buber Seconded the Motion to grant the Variance Petition, as modified**  
506 **by Applicant to relocate the access driveway from the east boundary to the south boundary of the lot**  
507 **with the “special condition” that the driveway accessing the garage shall be located on the south side**  
508 **of the property and the only access to the garage shall be from the south side (front) of the house and**  
509 **garage.**

510 **The Vote was unanimous in favor of the Motion (5-0).**

511  
512 Mr. Field reminded the Applicants of the 30-day appeal period.

513  
514 **IV. Other Business.**

515  
516 **1. “Code of Ethics” - Committee Report – Mr. Lagassa –**

517

Mr. Lagassa reported that the Committee met last week. He received final comments via E-mail today and asked if he could present then to the ZBA. He had not received a reply in time for tonight's Meeting. He promised he would have copies for the Board Members at next month's Meeting.

**2. Communications/Correspondence and Miscellaneous-**

**(a.) Little River Water Quality Historical Report Conservation Commission, rec'd 9/1/11.**

Mr. Field said that the document cuts to the core of the people's concerns on the Little River and Mill Pond. He encouraged the Public to go to the Town Hall and get a copy of the report.

**(b.) Horne Trust Superior Court Appeal Decision- August 26, 2011.**

The Board was in receipt of the Horne decision (ZBA Case #2010:02) from Superior Court. The Court upheld the Zoning Board's decision. Mr. Horne has the right to appeal to Supreme Court.

**3. "Administrative Services Agreement" (draft)-Status Report of Chair. -**

Mr. Field and Mr. Buber met with Mr. Fournier, Mr. Wilson and Mrs. Kohl. Chair Field said that the Selectmen are aware of the issues in the Administrative Office in general and they would prefer to deal with them through job descriptions and contracts, rather than contracts with individual Boards. He said that he and Mr. Buber had advised the Select Board as to what they believed are the principle issues of concern.

**4. Discussion of possible Zoning Ordinance changes and possible request of Joint Meeting with the Select Board and Planning Board. -**

Chair Field said he sent a memo out to the ZBA Members requesting their input on possible Zoning Ordinance Amendments. He asked that they submit their thoughts to him within the next two weeks. He asked if the Board would agree to create an Ad hoc Committee to discuss the suggestions and forward them to the Planning Board and Select Board. He suggested working with David Buber and Phelps Fullerton.

**Ms. Peckham Moved to form a Zoning Ordinance Review Ad hoc Committee. Mr. Lagassa seconded the Motion with the proviso that the Chair informs the Members of all Meetings. Mr. Field agreed. The Vote was unanimous in favor of the Motion (5-0).**

Chair Field said that the Zoning Ordinance Review Ad hoc Committee will include himself, Ex Officio, and Board Members David Buber and Phelps Fullerton.

Chair Field asked the Board to authorize him to request a Joint Meeting with the Planning Board and Select Board to discuss proposed Zoning Ordinance Amendments.

Mr. Glenn Martin asked how the Public would be notified of these Meetings.

Chair Field said the Planning Board conducts the Public Hearings on Zoning Amendments; the Meetings are posted in Town and the Public Hearings are posted in Town and in the newspaper.

**Mr. Lagassa Moved and Mr. Buber seconded the Motion to authorize the Chair to request a Joint Meeting with the Planning Board and Select Board.**  
**The Vote was unanimous in favor of the Motion (5-0).**

Mr. Landman reported that there is a report from Chris Ganotis in the Community Newsletter regarding Little River.

Mr. Buber requested permission from the Chair to address Mr. Glenn Martin who had remained seated in the audience; permission was granted and Mr. Buber explained to Mr. Martin that he had not meant to imply that the ZBA can dictate to an Applicant the type of house to be built on a lot. He said that he wanted to make clear that what he meant was that the ZBA, when confronted with Variance requests, can judge whether or not a building elevation conforms with neighborhood values and community interests. Mr. Buber also pointed out that whenever a building permit is issued by the Building Inspector any person wishing to appeal it has the right to do so within 30 days.

Mr. Martin thanked him for his comments.

**Mr. Lagassa Moved and Mr. Buber seconded the Motion to adjourn the Meeting at 10:10pm.**  
**The Vote was unanimous in favor of the Motion (5-0).**

Respectfully submitted

Wendy V. Chase  
Recording Secretary

**Approved October 25, 2011**