



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, April 24, 2012 at 6:30pm
Town Hall**

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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.

Attendance:

Members present: Robert B. Field, Jr., Chair; David Buber, George Lagassa, and Phelps Fullerton. (4)

Members absent: Michele Peckham, Vice Chair. (1)

Alternates present: Jonathan Pinette, Robert Landman, Dennis Williams and Lisa Wilson. (4)

Administrative Staff present: Wendy Chase, Recording Secretary. (1)

Preliminary Matters; Procedure; Possible Conflicts; Swearing in of Witnesses (RSA 613:14 and 15); Recording Secretary's Report

Chair Field called the Town of North Hampton Zoning Board of Adjustment, Meeting, of April 24, 2012, ("Meeting") to Order at 6:30 pm. He noted for the record that the scheduled meetings of the Board for February 28 and March 27, 2012 had been cancelled due to a lack of cases.

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 participate 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 who were present (as identified above).

Recording Secretary Report - Ms. Chase reported that the April 24, 2012, Meeting Agenda was properly published in the April 6, 2012, edition of the Portsmouth Herald, and, posted at the Library, Town Clerk's Office, Town Office and the Town's website.

Swearing In Of Witnesses – Pursuant to RSA 673:15, 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 seated Alternate Pinette for Ms. Peckham, who was unable to attend the Meeting.

Minutes – January 24, 2012 -

Mr. Buber Moved, and Mr. Lagassa Seconded, the Motion to approve the January 24, 2012, Meeting Minutes.

The Vote was unanimous in “Favor” of the Motion (5-0).

I. Unfinished Business:

There was no Unfinished Business to come before the Board.

II. New Business:

Case Docket:

1. 2012:01 – John Spink, 800 South Road, Rye, NH 03870. Property location: North Road Rear (land abuts Rye Town Line); M/L: 016-001-000; Zoning District: R-2. The Applicant requests a Variance from Article IV, Section 406 for relief from the frontage requirement of 175-feet. The lot is landlocked and will access South Road in Rye, NH via a recorded Easement. **Property owner: John R. Spink, Jr., 800 South Road, Rye, NH 03870.**

In attendance to present the Application were:

R. Timothy Phoenix, Applicant’s Attorney

Alex Ross, Ross Engineering

John R. Spink, Jr. Owner/Applicant

Chair Field began the Case by addressing several procedural matters. He explained first that the Board customarily requires a “written denial” of the Building Inspector as a condition precedent, and believes that such requirement, founded upon applicable state law, is necessary to qualify the matter to be considered by the Board. Chair Field asked Attorney Phoenix if he possessed a “denial letter” from Richard Mabey, (recently retired), the North Hampton Building Inspector regarding this Case. Attorney Phoenix explained that he met with the Building Inspector and Ms. Chase and received a “verbal denial”; however, he had received no written documentation of such “denial”. Ms. Chase verified that Attorney Phoenix received a “verbal denial” from Mr. Mabey before he retired. Chair Field explained that it was the Board’s prerogative to waive such procedural requirement if it wished. Mr. Fullerton stated that, with the corroboration of Ms. Chase, he would be in favor of proceeding with the Case; Mr. Buber agreed. Chair Field then invited a Motion to “waive” the Rules of Procedure as such require a “written denial”.

Mr. Buber Moved, and Mr. Fullerton Seconded, the Motion to “waive” the ZBA’s Rules of Procedure in order to permit the case to go forward without the “denial” being documented, but, in fact, acknowledging the testimony of Ms. Chase that such a “denial had occurred. .

The Vote was unanimous in “Favor” of the Motion (5-0).

Chair Field then observed that the subject lot is represented in the Application as being “taxed” as a “house lot”. He commented that the lot does not appear to have frontage on a road in North Hampton and, therefore, questioned whether such lot is inventoried and assessed as a “house lot”, rather than as

90 a "wood lot". He indicated that the "tax records" of the Town available "on line" do not seem to
91 acknowledge the lot as a "house lot".

92
93 Mr. Phoenix said that when he applied for the Variance he was under the belief that the subject lot was
94 being taxed as a "house lot"; he said that he believes it to be a "house lot" because it is entitled to have
95 a house on it; but, he corrected the record by stating that the lot is currently being taxed as a "back lot"
96 not a "house lot". The Board accepted the correction for the limited purpose of proceeding forward with
97 consideration of the Case. Chair Field requested the Board to affirm the correction.

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99 **Mr. Pinette Moved, and Mr. Lagassa Seconded, the Motion to accept the Correction made by Attorney**
100 **Phoenix that the subject lot is a "back lot" and not a "house lot" for the purpose of moving forward**
101 **with the Case.**

102 **The Vote was unanimous in "Favor" of the Motion (5-0).**

103
104 Chair Field continued by commenting on the copy of the submitted "Driveway Application", so called,
105 received from the Town of Rye, and said that the approval received from the Town of Rye in 2006,
106 appeared to be for an entrance for a camping trailer on an area of approximatel 12' x 16'. He said that
107 there is no evidence that a driveway of considerable length, as shown on the Plan, had been approved
108 by the Town of Rye.

109
110 Mr. Phoenix said that Mr. Spink met with the Rye Highway Superintendent, Bud Jordan, in 2006
111 regarding the driveway. In 2006 the purpose of the driveway was to park a trailer on it but it was built in
112 a fashion that it would eventually be used as a driveway; it was never intended to just be a "cut in" to
113 park a trailer.

114
115 Chair Field then referred to RSA 674:53 "Land Affected by Municipal Boundaries", Paragraph II. He said
116 the Statute appears to require a certain process to take place. The Municipality receiving the Application
117 (North Hampton) is obligated to inquire in writing as to the existence of facts or regulations which,
118 under paragraphs I, III, or IV [of RSA 674:53] or otherwise, would preclude or affect such subdivision,
119 development, construction or change of use to the adjoining Municipality (Rye).

120
121 Mr. Phoenix explained that he does not have a lot of experience dealing with Applications involving RSA
122 674:53. Ms. Chase had notified him earlier that she sent out an Abutter's notification to the Town of
123 Rye, but not a written letter requesting a response from them. He said that he sent a copy of this
124 Application along with a separate Application to the Rye Planning Administrator. He said they met with
125 the Rye Planning Board's Technical Review Committee and will be before the Rye Planning Board on
126 May 8th for approval of their Rye Application. He said that he satisfied the requirement in RSA 674:53, II
127 by sending a copy of the North Hampton Variance Application to the Town of Rye.

128
129 Chair Field again referred to RSA 674:53, II and said that a response from Rye providing any history it
130 might have on the proposed lot or the surrounding area, or any concerns they may have with the
131 proposal, is requested. He said he didn't think the Board would be able to reach a decision until it hears
132 from the Town of Rye on such issues, such as which Town would be responsible to provide, among other
133 things, Educational and Emergency Response Services.

134
135 Mr. Phoenix said that was fair and would be agreeable to move forward, or to continue, the Case until
136 next month after the Rye Meeting, scheduled for May 8, 2012. He said the Rye Technical Review
137 Committee had expressed concerns on how the driveway was constructed and which Town would

provide Emergency Services. They were also concerned with a section of the Statute RSA 674:41 that deals with "private road", in this instance, the driveway.

Chair Field said that as a matter of cost and time efficiency he would be fine with hearing evidence tonight, but would be disinclined to reach any kind of decision until the Board hears from the Town of Rye as to any issues or concerns that they may have.

Chair Field then polled the Board and each member was in favor of hearing the evidence this evening, and, further, to wait until after the evidence is received before rendering any type of decision.

Chair Field then disclosed to Attorney Phoenix and Mr. Spink, that Board Member Fullerton is a practicing Residential Home Designer, and that in such capacity he has frequently consulted, engaged, and worked with Ross Engineering in a professional capacity, and has no issue or matter of controversy with them. Member Fullerton has offered to recuse himself if the Applicant would like him to. Chair Field made clear that he does not view Mr. Fullerton's status as being problematic in any way.

Mr. Phoenix thanked the Chair and Mr. Fullerton for the disclosure and concurred that there was no problem with Mr. Fullerton continuing on the Case. With the consent of Attorney Phoenix and his client, Mr. Fullerton remained seated.

Mr. Phoenix began his presentation by noting that he had mistakenly omitted a second page of the Variance Worksheet regarding "hardship" when he originally submitted the Application; he submitted copies to the Board Members and a copy for the record. He also submitted, into the record, a copy of three (3) of the Abutter's signatures on a statement that reads: "*We the undersigned are aware of and approve of the submitted plan*". The signatures were of Patricia Dubois, Frank Arcidiacono and Steve Botts. Mr. Ross submitted 11" x 17" copies of the site plan to the Members. (A copy was later added to the Record).

Attorney Phoenix stated the following:

- The front lot (located in Rye) is owned by Diane Spink and the back lot (located in North Hampton) is owned by John Spink.
- Diane Spink granted an easement to John Spink to access the back lot.
- The driveway has existed since 2006 and is 15 +/- feet wide that doesn't take up the entire easement area.
- The driveway is gravel and there is a 12" culvert in the area of the drainage swale which Mr. Spink represented to Attorney Phoenix as being overseen by the Town of Rye during installation.
- The Applicant met with the Rye Planning Board Technical Review Committee; the nature of their concerns were making sure the driveway would be able to handle cars and trucks driving over it; how municipal services would be maintained and making sure emergency vehicles had "turn-around" areas closer to the North Hampton property.
- The Town line has been the property line since 1860.
- The lot had previously consisted of three (3) separate lots which were voluntarily merged by the owner and recorded at the Rockingham County Registry of Deeds in August 2007.

Attorney Phoenix then addressed each of the "variance" Criteria:

1. Would granting this Variance be contrary to the "Public Interest" or "Public Safety"?

It would not be contrary to the Public's Interest; the lot would have very little value as a "backlot". It is in the Public's Interest to allow a property owner the use of their own lot. The value of the lot would increase as well as the tax revenue to the Town of North Hampton. No one would be harmed by approving the Variance; there would be no benefit to the Public's Interest to deny the Variance.

2. Would granting this variance be consistent with the "Spirit of the Ordinance"?

Yes, it allows the use of the lot to be built upon, as it was originally intended. The driveway was built all the way to the back of the lot in 2006 in anticipation to be able to use the "backlot" as a "house lot". The Ordinance has purpose for frontage; it allows adequate site distance and adequate space between the real estate, and keeps from overcrowding. The Spirit of the Ordinance is not violated in this case.

3. Would "Substantial Justice" be done by granting this variance?

Yes it would be substantially just to allow the reasonable use of their own property to make one "house lot" where they have the easement and the driveway already built. The Town of Rye will presumably not object and will deal with any issues relating to access in the Town of Rye in conjunction with the property in the Town of North Hampton. There are a number of lots that have access across property in Rye to North Hampton.

4. Would granting this variance result in "Diminution of Values" of surrounding properties?

One (1) additional house in back of the existing house will not result in a diminution of values of surrounding properties. They submitted a signed document from three of the abutters agreeing to the plans and other abutters to the Spink property do not have frontage so they don't anticipate them having a problem with the proposed plan.

5. Would literal enforcement of the provisions of the ordinance result in an "Unnecessary Hardship"?

"Are there special conditions?" The "special condition" of the property is that there is a lot with no frontage, and most lots have frontage. The lot cannot be used as a "house lot" unless the relief is granted.

"Is there a fair and substantial relationship?" Frontage requirements are reasonable, they prevent overcrowding and the like. Given the size of the proposed lot, the location of other lots, the approval of the three nearest abutters to the lot, it's clear that the typical reasons for having frontage on the road do not exist. The Town of Rye is looking at the access to the road issue.

"Is the proposed use reasonable?" The proposed use is a reasonable one because it is a residential use of a residential lot. The house depicted on the plan is for illustration purposes only, just showing that something can go on the lot; building permits and other approvals will be followed in the future.

Chair Field asked which Town would provide Emergency Response Services.

Attorney Phoenix said that there are other properties in North Hampton that access their lot from the Town of Rye, so there must be protocol already established regarding Emergency Services. He said he didn't know what the protocol was, but would find out.

Chair Field asked if there were wetlands on the subject property. Mr. Ross from Ross Engineering said that there were no wetlands or wetlands buffer areas on the property. He said that Mark Jacobs, a Soil Scientist, performed test pits and percolation tests on the property; they were able to come up with a septic design that would work.

Mr. Phoenix stated that the "easement" is perpetual and runs with the land.

Chair Field explained that regarding "diminution of value", when relief is requested for a residential site the Board generally prefers to see a fixed location for the structure and septic systems, and have an idea of the type of structure that would be placed on that location. He said the Board has a bias against approving a lot with merely an "example" or hypothetical of a possible site for the proposed structure and septic system.

Mr. Phoenix said the Applicant is requesting relief from the "frontage requirement". He said that if the Applicant doesn't meet requirements for a Building Permit or septic system he would have to request further relief from the Zoning Board. He said if the Applicant meets the requirements for a Building Permit then he would not need approval from the ZBA on what to build. He respectfully submitted that the process should not be delayed until the Applicant is ready to build a house.

Chair Field said that it is the Board's view that, when assessing a "diminution of property value" the Board needs to have clear appreciation for what is going to be built, how large it's going to be built, and will it be keeping in character with the neighborhood. The Board does like to have more specificity regarding the design and location of structures and systems than has been presented.

Mr. Phoenix said the "diminution of property value" is related to the Variance that's requested. "Will granting the variance for the lack of frontage diminish property values; not will a house that will eventually be built there diminish property values if the house is otherwise permitted."

Mr. Lagassa assumed that school age children, if any, would attend the North Hampton Schools. Mr. Phoenix said that he believed they would be part of the North Hampton School District.

Mr. Buber asked that Mr. Phoenix identify once again the three (3) abutters that signed the statement approving the proposed plan. Mr. Phoenix named them into the record:

- Rye Tax Map and Lot 3-27 – Patricia Dubois
- Rye Tax Map and Lot 3-25 – Steve Botts, Botts Living Rev Trust
- North Hampton Tax Map and Lot 13-89-12 – Florence and Frank Arcidiacono

Mr. Phoenix received no other communication from any of the other Abutters.

Mr. Phoenix explained that Mr. Spink purchased three (3) separate one (1) acre lots at different times and voluntarily merged the lots into one (1), three (3) acre lot. He said that the Applicant does not intend to subdivide the lot further and will stipulate to such.

Chair Field then confirmed with Attorney Phoenix that his presentation was complete, subject to rebuttal. Attorney Phoenix stated that it was.

Chair Field then opened the Public Hearing to anyone wishing to speak in "favor" of the proposal.

There was no public comment in “favor” of the proposal.

Chair Field followed by inviting anyone who wanted to comment on the proposal that was neither for, nor against, the proposal.

There was no public comment.

Chair Field then invited anyone who was “against” the proposal to speak.

Chairman Field then recognized Mr. Philip Wilson, who he observed, as a matter of general public knowledge, has served the Town of North Hampton as both a Select Board Member (present) and a Planning Board Member (past).

Phil Wilson, 9 Runnymede Drive – Commented that as a nine-year member of the Planning Board he finds the proposal “offensive”. He pointed out several procedural issues of concern:

- All materials pertaining to the Application shall be available to the Public prior to the Meeting and the Applicant’s response to the “hardship” criteria was just submitted this evening; neither the Board Members nor the Public had the information before this evening. He said that the informational requirements for this case were not properly met.
- Mr. Phoenix referred to the lot as a “house lot” and that the Applicant was entitled to build a house on it. He said it is not a “house lot” and has never been a “house lot”; it is a consolidation of three “wood lots”. He said it is more of a “backlot subdivision” and it does not meet the requirements of that process.
- There are questions on whether the “driveway” was ever approved to be used as access to the “back lot”.
- There are many “wood lots” in Town and it is not consistent with the Master Plan to allow these “wood lots” to be developed into “house lots”. By allowing houses to be built behind other houses with very narrow access ways it would change the character of the residential development in North Hampton.
- Mr. Wilson said that the ZBA should not consider the Application as complete until they have received written documents from both the Rye and North Hampton Fire and Police Departments and the Schools on whether or not they approve this plan.
- There is no document from the Soil Scientist Mark Jacobs. It is hard to find any lot in town that has no wetlands on it. There is no test pit data or documentation that they were witnessed by someone from the Rockingham County Conservation District.
- The driveway is not a “private road” and does not meet the requirements to be a “private road”.
- The subject lot is not a “house lot” and is not taxed as a “house lot”; it does not meet any of the requirements of a “house lot”. Every lot in a residential district is not a “house lot”. Chair Field said that Mr. Phoenix had conceded, for the record, that he mistakenly represented the lot as a “house lot” in the Application and concurs that it is a “wood lot”.

Mr. Wilson said that the Application was profoundly deficient, and, perhaps unfortunately, that is what the Public has to review and make judgments upon. No more, no less.

Chair Field again took notice for the record that Mr. Wilson has been a member of the Planning Board for many years; is now a Member of the Select Board; and is very familiar with the land and hydrological characteristics of the Town.

Chair Field offered the Applicant the opportunity for rebuttal.

Mr. Phoenix said that he does believe the subject lot to be a “house lot” as well as a “back lot”. He said that he objects to any implications that he did anything intentional or that his submission was some kind of a plan of subterfuge. Chair Field declared that the Board did not take the Application deficiencies as intentional misrepresentations, but, did confirm Mr. Wilson’s observation that the data within, or submitted with, the Application is that which the interested public must rely upon. Mistakes and omissions were apparently made, but they appeared to be nothing more than mistakes; and the Board, in the absence of contrary evidence, accepts them as same. Nevertheless, it is a fact that the Board did not receive some of the information until tonight.

Mr. Phoenix said that he has never been before a Board that did not take information/evidence at a Meeting. Chair Field said that he was correct, and what he submitted with the Application is not definitive of what can be presented, however, the Board has Rules that require certain information to be presented in advance if at all possible. Such provides for a better quality of review.

Mr. Phoenix said that he met with the Building Inspector and there was never any mention that he would need subdivision approval. He said that the lot was never subdivided from an existing lot of record so in his opinion there is no basis for subdivision. He said that if the Town wants to address how “back lots” should be addressed in the future then the Town should incorporate it into the Master Plan or Ordinances; the Applicant is before the Board as the Ordinances presently exist. The Applicant has the right to be here to ask for this relief.

Mr. Phoenix said that the Applicant is before the Board for a Variance to the “frontage” requirement. He said that it is unreasonable to have the Applicant pay to have a septic design done and wetlands flagged by a Soil Scientist when he doesn’t even know if he can build a house on the lot. It shouldn’t be a requirement to get an approved Variance for frontage.

Mr. Phoenix said that there needs to be a dovetailing with the actions of the Towns of Rye and North Hampton in this circumstance. He would like to continue the application until next month, after the Applicant meets with the Town of Rye.

Chair Field stated that the Applicant’s points would be considered.

Chair Field observed that 500-feet is a long way for a child to walk out on a driveway and stand waiting for a school bus and child safety is very important to communities around here. He would like Attorney Phoenix to find out what the provision would be in getting young children to and from the school bus.

Mr. Lagassa commented that Rye is in a different SAU District so there may be legal impacts as well.

Mr. Wilson was then recognized and responded to Mr. Phoenix’s rebuttal. He commented that “wood lots” are not a problem in the Zoning Ordinances. He said that the Applicant is requesting that the ZBA declares the lot as a “house lot”, a “buildable lot”, and until you have all the facts you do not know if it is a “house lot”.

No one else wished to speak, and Chair Field closed the Public Hearing at 7:48pm.

Chair Field listed some of the information which he believed the Applicant should submit prior to the next meeting:

- More information on wetlands and wetlands setbacks.
- The Board likes to know where the septic will be located and have some idea of the size, scale of a dwelling.
- Information on Emergency Services to include Fire, Police, Emergency responders, and School and School bus.

Mr. Fullerton, was then recognized and referred to RSA 674:41. Such Statute appears to preempt local ZBA Boards under Paragraph III. Chair Field asked that he read such paragraph into the record: *"This Section shall supersede any less stringent or local ordinance code or regulation and no existing lot or tract of land shall be exempted from provisions of this section except in accordance with the procedures expressly set forth in this section. For purposes of paragraph I, "the street giving access to the lot" means a street or way abutting the lot and upon which the lot has frontage. It does not include a street from which the sole access to the lot is via a private easement or right-of-way, unless such easement or right-of-way also meets the criteria set forth in subparagraphs I(a), (b), (c), (d), or (e)."* Mr. Fullerton said that it appears that if the lot becomes a buildable lot the street has to conform to one of such standards, and, if not present, the law preempts the ZBA from granting a Variance to achieve such end.

Mr. Buber said he is concerned with the "wetlands" and buffer issues. He said well over 30% of land in North Hampton is deemed to be wet land. He would like to see evidence from a Soil Scientist on whether the subject lot is outside or inside the 100-foot wetland buffer, or whether it has wetlands on it, and if so whether it is heavily saturated. He said he looks at the proposal more as a voluntary lot merger than a subdivision. The Board has asked for elevations of what will be built in more dense areas; this is a remote property, and three (3) of the abutters appear to be in support. He said he is not sure if there will a diminution of property values. He said he would like to see something in writing from the appropriate authorities from both the Town of Rye and the Town of North Hampton regarding Emergency Services. He said that generally the Board receives a report that the septic design meets State standards and percolation tests have been done, etc. He suggested that the Case be continued to the next ZBA Meeting in May.

Chair Field asserted that the ZBA has the capacity and right under State statute to seek "technical information" and advice from experts at the Applicant's expense. He suggested the Applicant provide the following information:

- A Soil Scientist report of what is on the site; the soil classifications.
- A firm idea of an approved location of where the septic system will be located.
- Attorney Phoenix to prepare a legal analysis answering the questions that arose out of RSA 674:41 III.
- Information on Emergency Response Services to include Fire, Police, Emergency responders, and School and School bus.
- The Town of Rye's viewpoints on the proposal.
- A firm idea of where the structure and septic system are going to be located.

Chair Field commented that the Zoning Board gets one (1) "bite of the apple"; once it approves a Variance and the Applicant otherwise meets the standards for a Building Permit, the Zoning Board doesn't see it again. It has no "second look". He said the Board had experiences where lack of another

or continuing “look” at an evolving and/or emerging proposal, from the Zoning Board’s point of view, has not had good results.

Mr. Phoenix said that he will have the requested information available to the Board prior to the next meeting for their review.

With the consent of the Applicant, Chair Field declared that Case #2012:01 is “Continued” to the May 22, 2012 Meeting, or later, if circumstances prohibit or limit the capacity to gather the data and information requested. There will be no new “filing fees” assessed, as the Case is being “Continued.” The Board reserves the right to seek independent counsel and expert review of matters at the possible expense of Applicant as the Case develops.

Chair Field declared a five (5) minute Recess at 8:10 pm.

Chair Field reconvened the Meeting at 8:15 pm following the Recess.

III. Other Business:

1. **“Code of Ethics” Final Committee Report** – Mr. Lagassa reported that the Select Board held a Public Hearing on the “draft” Code of Ethics and there were several questions/comments raised by the public and Select Board Member, Larry Miller, (1) would the Town have to provide Legal Counsel to the accused or the accuser, and (2) if an enforcement procedure began, the accused person’s reputation would be tarnished even if they were proven to be totally innocent. The solution was to get rid of the enforcement procedure. The Committee created an **aspirational** Code of Ethics that will become part of the Oath of Office process. The Committee believes that the enforcement procedure that already exists under current Rules of Procedures and enforcement by Board Chairs is adequate. The “definitive” Code of Ethics of the Committee, in conjunction with the Select Board, agrees with the Code of Ethics presented at the Town Deliberative Session and which will be voted on by the townspeople in May.

2. **“Proposed” Amendments (six 6) To Zoning Ordinance-“Ad-Hoc” Committee Report-Chair Field. Future “Rules and Procedures” Review.** – Chair Field said that four (4) of the six (6) Proposals initiated by the ZBA will be on the May 2012 Warrant. He reported that, although the process worked extremely well in most instances, it was the opinion of the Ad-Hoc Committee, that in some instances the Planning Board went a bit too far with the changes, resulting in something less comprehensive in the final product than what had been hoped. Nevertheless, he said, most importantly, the four (4) Boards worked cooperatively; the Planning Board, Zoning Board, Conservation Commission and the Select Board. He said that it was his personal opinion that the Town should give consideration to an entire rewrite of the Zoning Ordinance; it will be an extensive and expensive process, and it is up to the Select Board to determine how to deal with the suggestion. He had expressed this point of view to both the Planning Board and the Select Board during the review process.

Chair Field noted that the ZBA have not disbanded the Ad-Hoc Committee, to continue reviewing the internal ZBA Rules of Procedure. Mr. Buber questioned the need for the Ad hoc Committee and thought that members can present proposed changes in writing to the

meetings to take action on. Chair Field asked Ms. Chase to add to the May Agenda, the topic: "How the Board wants to handle a review of the Rules of Procedure, individually, or through a Committee structure."

3.-Draft "Administrative Services Agreement"-Status Report-Chair Field – Chair

Field said that the Select Board asked that the ZBA defer the Administrative Services Agreement, initiative, because they were going to address it. Select Board Wilson has asked Mr. Field to look at the job description for the Planning and Zoning Administrator and the Code Enforcement Officer/Building Inspector, I and Mr. Buber has helped Mr. Field with some of the review. Comments have been provided to Mr. Wilson.

4. Communications/Correspondence and Miscellaneous:

a. The Select Board is seeking comments from the Zoning Board on the "proposed" "Junkyard" Town Ordinance. –

Chair Field said as a general observation that the reference "Board of Selectmen" should be changed to "Select Board" throughout the document; other defined terms should be universally adopted and setup throughout the document; and, the definitions should be consistent throughout. The content and purpose of the proposal would be extremely helpful, if adopted

Mr. Wilson was recognized to provide perspective on the proposal and explained that the Select Board is seeking comment from the Planning Board and the Zoning Board on the proposed "Junkyard" Town Ordinance. He said they would like any "feedback" from the Board as soon as possible, because as soon as they have the Ordinance complete the Town can begin collecting the license fees, and applications for permits. He said that the Planning Board spent the most time on the topic, but according to the law "junkyards" are under the purview of the Select Board and Zoning Board. He suggested that Ms. Chase order "Junkyard" booklets from the Local Government Center for each of the ZBA Members. "Junkyards" established before the Zoning Ordinances were adopted may continue as a "non-conforming" use, but they must comply with the registration and operational requirements established in the Ordinance.

Mr. Buber said that he has become aware of a business in Town that will take scrap metal thrown in a metal dumpster and hauled off site. Mr. Wilson said that sounds like a Transfer Station, which is not allowed in Town. He suggested Mr. Buber contact the Interim Code Enforcement Officer, Charlie Smart to let him know.

Alternate Landman was recognized, and said he applauds the Select Board for working on this issue and suggested that the last line in Section G – "Grant or Denial of Application". "All pre-existing junk yards shall comply with the provisions of these regulations for the purpose of license renewal" should be separate because it is most important. He also suggested adding something in the document regarding the protection of the aquifers.

Mr. Wilson suggested that the Board put their comments/suggestions in writing and forward them to the Select Board.

b. Elections-Messrs. Landman and Pinette have filed as candidates. Vice Chair Peckham has elected to NOT run for another term. – Chair Field thanked Michele Peckham for her services and thanked Robert Landman and Jonathan Pinette for running for election as a full member of the ZBA and wished them both “good luck”. He said that because of there “appointed” term status neither would seem to lose their status as an Alternate, if they don’t win the seat.

c. Correspondence from Attorney Matthew Serge regarding the Barr-Moran, Inc. v. Town of North Hampton Superior Court Case. – Chair Field said that Attorney Matt Serge asked that he be present in Court for the Barr-Moran Inc. v. Town of North Hampton (Beach Plum) Case. As requested, Chair. Field will be attending on the Zoning Board’s behalf.

Mr. Buber asked if the Applicant had filed for a “sign application” with the Planning Board pursuant to authority granted to it, and, which was brought before the Meeting at which Applicant’s case was decided. If so, it could it make this Case before the Superior Court moot. Chair Field said that if they applied to the Planning Board, he believed that it would be dealt with separately and distinctly from the Barr-Moran Case.

Chair Field, then reminded Alternate Pinette that he will remain seated on Case 2012:01- John R. Spink, Jr., because he began it as a seated Alternate. However, if for some reason he is unable to continue, another Member or Alternate would be appointed to replace him.

On Motion duly made and Seconded, it was then, unanimously

Voted- To Adjourn.

The Meeting was Adjourned at 8:33 p.m.

Respectfully submitted,

Wendy V. Chase

Recording Secretary