



**Meeting Minutes  
Town of North Hampton  
Zoning Board of Adjustment  
Tuesday, May 28, 2013 at 6:30pm  
Town Hall, 231 Atlantic Avenue**

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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, or incorporated by reference, in these Minutes are a part of the official**  
10 **Case Record and available for inspection at the Town Offices.**

11  
12 **Attendance:**

13  
14 **Members present:** Robert B. Field, Jr., Chair; David Buber, Vice Chair; Phelps Fullerton and  
15 Robert Landman. (4)

16  
17 **Members absent:** George Lagassa. (1)

18  
19 **Alternates present:** Dennis Williams and Jonathan Pinette. (2)

20  
21 **Administrative Staff present:** Wendy Chase, Recording Secretary.

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23 **Preliminary Matters; Procedure; Swearing in of Witnesses (RSA 673:14 and 15);**  
24 **Recording Secretary Report**

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26 Chair Field Called the Meeting to Order at 6:30 p.m.

27  
28 Pledge of Allegiance -Chair Field invited the Board Members and those in attendance to rise for a Pledge  
29 of Allegiance and noted that reciting the Pledge of Allegiance is solely for those who choose to do so and  
30 failure, neglect or inability to do so will have no bearing on the decision making of the Board or the  
31 rights of an individual to appear before, and request relief from, the Board.

32  
33 Chair Field seated Mr. Williams for Mr. Lagassa, and suggested that because there is no “new” or “old”  
34 business before the board, Mr. Williams remain “next in line” as an Alternate until there is a case to be  
35 adjudicated. All Members present, and Alternate Williams, expressed concurrence with the Chair’s  
36 determination.

37  
38 Introduction of Members and Alternates - Chair Field introduced Members of the Board and the  
39 Alternate(s) who were present (as identified above).

40  
41 Recording Secretary Report - Ms. Chase reported that the, Meeting Agenda was properly posted on May  
42 13, 2013 at the Library, Town Clerk’s Office, Town Office and on the Town’s website. Chair Field noted  
43 that the Agenda was not published in the newspaper because there were no new cases to be  
44 adjudicated that required such publication.

45  
46 Swearing In of Witnesses- There were no witnesses to be sworn in.  
47

48 **I. Unfinished Business**

49  
50 1. There was no Unfinished Business.  
51

52 **II. New Business**

53  
54 1. There was no New Business.  
55

56 **III. Other Business**

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58 **IV. Minutes:**

59  
60 **Meeting of April 23, 2013** - Mr. Buber Moved, and Mr. Fullerton Seconded, the Motion to accept the  
61 April 23, 2013 Meeting Minutes as distributed.  
62

63 **The Vote was unanimous in Favor of the Motion (5-0).**  
64

65 **V. Other Business:**

66  
67 **1. Communications/Correspondence and Miscellaneous – Board appointment of One**  
68 **(1) Member, as a ZBA Representative, to the Large Assembly Ordinance Committee**  
69 **(“LAOC”):** Chair Field explained that the Town voted, at the March 2013 election, to authorize the  
70 Select board to establish a committee for the purpose of reviewing the North Hampton Large  
71 Assembly Ordinance and recommending improvements in that ordinance.  
72

73 Chair Field said that he spoke with Member Lagassa who indicated that he was keenly interested in  
74 serving as the ZBA’s Representative to such Committee. Chair Field said that he thought Mr. Lagassa  
75 to be very well qualified to serve on the Committee based on his personal interest and past service  
76 on the Select Board and School Board. Chair Field then formalized his Appointment of George  
77 Lagassa, as LAOC Board Representative, and, asked the Board to ratify his decision. .  
78

79 **Mr. Buber Moved, and Mr. Landman Seconded, the Motion to ratify the appointment made by the**  
80 **Chair of Member George Lagassa as the Zoning Board of Adjustment’s Representative to the Large**  
81 **Assembly Ordinance Committee.**  
82

83 **The Vote was unanimous in Favor of the Motion (5-0).**  
84

85 **2. Discussion re: Possible Receipt of (Newly Prepared) Monthly BI/CEO Report:** Chair  
86 Field explained that the Select Board now receives a monthly report from the Building  
87 Inspector/Code Enforcement Officer (BI/CEO) of his findings and activities, and it was suggested by  
88 one of the Select Board Members that the Zoning Board should be automatically receiving a copy of  
89 it. Chair Field said that he received communication from the Town Administrator, Paul Apple, that

90 even though the report is a public document and in the public domain, it may not be wise for the  
91 Board to receive and discuss it as a Board because there may be matters the BI/CEO is working on  
92 that will come before the Zoning Board in its capacity as an "adjudicative" body. Chair Field also  
93 explained that enforcement actions are within the jurisdiction of the Select Board and/or its agent  
94 the BI/C EO.  
95

96 Mr. Landman said that he understands that as a Zoning Board Member he has no authority over the  
97 Code Enforcement Officer and that he is under the supervision of the Select Board and Town  
98 Administrator. However, as a citizen he is sometimes interested in how code enforcement is  
99 proceeding in Town.  
100

101 Chair Field suggested the Board decline to receive the full monthly report ("Report"), but if the  
102 BI/CEO is inspecting anything that has been impacted by conditions, restrictions, or special matters  
103 involving a prior zoning decision, then such Report should include a section titled "Zoning Matters"  
104 and the Board should receive only that portion of the Report that deals with a specific zoning board  
105 case that has been decided.  
106

107 Chair Field said that the ZBA has no enforcement authority and if the BI/CEO reports that there is a  
108 problem it would be incumbent for the ZBA to bring it to the attention of the Select Board, and let  
109 that Board decide how it would like to proceed, and what to do about enforcement.  
110

111 Mr. Buber asked Ms. Chase if it would be up to her, in her capacity as the Planning and Zoning  
112 Administrator, to determine which matters within the monthly report would be applicable to the  
113 ZBA. Ms. Chase said it would be up to the BI/CEO to determine that.  
114

115 Chair Field commented that the Town amended the Zoning Ordinance last year by adding Section 705  
116 that deals with the responsibilities of "code enforcement" by the Code Enforcement Officer, so the  
117 issue of enforcement is now part of the Zoning Ordinance and provides some additional general  
118 guidance to the Zoning Board. He stated that it would not surprise him that citizens aggrieved by  
119 enforcement issues might someday file an appeal with the ZBA.  
120

121 Chair Field asked if it was a sense of the Board that they receive a monthly report from the Building  
122 Inspector on activities related to zoning matters previously decided.  
123

124 Mr. Fullerton said that he would not object to receiving a monthly report on zoning issues that have  
125 been previously decided as long as it is understood that the Board is not an enforcement Board by  
126 any means; it is the job of the Building Inspector and he doesn't want to "trump" him, or make him  
127 feel that way.  
128

129 Chair Field said that the Code Enforcement Officer has initial "enforcement" responsibilities, but  
130 anything "big", or of substance, customarily goes before the Select Board for guidance.  
131

132 Mr. Williams thought that once the Board makes a decision, it is then in the hands of the Select Board  
133 to make sure the conditions made by the Zoning Board are enforced by the Code Enforcement  
134 Officer. He said that requesting a report is just giving the BI/CEO someone else to report to.  
135

136 Chair Field said that if the Board makes a decision that include conditions that require the continued  
137 involvement of the BI/CEO, the Board has an obligation and the right to be advised as to whether

138 those conditions are being followed by the Applicant that received the relief. If the BI/CEO reports to  
139 the Board on an issue which the majority of the Board finds egregious, the Board would then notify  
140 the Select Board that there is a problem, and ZBA involvement ends at that point; the ZBA has no  
141 authority to pursue the matter any further.

142  
143 Chair Field declared, without objection from the Board, that the Sense Of The Meeting was that the  
144 Zoning Board would like to be informed by the BI/CEO, and receive that portion of his monthly  
145 Report that deals with zoning matters that have been previously decided.

146  
147 Chair Field commented on the copy of the summary of three (3) recent zoning cases he sent to the  
148 members that were also recently discussed at a seminar Mr. Fullerton attended, regarding current  
149 trends that are occurring. One of the trends is Zoning Boards being sued by their Select Board  
150 because they came to a decision the Select Board did not agree with. Chair Field said that he knows  
151 of no case where the court has ruled in favor of the Select Board when the Zoning Board has  
152 considered and decided the case in accordance with State law and established procedure. The point  
153 is that a difference of opinion by a Select Board as to outcome does not normally warrant a reversal  
154 of the decision.

155

#### 156 **V. Adjournment:**

157

158 There was no other business to come before the Meeting. The Chair then invited a Motion to Adjourn.

159

160 **Mr. Landman Moved, and Mr. Fullerton Seconded, the Motion to Adjourn at 6:50 p.m.**

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

162

163 Respectfully submitted,

164

165 Wendy V. Chase

166 Recording Secretary

167

168 Draft Minutes edited by the Chair, Robert B. Field, Jr., for Board approval.

169

170 Approved August 27, 2013

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