



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, May 27, 2014 at 6:30pm**  
**Town Hall, 231 Atlantic Avenue**  
**North Hampton, NH 03862**

These Minutes were prepared as a reasonable summary of the essential content of the Meeting, not as a transcription. All exhibits mentioned, or incorporated by reference, in these Minutes are a part of the official Case Record and available for inspection at the Town Offices.

**Attendance:**

**Members present:** David Buber, Chair; Phelps Fullerton, Vice Chair, George Lagassa, Robert Landman and Charles Gordon. (5)

**Members absent:**

**Alternates present:** Jonathan Pinette (1)

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

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

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

Chair Buber announced to those in attendance that the Zoning Board received a letter from Attorney Thomas Hildreth, Co-Counsel to Historic Runnymede Farm, LLC requesting a continuance of their Application for an Appeal of an Administrative Decision; Case #2014:04.

Pledge of Allegiance - Chair Buber 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 - Chair Buber introduced Members of the Board and the Alternates who were present (as identified above).

Recording Secretary Report - Ms. Chase reported that the May 27, 2014 Meeting Agenda was properly published in the May 13, 2014 edition of the Portsmouth Herald, and, posted at the Library, Town Clerk's Office, Town Office and on the Town's website. An Amended Agenda was published on May 19,

2014 at the Library, Town Clerk's Office, Town Office and Town's website, that included an item under other business.

Chair Buber informed the other applicants that he wanted to take action on the Runnymede Farm Case first.

Chair Buber then briefly explained the Board's operating Rules and Procedures to those present.

Swearing In Of Witnesses – Pursuant to RSA 673: 14 and 15, Chair Buber 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 at the Meeting.

### Meeting Minutes

March 25, 2014 – Mr. Landman made a correction on line #781, Mr. Landman made the motion to nominate Mr. Buber as Chair and Mr. Fullerton Seconded the motion.

**Mr. Landman moved and Mr. Fullerton seconded the motion to approve the March 25, 2014 Meeting Minutes as amended.**

**The vote passed in favor of the motion (4 in favor, 0 opposed and 1 abstention). Mr. Lagassa abstained because he was not in attendance at the March 25, 2014 meeting.**

April 23, 2014 Special Meeting Minutes – Mr. Gordon referred to line #134 to remove the second "it" from the sentence.

**Mr. Landman moved and Mr. Lagassa seconded the motion to approve the April 23, 2014 Special Meeting Minutes as amended.**

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

### Unfinished Business

1. No Unfinished Business.

### New Business

- 2. Case #2014:04 – Historic Runnymede Farm, LLC, PO Box 250 Rye Beach, NH 03871. Applicant: Same as Owner; Property location: 68 Atlantic Avenue, North Hampton, NH; M/L: 006-002—001 (including 006-003-000 merged to 006-002-001 on 03/20/2014); Zoning District R-2 – Residential Medium Density.** The Applicant requests an Appeal of a Decision of an Administrative Officer to reverse the April 1, 2014 Decision of the Planning Board, that the proposed arena is a "riding stable", and that the proposed arena requires a Site Plan Review.

In attendance for this Application:

Attorney Thomas Hildreth, Counsel to Historic Runnymede Farm, LLC

Attorney Michael Donovan, Counsel to Virginia Weldon, Abutter to the subject property.

Mr. Gordon recused himself from Case #2014:04 on his own accord.

Mr. Buber seated Mr. Pinette for Mr. Gordon.

Chair Buber commented that Mr. Pinette has at least five (5) years of experience on the Board and is very capable and will be seated for Mr. Gordon.

Attorney Hildreth addressed the Board and said that he has requested a continuance for Case #2014:04 for either the June or July meeting. He said that he spoke to Ms. Chase and was informed that the June Agenda was rapidly filling. Chair Buber confirmed that the June Agenda was full.

Attorney Hildreth said that Attorney Donovan, on behalf of Virginia Weldon, has filed an appeal with the Board on the April 1<sup>st</sup> Decision of the Planning Board, which is slated for the June ZBA Agenda, and wondered, if because it is the same decision Runnymede is appealing, whether or not the two cases could be put together.

Chair Buber asked Attorney Donovan if he intended to request a continuance of Mrs. Weldon's appeal.

Attorney Donovan requested a continuance of Mrs. Weldon's appeal that was filed for the June Zoning Board Agenda to the August 26, 2014 meeting. He explained that they would like to wait for the outcome of the Historic Runnymede Farm LLC appeal first. Attorney Donovan said that his client is appealing the April 1, 2014 Decision because they believe the proposed use is a commercial use requiring a variance.

Attorney Hildreth said that the Board will hear a lot of facts at the July meeting that will have bearing on Attorney Donovan's Appeal. He wanted to take judicial notice that everything heard in July won't have to be heard all over again in August, even though it is a separate issue, it all derives from the same body of facts.

The Board, later on in the meeting, after Mr. Gordon was reseated, took the following action on Attorney Donovan's request.

**Mr. Landman moved and Mr. Lagassa seconded the motion to approve Attorney Donovan's request to continue his client, Virginia Weldon's, appeal of the Planning Board's Decision for PB Case #14:02 – Historic Runnymede Farm, LLC to the August 26, 2014 meeting.**

**The vote passed in favor of the motion (4 in favor, 0 opposed and 1 abstention). Mr. Gordon abstained.**

Attorney Hildreth had also mentioned in his letter whether or not the Board might want to schedule a site walk of the property in advance of the continued meeting.

Chair Buber said that Attorney Hildreth could coordinate with Ms. Chase on dates to hold the site walk. The site walk would be considered a public meeting and noticed accordingly.

Chair Buber said that he viewed the DVD recordings of all three (3) Planning Board meetings; the minutes of each meeting and the entire Planning Board case record filed at the Town Office. He commented that there was a discrepancy between the Planning Board's Decision Letter signed by Chair Kroner; the actual motion made at the meeting, and the relief requested by Attorney Hildreth on behalf of his client, Runnymede Farm, LLC. Chair Buber said that the word "arena" was not mentioned in the Planning Board's Decision Letter or the motion, and wondered why it was mentioned in the request for relief. He asked Attorney Hildreth what exactly his client was requesting.

Below are the written actions that transpired.

The motion voted on at the April 1, 2014 Planning Board Meeting:

**Ms. Monaghan moved to deny this application as incomplete because the Board believes it requires an Exception as an expansion of the property as a Riding Stable; therefore would need to go to the Zoning Board for such an Exception.**

**Mr. Harned made a friendly amendment to refer to the Exception as a Special Exception.**

**Ms. Monaghan accepted the friendly amendment.**

**The vote was unanimous in favor of the motion (6-0).**

The Decision Letter, signed by Chair Kroner:

**On a vote of 6 in favor, 0 opposed and no abstentions, the Planning Board, at their April 1, 2014 Meeting, denied the Site Plan Review Application, without prejudice, as incomplete, so that the Applicant may seek a Special Exception for a Riding Stable.**

The relief sought by Virginia Weldon:

**Reversal of decision of Planning Board that proposed arena is a “riding stable” and the proposed arena requires site plan review.**

Attorney Hildreth said that it was his sense that the Planning Board wanted to “punt” it to the Zoning Board without a lot of precision in the thought about what aspect constitutes it as a “riding stable” or an expansion of a “riding stable”. He said that the Planning Board opines that it is a “riding stable” and the Applicant proposes an expansion of the “riding stable”. He said that they contest that it is not a “riding stable” as it sits today.

Chair Buber said that the word “arena”, in the application for relief, is not in the Planning Board’s motion, or the Planning Board’s Decision Letter, and asked if it would be proper to eliminate the word “arena” for clarity purposes.

Attorney Hildreth said that it was the proposal to add the arena to the current complex that got his Applicant before the Planning Board in the first place. He agreed that there is a disconnect between the discussion, the Motion, and the Decision Letter.

Chair Buber said that the Board has to go by the written motion and decision made by the Planning Board and thinks the appeal can be maneuvered, and that Attorney Hildreth can give it some consideration.

Chair Buber said that there is confusion as to what Article and Section of the Zoning Ordinance the Applicant was seeking relief from. Attorney Hildreth explained that the relief sought is Article V, under the R-2 Table, under permitted uses by Special Exception, specifically #10 -“Riding Stable”.

Chair Buber asked if Attorney Donovan had any issues with the discussion about clarification of the appeal.

Attorney Donovan said that the Notice of Decision and the motion can be construed consistently and that is not an issue for them; it is what the Applicant applied for that is the issue.

Chair Buber moved and Mr. Lagassa seconded the motion to allow the continuance of Case #2014:04 to the July 22, 2014 meeting.

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

1. Case #2014:03 – Julie Woodworth, Trustee, South Road Realty Trust, 45 South Road, North Hampton, NH 03862. Applicants: Julie and John Woodworth, 45 South Road, North Hampton, NH; Property location: 45 South Road, North Hampton, NH 03862; M/L: 007-113-000; Zoning District: I-B/R – Industrial Business Residential. The Applicant requests a Special Exception under the provisions of Zoning Article V, Section 513 – Accessory Apartment, to allow an accessory apartment within their existing dwelling.

In attendance for this application:

Julie and John Woodworth, Owners/Applicants

Mr. Pinette stepped down.

Mr. Gordon was reseated.

Mr. Woodworth said he is requesting a Special Exception for an Accessory Apartment under the provisions of Article V, Section 513. He addressed each of the eight (8) criteria.

**513.1 The property must conform to the dimensional requirements of a single-family lot.**

It is an existing lot of record prior to March 1974 as shown on the tax card provided. The lot conforms to the dimensional requirements; they were granted an equitable waiver from the Zoning Board on November 27, 2000 to allow a 40-foot front setback where 50-feet is required in the I-B/R zone. The Board agreed that the lot is considered “conforming” because they were granted the waiver.

**513.2 The existing dwelling must have existed prior to the adoption of this ordinance (1990).**

The existing dwelling has been there since 1971, prior to the adoption of the Ordinance, as shown on the warranty deed and property tax card provided.

**513.3 The apartment must be contained within the existing single-family dwelling.**

The apartment is contained within the existing family dwelling, as shown on the floor plan.

**513.4 The dwelling to which an accessory apartment is added must be owner-occupied and a minimum of 2,000 square feet in total floor area.**

The dwelling is owner occupied and is 3,000 square feet, exceeding the 2,000 square feet requirement.

**513.5 The size of the apartment shall be between 400 and 800 square feet.**

The size of the apartment is 770 square feet.

**513.6 No more than two bedrooms are permitted in the accessory apartment.**

There is one bedroom as shown on the floor plan.

**513.7 The owner shall provide evidence to the Building Inspector that septic facilities are adequate for both units according to the standards of the Town and the N.H. Water Supply and Pollution Control Division. If deemed necessary by the Building Inspector, such evidence shall be in the form of certification by a State of N.H. licensed septic system designer. The Building Inspector shall indicate his approval in writing to the Zoning Board of Adjustment.**

The Applicants provided evidence to the Building Inspector that the Septic System is adequate and had been certified by a State of NH Licensed Septic System Designer. A copy of the letter from The Write Choice is provided. The Applicant and the Board did not have a copy of a letter from the Building Inspector indicating his written approval. The Applicants received verbal approval from him.

**513.8 The apartment shall be designed so that the appearance of the building remains that of a single-family dwelling. Any new entrance shall be located on the side or rear of the building.**

The entrance to the apartment is on the other side of the dwelling's living room to insure that the appearance of the building remains that of a single-family dwelling, as shown on the illustrated elevation plan.

Chair Buber referred to the last sentence in Section 513.7 under Accessory Apartment "The Building Inspector shall indicate his approval in writing to the Zoning Board of Adjustment". He emphasized the word *shall*.

Neither the Board nor the Applicant received a letter from the Building Inspector.

Chair Buber said that the issue of the letter from the Building Inspector needs to be resolved.

Mr. Landman referred to the sentence "if deemed necessary by the Building Inspector".

Chair Buber referred to the last sentence under the criterion "shall indicate his approval in writing".

Mr. Landman referred to the septic plan and asked if it currently existed or if it was going to be built to accommodate the apartment.

Mr. Woodworth said that it will be built.

Mr. Lagassa asked if it was the applicant's intent to rent out the apartment in general, or will it be used as an "in-law" apartment, or a family apartment. He also asked if there was any construction involved in adding the apartment.

Mr. Woodworth said that he will rent it to anyone, and there will be no new construction.

Mr. Woodworth said that there will be no more than two tenants, and there is a gravel parking area that will accommodate two vehicles for the apartment.

Chair Buber opened the Public Hearing to those present who wanted to comment on the Case.

There was no public comment.

Chair Buber closed the Public Hearing.

Mr. Gordon commented that the apartment currently exists and is rented, and if approved by the Board, it would be to legalize what is already there.

Mr. Woodworth explained that the apartment was built for his mother to stay in which she did for 7 or 8 years, and after she passed, they rented it, and have continued to rent it. He said he was before the Board with a Special Exception for an Accessory Apartment to "make it right". He said that there will be no added construction.

**Mr. Landman moved and Mr. Lagassa seconded the motion to approve the Special Exception for Case #2014:03.**

**Mr. Buber added the condition that the Building Inspector indicates his approval in writing to the Zoning Board of Adjustment regarding the septic issue, and that it become part of the permanent file, and to have that done in four (4) to five (5) business days.**

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

Chair Buber reminded the Applicants of the 30-day appeal period.

**3. Case #2014:05 – Ryan & Mary Lynn Snow, 227 Post Road, North Hampton, NH 03862. Applicants: Same as Owners; Property location: 227 Post Road, North Hampton, NH; M/L: 022-014-004; Zoning District: R-1 – Residential High Density.** The Applicants request a Variance under Article IV, Section 406 to allow construction of a 28' x 28' attached two-car garage encroaching 10' to 15' into the required 25-foot property sideline setback.

In attendance for this application:

Ryan & Mary Lynn Snow, Owners/Applicants

Mr. Fullerton read the case description into the record.

Mr. Snow explained that they would like to build a 28' x 28' attached two-story, two-car garage that will encroach approximately eight (8) feet into the 25-foot required side setback. They propose to renovate the existing garage, under the house, into a family room. The garage will be located on the left side of the house when looking at it from the Street.

Mr. Fullerton said this is a new garage and great room. This is a two (2) story structure.

Mr. Snow went over the Variance Test:

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

Mr. Snow said he believes that it would not be contrary to the public interest because it will increase the value of his house.

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

Mr. Snow said that the proposal would be consistent with the spirit of the ordinance because there is substantial distance between the proposed garage and his neighbor. He said that he provided a letter from that neighbor, Mr. Spooner, in support of his application. Mr. Spooner shares a driveway with Mr. and Mrs. Snow.

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

Mr. Snow said that the benefit of building the garage is not outweighed by the general public.

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

Mr. Snow said that the proposed garage will add value to his home and add to the tax base.

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

Mr. Snow said that the proposed garage will be located in the only spot on the property that won't affect the wetlands. He showed members of the board a copy of a survey plan and the wetlands overlay he received from the previous owner that depicted the wetlands buffer.

After reviewing the survey plan the Board agreed that the proposed garage would be just outside the 100-foot wetlands buffer zone.

Mr. Fullerton said that when he researched the town files he discovered there was some confusion with the records. He said that the property was subdivided and the original lot was 229 Post Road. The new septic system designed for 227 Post Road was done and went through State approvals but addressed as 229 Post Road instead of 227 Post Road. There have been two variance requests made by the previous owners, (1) the house was built 2 to 3 feet in the wetlands buffer, and (2) to add a sunroom; both variances were approved.

It was a general consensus of the Board that the proposed garage was not within the 100-foot wetlands buffer zone.

Chair Buber opened the Public Hearing for those in favor of the application.

Stuart Spooner, 229 Post Road - said that he shares a driveway with the Snows, and is in favor of the proposed attached garage. He said that he hopes the new structure will eliminate some of the sound coming from I-95.

There was no other public comment.

Chair Buber closed the Public Hearing.

Mr. Lagassa said that he felt the Applicants met the variance criteria and the "hardship" criterion is the hardest to meet.

Mr. Gordon agreed that they met the variance criteria.

Mr. Fullerton said that the extremely tight footprint is unique to this property and does pose a "hardship" in this instance.

Chair Buber agreed that it is a unique situation and does meet the "hardship" test.



369  
370 **Mr. Lagassa moved and Mr. Gordon seconded the motion to approve the variance request and grant**  
371 **relief from Article IV, Section 406 to allow the construction of a 28'x28' two car garage with a great**  
372 **room above, approximately eight (8) feet from the side boundary line.**  
373 **The vote was unanimous in favor of the motion (5-0).**  
374

### 375 **Other Business**

376 a). Alternate Appointments – The Board was in receipt of a letter of interest from current Alternate  
377 Member Dennis Williams requesting a three-year term as an Alternate Member.  
378

379 Chair Buber explained that the Board has a certain process when appointing Alternate Members. Mr.  
380 Williams has been an Alternate Member for many years and is very capable. He was not available to  
381 attend this meeting, but if the Board concurred, the Chair would like to waive the normal appointment  
382 procedure. The Board agreed to the waiver.  
383

384 **Mr. Landman moved and Mr. Fullerton seconded the motion to appoint Dennis Williams for a three-**  
385 **year term as an Alternate Member to the Zoning Board of Adjustment. The term shall expire in March**  
386 **2017. The vote was unanimous in favor of the motion (5-0).**  
387

388 The Board had no other letters of interest.  
389

390 Ms. Chase was instructed to inform Mr. Williams of his reappointment and remind him to take his Oath  
391 of Office with the Town Clerk.  
392

393 \*b). Board Discussion on a Motion for Rehearing submitted by Charles A. Griffin, on behalf of Jerome  
394 Day and Jane Currivan, regarding the change to the Decision letter for the Jerome Day Case #2014:01.  
395

396 Chair Buber said that the Motion for Rehearing was filed on May 16, 2014. He suggested the Board hold  
397 a Special Meeting on June 4, 2014 at 4:00 to discuss the request. Mr. Landman recused himself from the  
398 original application and will continue to be recused. Mrs. Wilson was seated for Mr. Landman and will  
399 continue to be seated in his stead for this matter. Mr. Williams was in the audience during the Day Case  
400 proceedings. Chair Buber commented that the vote to change the decision letter was agreed upon by all  
401 seven members. He said everyone participated in the discussions, even the Alternate Members not  
402 seated at the table.  
403

404 **Mr. Lagassa moved and Mr. Fullerton seconded the motion to hold a Special Meeting of the Zoning**  
405 **Board of Adjustment to discuss the Motion for Rehearing submitted by Attorney Charles A. Griffin on**  
406 **behalf of Jerome Day and Jane Currivan.**

407 **The vote was passed in favor of the motion (4 in favor, 0 opposed and 1 abstention). Mr. Landman**  
408 **abstained because he has recused himself from the Day Case.**  
409

410 Chair Buber made a correction to the April 22, 2014 Meeting Minutes approved earlier, by adding that  
411 Mrs. Wilson was seated for Mr. Landman for the Day Case.  
412

413 Mr. Gordon withdrew his second and Mr. Landman withdrew his motion to approve the  
414 April 22, 2014 meeting minutes.  
415

416 **Mr. Gordon moved and Mr. Lagassa seconded the motion to approve the April 22, 2014 meeting**  
417 **minutes as amended.**

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

419

420 Chair Buber commented that it would be a good idea to start talking about addressing the Board's Rules  
421 of Procedure. He suggested the Board discuss it when the agenda is a little lighter.

422

423 **Mr. Landman moved and Mr. Gordon seconded the motion to adjourn the meeting at 8:30 p.m.**

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

425

426 Respectfully submitted,

427

428 Wendy V. Chase

429 Recording Secretary

430

431 Approved June 24, 2014