



**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**

7
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:** David Buber, Chair; Phelps Fullerton, Vice Chair, George Lagassa,
15 Robert Landman and Charles Gordon. (5)
16

17 **Members absent:**

18
19 **Alternates present:** Jonathan Pinette (1)
20

21 **Administrative Staff present:** Wendy Chase, Recording Secretary
22

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

25
26 Chair Buber Called the Meeting to Order at 6:30 p.m.
27

28 Chair Buber announced to those in attendance that the Zoning Board received a letter from Attorney
29 Thomas Hildreth, Co-Counsel to Historic Runnymede Farm, LLC requesting a continuance of their
30 Application for an Appeal of an Administrative Decision; Case #2014:04.
31

32 Pledge of Allegiance -Chair Buber invited the Board Members and those in attendance to rise for a
33 Pledge of Allegiance and noted that reciting the Pledge of Allegiance is solely for those who choose to do
34 so and failure, neglect or inability to do so will have no bearing on the decision making of the Board or
35 the rights of an individual to appear before, and request relief from, the Board.
36

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

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

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43 2014 at the Library, Town Clerk's Office, Town Office and Town's website, that included an item under
44 other business.

45
46 Chair Buber informed the other applicants that he wanted to take action on the Runnymede Farm Case
47 first.

48
49 Chair Buber then briefly explained the Board's operating Rules and Procedures to those present.

50
51 Swearing In Of Witnesses – Pursuant to RSA 673: 14 and 15, Chair Buber swore in all those who were
52 present and who intended to act as witnesses and/or offer evidence to the Board in connection with any
53 Case or matter to be heard at the Meeting.

54
55 **Meeting Minutes**

56
57 March 25, 2014 – Mr. Landman made a correction on line #781, Mr. Landman made the motion to
58 nominate Mr. Buber as Chair and Mr. Fullerton Seconded the motion.

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

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

63
64 April 23, 2014 Special Meeting Minutes – Mr. Gordon referred to line #134 to remove the second "it"
65 from the sentence.

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

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

69
70 **Unfinished Business**

71
72 1. No Unfinished Business.

73
74 **New Business**

75
76 **2. Case #2014:04 – Historic Runnymede Farm, LLC, PO Box 250 Rye Beach, NH 03871. Applicant:**
77 **Same as Owner; Property location: 68 Atlantic Avenue, North Hampton, NH; M/L: 006-002—**
78 **001 (including 006-003-000 merged to 006-002-001 on 03/20/2014); Zoning District R-2 –**
79 **Residential Medium Density. The Applicant requests an Appeal of a Decision of an**
80 **Administrative Officer to reverse the April 1, 2014 Decision of the Planning Board, that the**
81 **proposed arena is a "riding stable", and that the proposed arena requires a Site Plan Review.**

82
83 In attendance for this Application:

84 Attorney Thomas Hildreth, Counsel to Historic Runnymede Farm, LLC

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

86
87 Mr. Gordon recused himself from Case #2014:04 on his own accord.

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

89

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

92
93 Attorney Hildreth addressed the Board and said that he has requested a continuance for Case #2014:04
94 for either the June or July meeting. He said that he spoke to Ms. Chase and was informed that the June
95 Agenda was rapidly filling. Chair Buber confirmed that the June Agenda was full.

96
97 Attorney Hildreth said that Attorney Donovan, on behalf of Virginia Weldon, has filed an appeal with the
98 Board on the April 1st Decision of the Planning Board, which is slated for the June ZBA Agenda, and
99 wondered, if because it is the same decision Runnymede is appealing, whether or not the two cases
100 could be put together.

101
102 Chair Buber asked Attorney Donovan if he intended to request a continuance of Mrs. Weldon's appeal.

103
104 Attorney Donovan requested a continuance of Mrs. Weldon's appeal that was filed for the June Zoning
105 Board Agenda to the August 26, 2014 meeting. He explained that they would like to wait for the
106 outcome of the Historic Runnymede Farm LLC appeal first. Attorney Donovan said that his client is
107 appealing the April 1, 2014 Decision because they believe the proposed use is a commercial use
108 requiring a variance.

109
110 Attorney Hildreth said that the Board will hear a lot of facts at the July meeting that will have bearing on
111 Attorney Donovan's Appeal. He wanted to take judicial notice that everything heard in July won't have
112 to be heard all over again in August, even though it is a separate issue, it all derives from the same body
113 of facts.

114
115 The Board, later on in the meeting, after Mr. Gordon was reseated, took the following action on
116 Attorney Donovan's request.

117 **Mr. Landman moved and Mr. Lagassa seconded the motion to approve Attorney Donovan's request to**
118 **continue his client, Virginia Weldon's, appeal of the Planning Board's Decision for PB Case #14:02 –**
119 **Historic Runnymede Farm, LLC to the August 26, 2014 meeting.**
120 **The vote passed in favor of the motion (4 in favor, 0 opposed and 1 abstention). Mr. Gordon**
121 **abstained.**

122
123 Attorney Hildreth had also mentioned in his letter whether or not the Board might want to schedule a
124 site walk of the property in advance of the continued meeting.

125
126 Chair Buber said that Attorney Hildreth could coordinate with Ms. Chase on dates to hold the site walk.
127 The site walk would be considered a public meeting and noticed accordingly.

128
129 Chair Buber said that he viewed the DVD recordings of all three (3) Planning Board meetings; the
130 minutes of each meeting and the entire Planning Board case record filed at the Town Office. He
131 commented that there was a discrepancy between the Planning Board's Decision Letter signed by Chair
132 Kroner; the actual motion made at the meeting, and the relief requested by Attorney Hildreth on behalf
133 of his client, Runnymede Farm, LLC. Chair Buber said that the word "arena" was not mentioned in the
134 Planning Board's Decision Letter or the motion, and wondered why it was mentioned in the request for
135 relief. He asked Attorney Hildreth what exactly his client was requesting.

136
137 Below are the written actions that transpired.

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

139

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

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

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

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

146

147 The Decision Letter, signed by Chair Kroner:

148

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

152

153 The relief sought by Virginia Weldon:

154

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

157

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

163

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

167

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

171

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

175

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

179

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

182

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

185

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

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

189

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

196

197 In attendance for this application:

198 Julie and John Woodworth, Owners/Applicants

199

200 Mr. Pinette stepped down.

201 Mr. Gordon was reseated.

202

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

205

206 **513.1 The property must conform to the dimensional requirements of a single-family lot.**

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

211

212 **513.2 The existing dwelling must have existed prior to the adoption of this ordinance (1990).**

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

215

216 **513.3 The apartment must be contained within the existing single-family dwelling.**

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

218

219 **513.4 The dwelling to which an accessory apartment is added must be owner-occupied and a**
220 **minimum of 2,000 square feet in total floor area.**

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

222

223 **513.5 The size of the apartment shall be between 400 and 800 square feet.**

224 The size of the apartment is 770 square feet.

225 **513.6 No more than two bedrooms are permitted in the accessory apartment.**

226 There is one bedroom as shown on the floor plan.

227

228 **513.7 The owner shall provide evidence to the Building Inspector that septic facilities are**
229 **adequate for both units according to the standards of the Town and the N.H. Water Supply and**
230 **Pollution Control Division. If deemed necessary by the Building Inspector, such evidence shall be in**
231 **the form of certification by a State of N.H. licensed septic system designer. The Building Inspector**
232 **shall indicate his approval in writing to the Zoning Board of Adjustment.**

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

237
238 **513.8 The apartment shall be designed so that the appearance of the building remains that of a**
239 **single-family dwelling. Any new entrance shall be located on the side or rear of the building.**

240
241 The entrance to the apartment is on the other side of the dwelling's living room to insure that the
242 appearance of the building remains that of a single-family dwelling, as shown on the illustrated elevation
243 plan.

244
245 Chair Buber referred to the last sentence in Section 513.7 under Accessory Apartment "The Building
246 Inspector shall indicate his approval in writing to the Zoning Board of Adjustment". He emphasized the
247 word *shall*.

248
249 Neither the Board nor the Applicant received a letter from the Building Inspector.

250
251 Chair Buber said that the issue of the letter from the Building Inspector needs to be resolved.

252
253 Mr. Landman referred to the sentence "if deemed necessary by the Building Inspector".

254
255 Chair Buber referred to the last sentence under the criterion "shall indicate his approval in writing".

256
257 Mr. Landman referred to the septic plan and asked if it currently existed or if it was going to be built to
258 accommodate the apartment.

259
260 Mr. Woodworth said that it will be built.

261
262 Mr. Lagassa asked if it was the applicant's intent to rent out the apartment in general, or will it be used
263 as an "in-law" apartment, or a family apartment. He also asked if there was any construction involved in
264 adding the apartment.

265
266 Mr. Woodworth said that he will rent it to anyone, and there will be no new construction.

267
268 Mr. Woodworth said that there will be no more than two tenants, and there is a gravel parking area that
269 will accommodate two vehicles for the apartment.

270
271 Chair Buber opened the Public Hearing to those present who wanted to comment on the Case.
272 There was no public comment.

273 Chair Buber closed the Public Hearing.

274

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

277
278 Mr. Woodworth explained that the apartment was built for his mother to stay in which she did for 7 or 8
279 years, and after she passed, they rented it, and have continued to rent it. He said he was before the
280 Board with a Special Exception for an Accessory Apartment to “make it right”. He said that there will be
281 no added construction.

282
283 **Mr. Landman moved and Mr. Lagassa seconded the motion to approve the Special Exception for Case**
284 **#2014:03.**

285
286 **Mr. Buber added the condition that the Building Inspector indicates his approval in writing to the**
287 **Zoning Board of Adjustment regarding the septic issue, and that it become part of the permanent file,**
288 **and to have that done in four (4) to five (5) business days.**

289
290 **The vote was unanimous in favor of the motion (5-0).**

291
292 Chair Buber reminded the Applicants of the 30-day appeal period.

293
294 **3. Case #2014:05 – Ryan & Mary Lynn Snow, 227 Post Road, North Hampton, NH 03862.**
295 **Applicants: Same as Owners; Property location: 227 Post Road, North Hampton, NH; M/L: 022-014-**
296 **004; Zoning District: R-1 – Residential High Density.** The Applicants request a Variance under Article IV,
297 Section 406 to allow construction of a 28’ x 28’ attached two-car garage encroaching 10’ to 15’ into the
298 required 25-foot property sideline setback.

299
300 In attendance for this application:
301 Ryan & Mary Lynn Snow, Owners/Applicants

302
303 Mr. Fullerton read the case description into the record.

304
305 Mr. Snow explained that they would like to build a 28’ x 28’ attached two-story, two-car garage that will
306 encroach approximately eight (8) feet into the 25-foot required side setback. They propose to renovate
307 the existing garage, under the house, into a family room. The garage will be located on the left side of
308 the house when looking at it from the Street.

309
310 Mr. Fullerton said this is a new garage and great room. This is a two (2) story structure.

311
312 Mr. Snow went over the Variance Test:

313
314 **1. Would granting this variance be contrary to the public interest?**

315
316 Mr. Snow said he believes that it would not be contrary to the public interest because it will increase the
317 value of his house.

318
319 **2. Would granting this variance be consistent with the spirit of the ordinance?**

320

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

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

326
327 Mr. Snow said that the benefit of building the garage is not outweighed by the general public.
328

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

330
331 Mr. Snow said that the proposed garage will add value to his home and add to the tax base.

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

333
334 Mr. Snow said that the proposed garage will be located in the only spot on the property that won't
335 affect the wetlands. He showed members of the board a copy of a survey plan and the wetlands overlay
336 he received from the previous owner that depicted the wetlands buffer.
337

338 After reviewing the survey plan the Board agreed that the proposed garage would be just outside the
339 100-foot wetlands buffer zone.
340

341 Mr. Fullerton said that when he researched the town files he discovered there was some confusion with
342 the records. He said that the property was subdivided and the original lot was 229 Post Road. The new
343 septic system designed for 227 Post Road was done and went through State approvals but addressed as
344 229 Post Road instead of 227 Post Road. There have been two variance requests made by the previous
345 owners, (1) the house was built 2 to 3 feet in the wetlands buffer, and (2) to add a sunroom; both
346 variances were approved.
347

348 It was a general consensus of the Board that the proposed garage was not within the 100-foot wetlands
349 buffer zone.
350

351 Chair Buber opened the Public Hearing for those in favor of the application.
352

353 Stuart Spooner, 229 Post Road - said that he shares a driveway with the Snows, and is in favor of the
354 proposed attached garage. He said that he hopes the new structure will eliminate some of the sound
355 coming from I-95.
356

357 There was no other public comment.

358 Chair Buber closed the Public Hearing.
359

360 Mr. Lagassa said that he felt the Applicants met the variance criteria and the "hardship" criterion is the
361 hardest to meet.
362

363 Mr. Gordon agreed that they met the variance criteria.
364

365 Mr. Fullerton said that the extremely tight footprint is unique to this property and does pose a
366 "hardship" in this instance.
367

368 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