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**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Special Meeting
Thursday, September 11, 2014 at 6:30pm
Town Hall, 231 Atlantic Avenue
North Hampton, NH 03862**

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

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13 **Attendance:**

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15 **Members present:** David Buber, Chair; Phelps Fullerton, Vice Chair, and Charles Gordon. (3)

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

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

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

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23 **I. Preliminary Matters; Procedure; Swearing in of Witnesses (RSA 673:14 and 15);**

24 **Recording Secretary Report**

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

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31 Mr. Buber commented that he finds the Pledge tonight very meaningful in the sense that it is the 13th
32 anniversary of the 9/11 tragedy.

33

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

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37 Chair Buber dispensed the normal procedures and acknowledged the four (4) people in the audience in
38 attendance for the Raiff Case, #2014:06, as described below under "Unfinished Business".

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41 **II. Unfinished Business:**

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43 **1. Case #2014:06 – Applicants Gregory Raiff, Meghan Raiff Trusts, Matthew Raiff Trust, Nola Raiff**
44 **Trust, 3 Park Circle, North Hampton, NH 03862. Owners: Same as above; Property location: 3**
45 **Park Circle, North Hampton, NH 03862; M/L: 017-107-010; Zoning District: R-2 Residential**
46 **Medium Density.** The Applicants request the following Variances, (1) Article IV, Section 409.9B –
47 to permit a new barn, colonnade, driveway and related features approximately 53-feet from
48 wetland where approximately 10-feet exist and 100-feet is required, (2) Article IV, Sections 403
49 and 405, Table R-2 – to eliminate 1 of the bedrooms in the main home, to allow
50 kitchen/bath/bedroom for family /visitor use only in new barn creating 2 dwellings on 1 lot
51 where 1 dwelling is permitted and (3) Article V, Section 501.2 – To allow the new barn,
52 colonnade, driveway and related features, which expands the existing nonconformity of
53 structures located within the wetland buffer. This Application was submitted and scheduled to
54 be heard at the June 24, 2014 ZBA Hearing, and has been continued to this “Special” Hearing.
55

56 Chair Buber explained that it was recently discovered that several abutters were not properly notified of
57 the Special Meeting tonight, and to comply with the law, a continuance is necessary so that the abutters
58 can be notified by registered mail.
59

60 Chair Buber further explained that Attorney Phoenix originally requested a continuance to the regularly
61 scheduled Zoning Board Meeting on September 23, 2014 but was advised that the Board was not having
62 a Public Hearing; they were having a Public Meeting for a Motion for Rehearing request, which has
63 limited discussion between the Board Members. The Chair estimated the discussion for the Request for
64 Rehearing could last several hours and the Chair didn’t think it seemed fair for the Applicant, abutters
65 and affected parties to have to wait that long.
66

67 Attorney Phoenix, Counsel to the Applicant, recognized the mistake and sent an E-mail to the Board
68 requesting a continuance of Case #2014:06 to a Special Public Hearing of the Board on September 30,
69 2014 at 6:30pm at the Town Hall, 231 Atlantic Avenue, so that he would have time to properly notify the
70 abutters he originally missed.
71

72 All Board Members present indicated that they would be available for the September 30, 2014 Special
73 Meeting.
74

75 **Mr. Gordon moved and Mr. Lagassa seconded the motion to hold a Special Public Hearing on**
76 **September 30, 2014 at 6:30 p.m. at the Town Hall to solely hear Raiff Case #2014:06.**
77 **The vote was unanimous in favor of the motion (4-0-0)**
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79 Recording Secretary Report - Ms. Chase reported that the September 11, 2014 Special Meeting Agenda
80 was properly posted September 8, 2014 at the Library, Town Clerk’s Office, Town Office and on the
81 Town’s website.
82

83 **Minutes**

84

85 **August 26, 2014** - Chair Buber invited Mr. Pinette to participate in taking action on the August 26, 2014
86 meeting minutes because he was seated for Mr. Gordon at that meeting.
87

88 Chair Buber explained a couple of typographical errors he had Ms. Chase make to the August 26, 2014
89 Meeting Minutes.
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91 Mr. Pinette referred to an E-mail Ms. Chase sent out to the Members requesting typographical and
92 grammatical errors be sent to her prior to the meeting so they don't have to be addressed at the public
93 meeting, and asked if that was going to be the new protocol.

94

95 Chair Buber explained that, in the past, Ms. Chase sends a "draft" copy of the minutes to the Chair to
96 review for typos and grammatical errors. The Chair's corrections are sent back to Ms. Chase for her to
97 correct and then she sends the new "draft" to each of the members to review, and act on, at the
98 meeting.

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100 **Mr. Pinette moved and Mr. Fullerton seconded the motion to approve the August 26, 2014 meeting**
101 **minutes.**

102 **The vote passed in favor of the motion (4-0-1). Mr. Gordon abstained.**

103

104 Mr. Pinette returned to the audience.

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106 **III. New Business**

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108 **Following the Public Hearing the Board will conduct a Public Meeting to discuss filling the Primary**
109 **Zoning Board of Adjustment Member seat vacated by Member Robert Landman until the March**
110 **2015 Town Election.**

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112 Mr. Landman resigned from the Zoning Board by E-mail communication to the Board Members on
113 August 29, 2014. Mr. Pinette wrote a letter of interest to the Board on September 2, 2014 in filling
114 Mr. Landman's remaining term to March 2015.

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116 Chair Buber received information from Ms. Chase regarding seniority of the Alternate members – Dennis
117 Williams and Jonathan Pinette were appointed by the Board on August 31, 2010, and Lisa Wilson was
118 appointed by the Board on June 28, 2011. Chair Buber asked Ms. Chase to reach out to both Mrs.
119 Wilson and Mr. Williams to see if they would be interested in filling Mr. Landman's remaining term.
120 Mrs. Wilson has not replied yet, and Mr. Williams contacted Ms. Chase and said that he was not able to
121 make the commitment to serve as a Primary Member and would vote to appoint Mr. Pinette to fill the
122 vacancy.

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124 Chair Buber referred to **Appendix C – Vacancy Administrative Procedure** under the Board's Rules of
125 Procedures. He also referred to NH RSA 673:12 – Filling Vacancies in Membership, which he
126 subsequently read into the record. He wrote an E-mail to the Town Administrator, Paul Apple
127 requesting his opinion on whether RSA 673:12.III, where the Chairperson of the Board may designate an
128 Alternate member of the Board to fill the vacancy temporarily until the next town election is held, would
129 "trump" the Board's Rules of Procedure Appendix C, that involves a rather cumbersome and lengthy
130 posting/review process. Mr. Apple replied that he felt that the RSA "trumps" the Rules of Procedure.

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132 Mr. Lagassa said that the appropriate thing to do would be to appoint the Alternate who expressed an
133 interest in being a permanent member. Mr. Pinette has been sitting on the Board up until this meeting
134 and there are other Cases that he sat on that he will continue to sit on.

135

136 Mr. Gordon said the Board should follow the Procedure set forth in "Appendix C". During the interim of
137 the required posting time the Board already has Mr. Pinette sitting on the Historic Runnymede Farm,
138 LLC Case, and there are two other Alternates the Board can use if need be. He explained that, if the

139 procedure is followed, the Board cannot be accused of violating its own Rules of Procedure. He
140 suggested that if they do go this route that the Board should also include the solicitation of Alternate
141 Members.

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143 Chair Buber agreed and said that they have found that 3 Alternate members is a good workable number
144 for the Board. He said there is an inaccuracy in the Rules of Procedure that states three (3) is the
145 minimum number of Alternates the Board can appoint and five (5) is the maximum amount of
146 Alternates; the RSA only provides for a maximum of five (5); not a minimum. He agrees that the Board
147 should also post for an Alternate Member.

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149 Mr. Fullerton said he was in synch with Mr. Lagassa, and that the Board is fortunate to have dedicated
150 Alternate Members. He said that Mr. Pinette would make a real contribution to the Board until the
151 March Election.

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153 Chair Buber said that the cleanest, safest, most legal way to go is with "Appendix C" because it is a
154 Zoning Board procedure and governs the way the Board goes about filling the vacancy. It works in
155 conjunction with RSA 673:12 which gives the Board legal authority to fill the position until the next
156 Election.

157
158 **Mr. Gordon moved and Mr. Lagassa seconded the motion to direct the Zoning Administrator to**
159 **proceed with the posting under the Appendix C criteria of the Zoning Board's Rules of Procedure for**
160 **one (1) Primary Member and one (1) Alternate Member.**
161 **The vote was unanimous in favor of the motion (4-0-0).**

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163 **IV. Other Business:**

164 **1. Communications/Correspondence and Miscellaneous –**
165 **(a.) Other matters properly before the Meeting.**
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167 Chair Buber reported that he sent an E-mail to the Town's Finance Director, Ryan Cornwell requesting
168 an increase to the education and training budget line of \$500.00 for fiscal year 2016. The Board, at their
169 last meeting, decided that an increase may be warranted because of the potential of newly elected or
170 appointed members that would benefit from the Land Use Seminars offered throughout the year.

171
172 Chair Buber said that he spoke with Paul Sanderson, a well known Land Use Attorney, after the
173 September 3rd Land Use Seminar he, Mr. Fullerton and Ms. Chase attended, regarding transcriptions of
174 Board Minutes. Chair Buber said that it is not necessary to transcribe every Board meeting, but if the
175 Board thinks there is a potential that a case will be appealed to Superior Court, then a transcription
176 would be beneficial. Attorney Sanderson agreed and said that, concerning the contents of the minutes,
177 "less:" is not better; "more" is better. He further explained that he goes by the "10 year rule" – those
178 looking back at the minutes ten years from now should be able to understand how the Zoning Board, at
179 that time, arrived at their case decision. Chair Buber also confirmed with Attorney Sanderson that the
180 official record of a meeting are the minutes. The DVD's generally will only be used if there is impeaching
181 or conflicting testimony and the court would most likely subpoena them so the court can actually
182 understand what did happen.

183 Mr. Fullerton remarked that a transcription of a 3 or 4 hour meeting could potentially add up to 50 or 60
184 pages. He agrees it would capture everyone's thought process and how they came to their conclusions,
185 but they are going to be "booklets" of the cases the Board opts to have transcribed.

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Ms. Chase said that she spoke to Mr. Apple regarding someone transcribing the minutes; not having the minutes transcribed by a transcriptionist. Mr. Apple supported the idea of looking into it because there are other Boards, Committees or Commissions in Town that may need that service.

Mr. Gordon said that depending on the length of the meeting a verbatim transcription may cost the Town up to \$1,000.00. Mr. Gordon said that the Board could always wait until a case is appealed to Superior Court, and then decide to have it transcribed verbatim. Chair Buber agreed and said that was what he meant.

Mr. Gordon said that the minutes have to clearly reflect what was done, and the action that was taken as accurately as possible, but as far as the comments and remarks made from people and during the presentation should be limited in the minutes if they have no real bearing on the case.

Chair Buber said that he was asked by the Board to get an opinion from Attorney Sanderson, which he did, and said that he thinks Ms. Chase is doing a good job capturing the essence of the meeting and would like to continue in the same manner, but to also keep it in mind that a transcription of a meeting may at some point be necessary.

Chair Buber asked Ms. Chase to update the September 23, 2014 Agenda by inserting "Public Meeting" under Zoning Board of Adjustment in the Agenda's Heading, and to add a sentence at the end of the paragraph under "New Business", "The Motion filed is for Zoning Board Action, Discussion and Vote".

**Mr. Fullerton moved and Mr. Gordon seconded the motion to adjourn at 7:15 p.m.
The vote was unanimous in favor of the motion (4-0-0).**

Respectfully submitted,

Wendy V. Chase
Recording Secretary

Approved September 23, 2014