



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, August 26, 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:** None.

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

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

22
23 **I. 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 Pledge of Allegiance -Chair Buber invited the Board Members and those in attendance to rise for a
29 Pledge of Allegiance.

30
31 Introduction of Members and Alternates - Chair Buber introduced Members of the Board and the
32 Alternates who were present (as identified above).

33
34 Recording Secretary Report - Ms. Chase reported that the August 26, 2014, Meeting Agenda was
35 properly published in the August 12, 2014 edition of the Hampton Union, and, posted at the Library,
36 Town Clerk's Office, Town Office and on the Town's website.

37
38 Swearing In Of Witnesses – Pursuant to RSA 673: 14 and 15, Chair Buber swore in all those who were
39 present and who intended to act as witnesses and/or offer evidence to the Board in connection with any
40 Case or matter to be heard at the Meeting.

41
42 Chair Buber seated Mr. Pinette for Mr. Gordon. Mr. Gordon is recused from the Historic Runnymede
43 Case and all matters associated with it.

45 **Minutes**

46

47 **July 22, 2014** – typographical errors were corrected. Mr. Landman moved and Mr. Pinette seconded the
48 motion to approve the July 22, 2014 meeting minutes as amended.

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

50

51 **II. Unfinished Business**

52

- 53 1. Case #2014:06 – Applicants Gregory Raiff, Meghan Raiff Trusts, Matthew Raiff Trust, Nola Raiff
54 Trust, 3 Park Circle, North Hampton, NH 03862. Owners: Same as above; Property location: 3
55 Park Circle, North Hampton, NH 03862; M/L: 017-107-010; Zoning District: R-2 Residential
56 Medium Density. The Applicants requests the following Variances, (1) Article IV, Section 409.9B
57 – to permit a new barn, colonnade, driveway and related features approximately 53-feet from
58 wetland where approximately 10-feet exist and 100-feet is required, (2) Article IV, Sections 403
59 and 405, Table R-2 – to eliminate 1 of the bedrooms in the main home, to allow
60 kitchen/bath/bedroom for family /visitor use only in new barn creating 2 dwellings on 1 lot
61 where 1 dwelling is permitted and (3) Article V, Section 501.2 – To allow the new barn,
62 colonnade, driveway and related features, which expands the existing nonconformity of
63 structures located within the wetland buffer. This Case is continued from the June 24, 2014
64 meeting.

65

66 In attendance for this meeting:

67 There was no one in attendance for this application.

68

69 The Board Members were in receipt of E-mail communications sent between Counsel for the Applicant,
70 Attorney Timothy Phoenix and Ms. Chase, that concluded with an agreement to continue Case #2014:06
71 to a date certain, to be determined at this meeting. Attorney Phoenix informed the Board that he would
72 not be present.

73

74 Chair Buber suggested that after receiving all the pertinent information from Rockingham County
75 Conservation District (RCCD), Ms. Chase will poll the Board Members and come up with a couple of
76 dates and times that will work for everyone, and then contact Attorney Phoenix and let him know, and
77 the Chair will call a Special Hearing.

78

79 Mr. Landman has a busy schedule over the next few weeks, Chair Buber suggested he forward a
80 schedule of times he would be available to Ms. Chase.

81

82 **III. New Business**

83

- 84 1. Case #2014:07 – Applicant, Mary Virginia Weldon, Trustee Mary Virginia Weldon Revocable
85 Trust, 74 Atlantic Avenue, North Hampton, NH 03862. Owner of the property subject of appeal:
86 Historic Runnymede Farm, LLC, PO Box 250, Rye Beach, NH 03871; property subject of appeal
87 location: 68 & 72 Atlantic Avenue; property subject of appeal M/L: 006-002-001; Zoning District:
88 R-2 Residential Medium Density. The Applicant requests an Appeal of a Decision of an
89 Administrative Officer (North Hampton Planning Board), Rulings that the Planning Board erred
90 by not determining that Historic Runnymede Farm, LLC and its proposed riding arena are a
91 commercial use requiring a Variance (R-2 Use Table) or a prohibited animal husbandry facility

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by
NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

ZBA Meeting Minutes

92 (Article IV, Section 405.3), and by not requiring a Conditional Use Permit per Article V, Section
93 508.5.C of the Zoning Ordinance.

94

95 In attendance for this application:

96 Attorney Peter Imse, Sulloway & Hollis PLLC, Counsel to the Appellant, Mary Virginia Weldon

97 Kelli Ovitt-Puc, Sulloway & Hollis PLLC, Attorney Imse's Associate

98 Attorney Thomas Hildreth, Counsel to Historical Runnymede Farm, LLC

99

100 Mr. Fullerton read the case description into the record.

101

102 Chair Buber then briefly explained the Board's operating Rules and Procedures to those present. He
103 noted that Mrs. Weldon has new Counsel representing her, Attorney Peter Imse, and thanked Mr. Imse
104 for his letter to the Board introducing himself.

105

106 Attorney Imse introduced himself and Ms. Ovitt-Puc, his Associate, and explained that he is an Attorney
107 with Sulloway & Hollis, PLLC, and will be representing Mrs. Mary Virginia Weldon in the Runnymede
108 Farm proceedings. Attorney Michael Donovan no longer represents Mrs. Weldon. Attorney Imse is
109 moving forward with the Appeal submitted by Michael Donovan on May 15, 2014 and explained that he
110 would have done the same Appeal that Attorney Donovan submitted, due to the uncertainty of what
111 the Planning Board actually did when it made its Ruling on April 1, 2014. The Appeal was filed to
112 preserve Mrs. Weldon's rights in the event the Planning Board's activities were viewed as ruling on the
113 three (3) issues that Mrs. Weldon challenged, that were not specifically addressed.

114

115 Attorney Imse discussed with Mrs. Weldon the possibility of delaying the Appeal to allow the Planning
116 Board to clarify what it did, or didn't do when they made their decision, and then the Zoning Board
117 would have actual decisions to rule on.

118

119 Attorney Hildreth filed a motion to dismiss the appeal. Attorney Imse contacted him and said they
120 would all benefit from clarification from the Planning Board and asked if his client (HRF) would agree to
121 jointly go before the Zoning Board and request time to go to the Planning Board to get clarification.

122

123 The Zoning Board was in receipt of a copy of the "Term Sheet" agreed upon by HRF and Mrs. Weldon as
124 a means to bring clarity to the process. Attorney Imse said that Mrs. Weldon's appeal before the Zoning
125 Board would be put on hold.

126

127 Attorney Hildreth concurred with Attorney Imse, but clarified from their perspective. He said that the
128 Appeal would be deferred, rather than continued, and no one is going to the Planning Board to ask them
129 what they did regarding their ruling; his client, HRF, is going to submit a Site Plan Review Application in
130 three (3) or four (4) months; they need time to wait for the Zoning Board to act on the Motion for
131 Rehearing submitted by Attorney Imse regarding the Zoning Board's Decision of July 22, 2014 and/or
132 any subsequent court hearing determinations.

133

134 Motion for Rehearing

135

136 Pursuant to RSA 677:3.II. Upon the filing of a motion for rehearing, the Board of Adjustment, Board of
137 Appeals, or the local legislative body shall within 30 days either grant or deny the application, or
138 suspend the order or decision complained of pending further consideration.

139

Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by
NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

140 Attorney Imse said that although he did not confer with his Client he said that he has no objection if the
141 Board does not address the Rehearing request until the regular September 23, 2014 meeting (over thirty
142 (30) days), and if a Rehearing is granted, he gives his consent that the Rehearing could be held as late as
143 the Board's October 28, 2014 meeting.

144
145 Chair Buber suggested that the Agenda be split in half; the first half of the meeting will be a public
146 meeting to act on the Motion for Rehearing, and the second half will be a public hearing if any new
147 cases come in on, or before, the August 29, 2014 application deadline date.

148
149 Mr. Landman said that he may not be available for the September 23, 2014 Zoning Board Meeting.
150 Mrs. Wilson is the next Alternate on the rotating schedule, but has recused herself from the Runnymede
151 cases. Ms. Chase was instructed to contact Mr. Williams to make sure he would be available to sit for
152 Mr. Landman at the September 23, 2014 meeting, and depending on the decision made, possibly the
153 October 28, 2014 meeting. Pursuant to the Board's Rules of Procedure Section 5.B, When an Alternate
154 *has been seated for a Primary Member due to recusal; such Alternate Member shall sit to the extent*
155 *possible for the entire application, including any and all appeals.*

156
157 Chair Buber explained that the Board's decision on the Motion for Rehearing will be made at the
158 meeting on September 23, 2014 and a Decision letter from the Chair will be sent to the Applicant no
159 later than five (5) business days from the date of the decision.

160
161 **Mr. Lagassa moved and Mr. Pinette seconded the motion to continue the Public Hearing contingent**
162 **on the terms and conditions outlined in the "TermSheet" submitted by Attorney Imse.**

163
164 Board members voiced concerns over the crafting of the motion and eventually asked for guidance from
165 Attorney Imse.

166
167 Chair Buber called for a recess at 7:20 p.m. so that Attorney Imse could draft a motion that the Board
168 could use as a guide if they chose to do so.

169
170 Chair Buber reconvened the meeting at 7:24 p.m.

171
172 Mr. Pinette withdrew his second and Mr. Lagassa withdrew his motion.

173
174 **Chair Buber moved and Mr. Landman seconded the motion that the Public Hearing on the Appeal in**
175 **Case #2014:07 be deferred indefinitely upon the terms set out in the "Proposed Terms of Conditions"**
176 **that have been filed with the Board, and until such time Historic Runnymede Farm, LLC, or as Mrs.**
177 **Weldon requests the Board to place the matter on the Board's Agenda for further consideration.**
178 **The vote was unanimous in favor of the motion (5-0-0).**

179
180 **IV. Other Business**

181
182 Chair Buber explained that an E-mail communication came out from the Town Administrator, Paul Apple
183 regarding the 2015-2016 town budget and asked that if any Board or Committee had any requests or
184 changes to the budget that they should provide them to the Town's Accountant Ryan Cornwell by
185 September 8, 2014.

186

ZBA Meeting Minutes

187 Chair Buber went on to say, and the Board agreed, that there are not many lines in the Zoning Board's
188 budget that the Board has any control over, but they do have a say on the training and education line.
189 He said that they tried to increase it a couple of years ago from \$500.00 to \$1,500.00 and it was nixed
190 during the budget process. Chair Buber would like to write a letter requesting an increase of the training
191 and education line, he said that there is one ZBA Member's term expiring in March 2015 and four (4)
192 terms expiring in 2016 and the Board could potentially have that many new members who would
193 benefit from the training seminars offered to Town Officials.

194
195 It was a general consensus of the Board to increase the training and education line from \$500.00 to
196 \$1,000.00 to cover the cost of education and training courses for Zoning Board members, both current
197 and newly elected. Chair Buber will write a letter to Mr. Cornwell.

198
199 Chair Buber suggested that the Board review the Motion for Rehearing Attorney Imse submitted on
200 behalf Mary Virginia Weldon, and then the Board can go over it at the September 23, 2014 meeting
201 point-by point.

202
203 Ms. Chase suggested the Board consider increasing the budget to cover the costs of a transcriptionist to
204 transcribe the meeting minutes of the ZBA. She said that the cases before the Board are becoming more
205 technical and it may behoove the Board to have the minutes verbatim for those cases that have a higher
206 risk of being challenged in Court.

207
208 Mr. Gordon voiced concerns over having the minutes prepared verbatim. He said it could create more
209 problems than what it could resolve. Mr. Gordon said that the minutes should include a brief discussion
210 of what transpired, and an accurate account of any decisions made.

211
212 Mr. Lagassa asked if the DVD's of the meetings can be subpoenaed as evidence in a Court Case.

213
214 Mr. Gordon said that he did not know for sure if a DVD would be admissible in Court.

215
216 Chair Buber said that the official record is the written minutes and if anything is left out of the minutes
217 that could influence the Court, or enlighten a Court, as to how the Board came about making a
218 particular decision; a transcription would be "worth its weight in gold".

219
220 Chair Buber said that the more complex the cases become, that involve lawyers and legalese, it can
221 become confusing and difficult and he thinks that the Board could use every bit of evidence it can get to
222 put into the minutes and he supports the transcription.

223
224 Mr. Landman suggested obtaining a legal opinion from Town Counsel.

225
226 Chair Buber suggested the Board support Mrs. Chase in discussing it with Mr. Apple and getting his
227 opinion before they take it any further.

228
229 Mr. Landman said that he has concerns and reservations about it, but did not object in Mrs. Chase
230 discussing it with Mr. Apple. There were no objections from the Board.

231
232 Mr. Fullerton moved and Mr. Landman seconded the motion to adjourn at 7:52 p.m.
233 The vote was unanimous in favor of the motion (5-0).

234
Disclaimer – these minutes are prepared by the Recording Secretary within five (5) business days as required by
NH RSA 91A:2,II. They will not be finalized until approved by majority vote of the Zoning Board of Adjustment.

ZBA Meeting Minutes

235 Respectfully submitted,
236
237 Wendy V. Chase
238 Recording Secretary
239
240 Approved September 11, 2014
241
242
243
244
245
246
247
248
249
250
251
252
253
254
255