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**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, October 28, 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, and  
15 Charles Gordon. (4) Mrs. Wilson was seated as the 5<sup>th</sup> Primary Member after being appointed by the  
16 Board and Sworn In by the Town Clerk.  
17

18 **Members absent:** None.  
19

20 **Alternates present:** Dennis Williams, Jonathan Pinette and Lisa Wilson. (3)  
21

22 **Administrative Staff present:** Wendy Chase, Recording Secretary.  
23

24 **Preliminary Matters; Procedure; Swearing in of Witnesses (RSA 673:14 and 15);**  
25 **Recording Secretary Report**  
26

27 Chair Buber Called the Meeting to Order at 6:30 p.m.  
28

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

34 Introduction of Members and Alternates - Chair Buber introduced Members of the Board and the  
35 Alternates who were present (as identified above).  
36

37 Recording Secretary Report - Ms. Chase reported that the, October 28, 2014 Meeting Agenda was  
38 properly published in the October 16, 2014 edition of the Portsmouth Herald, and, posted at the Library,  
39 Town Clerk's Office, Town Office and on the Town's website.  
40

41 Chair Buber then briefly explained the Board's operating Rules and Procedures to those present.  
42

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.

Chair Buber convened the meeting at 6:30 p.m.

### **Minutes – September 30, 2014 –**

The Board reviewed the Meeting Minutes of September 30, 2014. Minor typographical errors were corrected.

**Mr. Lagassa moved and Mr. Gordon seconded the motion to approve the September 30, 2014 Special Meeting Minutes as corrected.**

**The vote was unanimous in favor of the motion (4-0-0).**

- I. Alternates and Primary Member vetting process.** The candidates will address the Zoning Board and field questions, if any, from the Members.

#### **Primary Member Candidates:**

Jonathan Pinette, 108 Post Road – Mr. Pinette addressed the Board. Mr. Pinette said that he is very qualified to become a Primary Member of the Board. He has been an Alternate Member of the Zoning Board for a number of years and has sat on quite a few cases where he has given his opinions and made judgments.

There were no questions from the Board Members.

Lisa Wilson, 9 Runnymede Drive – Mrs. Wilson addressed the Board. Mrs. Wilson said that she has been an Alternate Member of the ZBA for approximately 3 ½ years. She prepared a summary from the letter she submitted to the Board in October. She thanked the Board for the opportunity to be considered for the vacant seat on the Zoning Board of Adjustment. She said if appointed she would continue to bring to the Board the ability to assess each application in a fair and equitable manner in accordance with NH RSA's. She said she has no conflicts pertaining to land holdings or enterprises that may benefit financially or otherwise from decisions the ZBA may make. She said that she and her husband own property in North Hampton, and they have nothing to gain by virtue of variance requests that may be brought before the Board. She said that, if appointed, it would be an honor to be a Primary Member of the Zoning Board of Adjustment.

There were no questions from the Board Members.

**Mr. Lagassa moved that the Board conduct an Election where Board Members each declare their personal choice.**

Chair Buber said that Mr. Lagassa's motion is different from the Board's Rules of Procedures. He explained that the Board's past practices were that a Member would make a motion to nominate a

ZBA Meeting Minutes

Candidate and if there is no *second* to the motion then that Candidate is finished; if there is a *second* to the motion the Board then votes and it becomes a function of how many votes they get.

Mr. Fullerton said before making a motion he wanted to state that he thought both Mr. Pinette and Mrs. Wilson would make good Board Members, and the Board is fortunate that both have indicated an interest in the position. He referred to Mrs. Wilson's experience with the Rockingham Planning Commission and Conservation Commission work.

**Mr. Fullerton moved and Mr. Lagassa seconded the motion to nominate Lisa Wilson to be the Primary Member on the ZBA with a term to expire March 2015.**

Mr. Gordon asked if there were any other motions to entertain before voting on Mr. Fullerton's motion.

Chair Buber said that there is a motion made and seconded.

Mr. Gordon asked that if the nominee is elected would that mean that there will be no more nominations, and Chair Buber said that was correct.

Discussion ensued on the appointment process.

Chair Buber said he wanted to be fair and was willing to entertain a different process; Mr. Lagassa could withdraw his second to Mr. Fullerton's motion.

Mr. Gordon said that he didn't want to prolong the process; he just felt that there should be an opportunity that if there were another Candidate that could be supported by someone on the Board, that that Member of the Board should have an opportunity to nominate them.

Mr. Gordon said that he agrees with Mr. Fullerton that both Candidates would make good Primary Members, but Mr. Pinette was the first to propose himself; Mr. Gordon moved that he be nominated to serve out the remainder of the vacant Primary seat. Mr. Lagassa said he would be willing to *second* that motion if it were compatible. Chair Buber explained that there cannot be two motions on the floor. Mr. Lagassa did not *second* Mr. Gordon's motion. The motion failed.

**The Vote passed in favor of the motion to appoint Lisa Wilson to serve as a Primary Member of the Zoning Board until March 2015. (3 in favor, 1 opposed and 0 abstentions). Mr. Gordon voted against.**

Mrs. Chase filled out the Oath of Office document and the Chair signed it. Mrs. Wilson went to the Town Clerk's Office and was officially Sworn In.

**Alternate Member Candidates:**

Mark Janos, 77 Winnicut Road – Mr. Janos addressed the Board. Mr. Janos said that he has a great deal of experience in zoning matters and planning matters and would be an asset to the Board. He said he is an Attorney in Newburyport, MA with a license to practice in New Hampshire. He has taken matters to Superior Court and Supreme Court regarding zoning issues and thinks he would be a benefit to the Board.

There were no questions from the Board Members.

Mr. John Anthony Simmons, Jr. sent a letter of interest to the Board to serve as an Alternate Member for a two or three year term. Mr. Simmons was not present.

Robin Reid, 279 Atlantic Avenue – Mrs. Reid said that she has lived in North Hampton for 21 years and grew up in a family that her Mother was a Select Board member on Cape Cod. She said she has a diverse background ranging from banking, to computer operations manager, to real estate. She feels that she has an excellent ability to examine the facts and make decisions based on the law. She owns no land other than her own home in North Hampton and has no hidden agenda nor would she gain personally from any decision she would make in the future.

There were no questions from the Board Members.

Mrs. Wilson returned to the meeting with her signed Oath of Office and was seated at the table.

Mr. Fullerton said that he has known Mrs. Reid and her husband David for 20 years and could attest to her dedication and commitment to a wide range of community projects and endeavors.

**Mr. Fullerton moved and Mrs. Wilson seconded the motion to nominate Mrs. Robin Reid as an Alternate Member to the Zoning Board.**  
**The vote passed in favor of the motion (3 in favor, 1 opposed and 1 abstention). Mr. Gordon voted against. Mr. Lagassa abstained.**

Mrs. Reid agreed to serve a term to expire in March 2016. Mrs. Chase filled out the Oath of Office document and Mrs. Reid went over to the Town Clerk's Office and was Sworn In. Mrs. Reid returned to the meeting.

## **II. Unfinished Business:**

1. A Motion for Rehearing as required by RSA 677:2 has been filed by Attorney Peter Imse on behalf of Mary Virginia Weldon requesting the Zoning Board of Adjustment rehear the Historic Runnymede Farm, LLC Appeal and reverse its prior Decision of July 22, 2014 regarding ZBA Case #2014:04. The Motion filed is for Zoning Board Action, Discussion and Vote. No public testimony, input or introduction of evidence will be allowed. This is continued from the September 23, 2014 Meeting.

### In attendance for this Motion for Rehearing:

Attorney Peter Imse, Counsel to Mary Virginia Weldon

Attorney William Beckett, Co-Counsel to Historic Runnymede Farm, LLC

Mr. Gordon and Mrs. Wilson recused themselves.

Chair Buber seated Mr. Pinette for Mr. Gordon and seated Mr. Williams for Mrs. Wilson.

Chair Buber referred to RSA 677:2 – Rehearing Procedures Before Board of Adjustment, Board of Appeals and Local Legislative Body. Any person directly affected may apply for a rehearing in respect to any matter determined in the action or proceeding, specifying in the motion for rehearing the ground therefore; and the Board may grant such rehearing if in its opinion good reason therefore is stated in the

183 motion. He also referred to *RSA 677:3 – A motion for rehearing made under RSA 677:2 shall set forth*  
184 *fully every ground upon which it is claimed that the decision or order complained of is unlawful or*  
185 *unreasonable.*

186  
187 Chair Buber did not see the reason for a lot of dialogue.

- 188 • Resulting from a Decision of the Planning Board on April 1, 2014, Historic Runnymede Farm, LLC  
189 applied to the Zoning Board of Adjustment with a request of an Appeal of a Decision of an  
190 Administrative Officer to reverse the April 1, 2014 Decision of the Planning Board, that the  
191 proposed arena is a “riding stable”.
- 192 • The Zoning Board determined that HRF, because of its existence for 90+ years, did not need a  
193 Special Exception in this particular case. The Board also voted that the proposed “riding arena”  
194 is not a “riding stable”.

195  
196 Chair Buber said that, in his opinion, the Board did nothing illegal or unreasonable and that is the narrow  
197 issue the Board is looking at that would be the grounds to approve the Rehearing. If the Board feels that  
198 they did nothing illegal or unreasonable then the request for Rehearing should be denied.

199  
200 Mr. Pinette said he had nothing to add to the Chair’s comments.

201  
202 Mr. Fullerton said he interprets the RSA as a very narrow scope of review and it is up to the Board to  
203 determine if the Decision made was unlawful or unreasonable and illegal.

204  
205 Mr. Lagassa said he disagreed. He said the Chair framed it in such a way to make it extremely narrow  
206 hence; limiting what the Board can *hear* this evening. One of the objections raised by Attorney Imse is  
207 that it was improperly framed in the beginning. One of the reasons it is unreasonable is the way it was  
208 proposed in the beginning, too narrow hence; unreasonable. He said that there are other items under  
209 the petition that is not within the scope the Chair wants to narrow it to. In his opinion it renders the  
210 Decision made by the Zoning Board unreasonable.

211  
212 Chair Buber said that he has discussed this Motion for Rehearing with Town Counsel and, it is of his  
213 opinion, that the Board keeps it narrow in scope of the lawfulness and reasonableness of the Board’s  
214 Decision on July 22, 2014.

215  
216 Mr. Williams agreed with Mr. Pinette, Mr. Fullerton and Mr. Buber. He said when he made his decision  
217 on July 22, 2014, and reviewed the Motion for Rehearing, he did it with a lot of consideration. He said  
218 the Board took the time to walk the property and to consider what was fair to both “Parties”. He said he  
219 rests on the decision he made on July 22, 2014.

220  
221 Chair Buber said there were only two considerations the Board was to give on the original application.  
222 One was for the Special Exception for a Riding Stable, and the other was whether the Riding Arena was  
223 going to be a Riding Stable. He said that he didn’t think the Board’s decisions on the Appeal and Special  
224 Exception were either unlawful or unreasonable.

225  
226 **Mr. Pinette moved and Mr. Williams seconded the motion to deny the request for a Rehearing on the**  
227 **basis that the Board followed procedure and the decisions were reasonable and lawful.**

228 **The vote passed in favor of the motion (4 in favor, 1 opposed and 0 abstentions). Mr. Lagassa voted**  
229 **against.**

230

Mr. Pinette and Mr. Williams stepped down.  
Mrs. Wilson and Mr. Gordon assumed their seats.

### III. New Business:

**1. 2014:10 – Applicant Jarrod Patten, 1 Fern Road, North Hampton, NH 03862. Owner: Same as Applicant; Property location: 1 Fern Road, North Hampton, NH 03862; M/L: 008-023-001; Zoning District: R-1 Residential High Density.** The Applicant requests a variance under the provisions of Article IV, Section 405.3 to allow an accessory apartment of 871 square-feet where 800 square-feet is the maximum allowed by Special Exception in a structure which did not exist at the time Article V, Section 513 was adopted.

In attendance for this application:

Attorney Bernard Pelech, Counsel to the Applicant  
Jarrod Patten, Owner/Applicant

Mr. Fullerton read the Case description into the record.

Mr. Pelech explained that Mr. Patten has owned the property for quite some time and built a house on the lot in 2006. He is seeking to put in an accessory apartment but does not meet all of the criteria required to obtain a Special Exception from the Zoning Board under Article V, Section 513. The Applicant seeks a variance from Article IV, Section 405.3- Prohibited Uses for all Districts, because the property doesn't conform to the dimensional requirements of the single family lot; the building was not in existence when Section 513 was adopted in 1990 (513.2); and the apartment is 871 square feet where the ordinance requires the apartment to be between 400 and 800 square feet (513.5).

Mr. Pelech addressed the five (5) criteria of the Variance Test:

- 1. Granting this variance will not be contrary to the public interest nor, would**
- 2. Granting this variance the spirit of the ordinance is observed.**

Mr. Pelech said that the test for whether or not granting a variance would be contrary to the public interest and whether or not it was consistent with the spirit and intent of the ordinance is a two part either/or test. The Supreme Court has stated that if granting the variance would not result in a substantial change in the characteristics of the neighborhood or threaten public health, safety, and welfare, then granting the variance would not be contrary to the public interest and granting the variance would be consistent with the spirit and intent of the ordinance. He said that the property is next door to four commercial apartments and abuts the I-B/R Zone. The proposal will not change the character of the neighborhood or threaten the public's health, safety or welfare.

- 3. Granting this variance substantial justice is done.**

Mr. Pelech said that the hardship upon the owner were the variance to be denied is not outweighed by any benefit to the general public. There seems to be no reason set forth in the ordinance as to why the structure must have existed in 1990 in order to qualify for a special exception as an accessory apartment. The existence of an accessory apartment would not result in overcrowding of the property. If

the variance were denied the hardship on Mr. Patten would not be outweighed by some benefit to the general public.

**4. Granting this variance the values of surrounding properties are not diminished.**

Mr. Pelech said that there will be no external changes to the structure or the site. There would be no impact to the surrounding properties given the fact that the building would remain the same on the exterior, the site would remain the same and thus there would be no aspects of the property which would diminish the values of the surrounding properties.

**5. By not granting this variance, literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

Mr. Pelech said that there are special conditions with regard to this property given its location so close to Route 1. It is surrounded by commercial uses. It will not add stress to the highway system and will not over-intensify the use of the property. Because of the surrounding commercial uses and the location of the lot, the lot has special conditions such that to literally enforce the ordinance to prohibit the accessory apartment would result in an unnecessary hardship. This is not a case of an individual attempting to put an accessory apartment in a residential subdivision or a strictly residential area. Given the property's location and surrounded uses, this is certainly a reasonable use.

Mr. Pelech said that, it is the Applicant's belief, that the variance requested meets the five (5) criteria necessary for the Board to grant it.

Mr. Patten explained that the garage on the property is not changing and will not be used by future tenants. The entrance to the apartment is on the back side of the house. Mr. Patten lives on the second floor of the dwelling. He also stated that he could make the apartment smaller to meet the size requirement by blocking off a closet, but the way the house was framed in 2006, it would make more sense to keep it as the proposed 871 square-feet rather than the required 800 square-feet. Mr. Patten has an approved 4-bedroom septic system; he has three bedrooms and proposes one bedroom for the apartment totaling four.

Discussion ensued on the request for relief from Article IV, Section 405.3.

Mr. Pelech said that he was directed to apply for a variance to Article IV, Section 405.3 and Article V, Section 513. The Applicant did not meet the provisions 513.2 and 513.5 of the Special Exception for Accessory Apartments; therefore applied for a variance under Article IV, Section 405.3 – Prohibited Uses for All Districts.

Mr. Gordon said that Section 405.3 prohibits accessory apartments in Zone R-1 unless the provisions under Article V, Section 513 are satisfied. So, because he needs relief from Sections 513.2 and 513.5, and doesn't qualify for a Special Exception, he can only get the accessory apartment through the variance relief.

Mr. Fullerton agreed with Mr. Gordon.

Chair Buber said he agreed in this particular case.

325 Mrs. Wilson said that is was convoluted.

326  
327 Mr. Gordon said that if there were no Special Exception for accessory apartment then an applicant  
328 would have to apply for a variance to Section 405.3 – Prohibited Uses For All Districts.

329  
330 Mr. Lagassa agreed that it was confusing and wondered if there were any abutters that may have been  
331 confused with the variance relief requested. He did comment that the end result would be the same.

332  
333 Mr. Pelech reiterated the hardship criterion. He said there are special conditions of the lot because of its  
334 close proximity to the I-B/R District and Route 1, and it is surrounded by commercial uses. It is a  
335 transition lot between commercial uses and residential homes that run down Fern Road. If there are  
336 special conditions with the land the Board needs to look to see if there is a reasonable relationship as to  
337 the purpose and intent of the ordinance as it is applied to this particular lot. He said he believes in 1990  
338 the purpose and intent of the Ordinance was to allow accessory apartments; if they met certain criteria  
339 (this proposal meets some but not all of the criteria), and if there is no fair and substantial relationship  
340 between the purpose of the Ordinance applied to this particular piece of property, it is a reasonable use  
341 of the property; if the house was built in 1990, and a bit smaller, it would be allowed by Special  
342 Exception.

343  
344 Chair Buber opened the Public Hearing to those in Favor of, or Opposed to, the Application.  
345 There was no public comment.

346  
347 Mr. Wilson requested to speak as a Neutral party to the Application.

348  
349 Chair Buber allowed Mr. Wilson to speak.

350  
351 Phil Wilson, 9 Runnymede Drive – said that he is neutral about the application, but is confused about the  
352 nature of the application. He said that he has been a Planning Board Member for years and at one point  
353 the Planning Board thought about presenting to the Legislative Body an ordinance allowing accessory  
354 apartments in all zoning districts in respect to increasing affordable housing in Town. The Special  
355 Exception was written in 1990 to preserve vested rights for people who owned homes constructed  
356 before 1990 and might have wanted to put in an accessory apartment. Section 513 was created to  
357 prohibit accessory apartments while preserving vested rights. Mr. Wilson referred to Section 513.1 that  
358 the property must conform to the dimensional requirements of a single family lot; the subject lot is .49  
359 acres. He said this is a request to have two dwelling units on one lot. He also referred to Section 501 –  
360 Nonconforming uses – a non-conforming use may be continued but may not be expanded, extended or  
361 changed unless to a conforming use. He referred to Section 406.4.2 – multiple dwelling lot and yard  
362 requirements, and said that the applicant should request relief from this provision also because the  
363 apartment appears to be the same size as the remaining residence; it would be more like a multiple  
364 dwelling than an apartment, and because it is not in the I-B/R zone and, doesn't meet the yard and lot  
365 requirements, the applicant would need relief from this provision. Mr. Wilson said the way the  
366 application is presented is very confusing, and that anyone that wants to put in an accessory apartment  
367 that doesn't satisfy the criteria of the Special Exception should apply under the provisions of the Zoning  
368 Ordinances that would allow them to do what they wanted to do.

369  
370 Mr. Pelech said there is approximately 2,600 square feet on the main dwelling. It is three times larger  
371 than the accessory apartment.



Chair Buber questioned the relief requested.

Mr. Fullerton said that Section 405.3 lists the permitted uses and the proposal would not be a permitted use because it does not meet the criteria under the Special Exception provisions for accessory apartments.

Mr. Gordon agreed and said that because it does not meet the requirements under a Special Exception, it is prohibited and requires a variance to prohibited uses, 405.3, and it is his belief, that the Applicant didn't even have to make reference to the three provisions under the Special Exception Section 513.

Mr. Pelech said that Ms. Chase received an opinion from an Attorney at the Local Government Center who said that you cannot get a variance to provisions of a Special Exception. He said if the Board is not comfortable acting on the application they can continue the case to next month and re-advertise, but he was told he cannot apply for a variance from Section 513.

Mrs. Wilson commented that if the Board were to grant the variance, she takes issue with reducing the proposed size down from 871 square-feet to 800 square-feet because the building footprint is already there.

Chair Buber commented that there were a lot of missing pieces to the puzzle and he is not comfortable taking action on this Application.

Mrs. Wilson said that the Board needs to grant relief on the proper sections of the Ordinance.

Mr. Pelech left to attend a meeting in Portsmouth.

Mr. Patten asked for guidance from the Board.

Mr. Gordon said that the Board should be specific on what the Applicant should be requesting relief from.

Chair Buber said that it is up to the Applicant to specify the relief he is seeking. It is too complicated to come up with specifics without taking hours to review.

Mr. Patten requested a continuance of his case to the November 25, 2014 meeting.

**Chair Buber moved and Mrs. Wilson seconded the motion to continue Case #2014:10 to the November 25, 2014 Meeting.**

**The vote passed in favor of the motion (3 in favor, 1 opposed and 1 abstention). Mr. Lagassa abstained. Mr. Gordon voted against.**

**2. 2014:11 – Applicant Eric Buck, Terrain Planning & Design, 1 Hardy Road, Bedford, NH 03110. Owner: Two Juniper Road LLC, 1 Woodridge Lane, North Hampton, NH 03862; Property location: Hiltunen, Nash & Maguire Dental Office, 2 Juniper Road, North Hampton, NH 03862; M/L: 017-001-000; Zoning District: I-B/R Industrial Business Residential.** The Applicant requests the following variances: 1. Article IV, Section 406.1 – relief from the front yard setback on a lot abutting more than one street. The proposed addition will encroach into the 50-foot front yard setback (all three roads) approximately 21' 1" into the Woodridge Road setback; encroach 4' 6" into the Juniper

Road setback; encroach 8' 9" into the Lafayette Road setback. 2. Article IV, Section 406.8 – Landscape buffer. The proposed addition will encroach into the required 10-foot buffer to accommodate adequate parking lot layout and meet the parking lot standard configuration dimension while maintaining a landscape buffer less than 1-foot. 3. Article V, Section 501.5 – Non-conforming Uses – to allow the expansion of a structure on a lot that is non-conforming.

In attendance for this Application:

Eric Buck, Applicant/Representative to the Owners of Two Juniper Road, LLC.  
Dr. Maquire, Co-owner, Two Juniper Road, LLC

Mr. Fullerton read the Case description into the record.

It was determined that a Site Plan review from the Planning Board will be required if the Applicant receives the requested variances.

Mr. Buck presented the case. He said that the building, as it exists, does not meet life safety issues. The renovations are to include the extension of the office and new treatment and hygiene areas. The property is unique that it abuts a road on three sides of the property, which requires a 50-foot setback. The Juniper road side will have 21 parking spaces where 16 spaces are required.

**Variance Request from Article IV, Section 406.1**

**1. Granting this variance will not be contrary to the public interest.**

This is an existing non-conforming structure with portions of the building already within the setback limits. Expansion of the building will allow for better health and safety accommodations within the building.

**2. Granting this variance the spirit of the ordinance is observed.**

The spirit of the ordinance is to protect abutting properties; the proposed construction will not affect any adjacent buildings greater than what is currently impacted.

**3. Granting this variance substantial justice is done.**

Substantial Justice is done because it will allow for the building to be brought up to current life and safety regulations, as well as, provide opportunity for the office to increase business with the addition of additional chairs.

**4. Granting this variance the values of surrounding properties are not diminished.**

The values of surrounding properties are not diminished. The proposed construction will not affect any adjacent buildings greater than what is currently impacted. The values of adjacent properties will be improved as the overall aesthetic of this property will add to that of the existing neighborhood.

**5. By not granting this variance, literal enforcement of the provisions of the Ordinance would result in an unnecessary hardship.**

The current building doesn't meet the capacity needs of the dental office. Substantial financial hardship would be caused if the business was not allowed to expand in its current facility.

Mrs. Wilson voiced concern about the parked cars being so close to the highway; there is not much of a buffer.

Mr. Buck said that there will be a retaining wall and curb stops and an 8-foot grass buffer between the parking lot and Route 1.

Mr. Buck explained that they are not extending beyond what is already there; the only encroachment is 8' 9" into the 50-foot setback on Lafayette Road. The landscape buffer will be improved on the residential sides of the property. There is not enough room for the delivery trucks to turn in the proposed parking lot so they have added an accessory drop off area that will double as overflow parking. It is currently a gravel area where the Doctors and Receptionists park. They receive deliveries once a week.

Mr. Lagassa asked about snow removal. Mr. Buck said that they will create pockets within the landscape to put excess snow.

The landscape buffer was discussed. Chair Buber asked what kind of compromise could be made.

Mr. Buck thought they could come up with a five foot landscape buffer.

Chair Buber opened the Public Hearing to those in Favor of, or Neutral to, the project.  
There was no public comment.

Chair Buber opened the Public Hearing to those Opposed to the project.

Jack McCarthy, 3 Juniper Road – said that he lives across the Road from this property and his current view is woods. He said after reviewing the plans it looks like there will end up being no buffer and his view will be of Route 1. He said that would essentially deteriorate the value of his property. He said he doesn't see any provisions to protect the residential area, and he would like to preserve his view and not look at a parking lot; he is also concerned about the noise after the current buffer of wooded area is removed.

Mr. Buck said that they can put some type of tree 8' to 10' where the fencing is to help screen. He said they could put a row of trees along the retaining wall beginning at the driveway entrance running along to the corner of the property. He said there is a 3' to 6' State setback requirement for street/road intersections.

Mr. Hilitunen was a co-owner of the property and recently sold his share of the practice but is still employed there. He explained that he is an immediate abutter to the Woodridge side of the property. He explained that there will be a dense vegetated buffer on the Juniper Road side and the Woodridge side to put those kinds of barriers in place.

Jayson Spring, 4 Woodridge Lane – said he was curious as to what type of buffer was going in on the Woodridge Lane side of the property.

Mr. Buck said that they plan to plant arborvitae trees on that side.

Chair Buber closed the Public Hearing.

**Mr. Gordon moved and Mr. Fullerton seconded the motion to grant the variance to Article IV, Section 406.1 to allow the setback intrusion as proposed.**

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

**Article IV, Section 406.8 – Landscape buffer**

Chair Buber read Zoning Ordinance 406.8 into the record: *Industrial-Business/Residential lots located in the I-B/R zone shall include a landscaped buffer area around the perimeter of the lot. This landscaped area may not be used for structures, drainage structures, parking or access except where access is required and approved.*

Chair Buber said there was discussion from the Board about putting in some type of shrubbery in the proposed tight areas where there is very little landscape buffer.

Mrs. Wilson said she is concerned because she doesn't know what is permissible from the State and what type of buffer would be considered safe. She said she would be more comfortable getting an expert opinion because the proposed parking area is so close to Lafayette Road.

Mr. Lagassa suggested the Zoning Board be permissive to the extent of a 5-foot setback instead of a 10-foot setback that could certainly be corrected by the Planning Board during their Site Plan Review.

The Board agreed that the landscape buffer is ultimately under the purview of the Planning Board and they may want more than a 5-foot buffer, but the Zoning Board does not want the landscape buffer to be less than 5-feet.

**Mr. Lagassa moved and Mr. Fullerton seconded the motion to grant the variance to Article IV, Section 406.8 with respect to the landscape buffer, granting buffers similar to those in the plan put forth, but not to be less than a 5-foot setback, subject to the terms and conditions established by Planning Board Site Plan Review.**

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

Chair Buber offered to send the Members a draft copy of the Decision Letters prior to their disbursement for review and comment. The Board agreed that that they would like to see a draft copy of the Decision letters.

**Article V. Section 501.5**

**Mr. Lagassa moved and Mr. Gordon seconded the motion to grant the variance request to Article V, Section 501.1 to allow the expansion of a structure on a lot that is non-conforming.**

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

565

566 Chair Buber reminded the Applicant of 30-day appeal period.

567

568 **Mr. Gordon moved and Mr. Fullerton seconded the motion to adjourn the meeting at 9:16 p.m.**

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

570

571 Respectfully submitted,

572

573 Wendy V. Chase

574 Recording Secretary

575

576 Approved November 25, 2014

577