



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, March 24, 2015 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, Charles Gordon. (4)

**Members absent:** Mark Janos

**Alternates present:** Dennis Williams, Jonathan Pinette and Robin Reid. (3)

**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 6:37 p.m.

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.

Chair Buber remarked that Mark Janos was elected as a Primary Member of the Zoning Board at the March 10, 2015 town election and, although he was not in attendance because of a prior commitment, he congratulated him on his election and welcomed him to the Board. Chair Buber thanked Mrs. Lisa Wilson for her prior service to the Board as both an Alternate Member and Appointed Primary Member.

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

- The Board will hold a Public meeting to conduct Preliminary Matters.
- The Board will conduct the 2015 Organizational Meeting according to the Board's Rules of Procedure. The Board will elect a Chair, Vice Chair and Recording Secretary, each for one year terms.

- The newly elected Chair will recite the North Hampton Code of Ethics Preamble.
- The Board will hold a Public Hearing and consider Case #2015:03 under “New Business”.
- The Board will return to a Public Meeting and act on two Motions for Rehearing, Case #2015:01 and Case #2015:02. The Board will then address any correspondence or miscellaneous items before them.

Chair Buber explained that he will seat Mr. Williams for Mr. Janos for Case #2015:03; and seat Mrs. Reid for Mr. Janos on the two Motions for Rehearing - Case #2015:01 and Case #2015:02; and he will seat Mr. Pinette for Mr. Lagassa on the two Motions for Rehearing - Case #2015:01 and Case #2015:02.

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

Chair Buber seated Mr. Williams for Mr. Janos.

Recording Secretary Report - Ms. Chase reported that the, March 24, 2015 Meeting Agenda including “New Business” was properly published in the March 9, 2015 edition of the Portsmouth Herald, and, posted at the Library, Town Clerk’s Office, Town Office and on the Town’s website. The Amended March 24, 2015 Meeting Agenda including “Other Business” was posted on March 12, 2015 at the Library, Town Clerk’s Office, Town Office and on the Town’s website.

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.

## **I. Minutes of previous Meeting – February 24, 2015 –**

Typographical corrections were made by the Board. Mr. Fullerton added the following at line #234 – “At the request of Mr. Fullerton Attorney Ells read for the benefit of those in attendance a portion of the Warranty Deed for Tax Map 6, Lot 65 which stated “subject to notes, easements and restrictions as shown on said plan of record””.

**Mr. Fullerton moved and Mr. Gordon seconded the motion to approve the February 24, 2015 meeting minutes as amended.**

**The vote passed in favor of the motion (3 in favor, 0 opposed and 2 abstentions). Mr. Lagassa abstained because he recused himself from the February 24, 2015 meeting and Mr. Williams abstained because he did not attend the February 24, 2015 meeting.**

## **II. Organizational Meeting of the Board –**

1. Elect a Chair, Board Action (One Year Term) – **Mr. Fullerton moved and Mr. Lagassa seconded the motion to nominate Mr. David Buber as Chairman.**

Mr. Lagassa commended Mr. Buber on the great job he did as Chair this past year.

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

2. Elect a Vice Chair, Board Action (One Year Term) – **Mr. Gordon moved and Mr. Buber seconded the motion to nominate Mr. Phelps Fullerton as Vice Chairman. The vote passed in favor of the motion (4 in favor, 0 opposed and 1 abstention). Mr. Fullerton abstained.**
3. Appoint a Recording Secretary, Board Action (One Year Term) – **Mr. Gordon moved and Mr. Lagassa seconded the motion to Appoint Mrs. Wendy Chase as Recording Secretary. The vote was unanimous in favor of the motion (5-0).**

### III. Recitation of the Code of Ethics Preamble by the Chair.

Chair Buber recited the North Hampton Code of Ethics Preamble.

### IV. Unfinished Business:

1. **No unfinished business**

### V. New Business:

1. **Case #2015:03 Applicant/Owner: L. Russell and Susan MacDonald, 90 Lovering Road, North Hampton, NH 03862. Owner and Property location: same as above; Map/Lot 019-036-000; Zoning District: R-2 – Medium Density District.** The Applicant requests a Special Exception under the provisions of Article V, Section 513 – Accessory Apartment, to allow an accessory apartment within the existing dwelling.

In attendance for this application:

L. Russell and Susan MacDonald, Applicants/Owners

Mr. MacDonald explained that his wife is handicapped and wheelchair bound and they are in need of first floor living and would like to convert their downstairs area into an accessory apartment for them to live in. He said that they currently have a wheelchair lift, but it is getting harder for them to manage as things progress.

Discussion ensued about the frontage requirement and the year the lot was subdivided. Mr. Gordon referred to the Warranty Deed and said it was subdivided in 1963. Ms. Chase produced a 1970 tax map that depicts the lot as it is today; it was concluded that the lot was subdivided prior to the 1973 Zoning Amendment increasing the frontage to 175-feet, and the acreage to 2 acres. It was noted that the Building Inspector, Kevin Kelley interpreted that under Ordinance Section 406.2.2 the lot was a lot of record prior to March 5, 1974 which, based on the Table of Frontage Requirements, would need at least 40-feet of frontage. The MacDonald's lot has 63-feet of frontage.

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

The lot consists of 4.56 acres with 63-feet of frontage and is a lot of record at least since 1963. The subject lot is a lot of record existing prior to March 5, 1974 with more than the 40-feet of frontage required by the Ordinance, Section 406.2.2 for a lot of its size. The Board agreed Criterion 513.1 is satisfied.

**513.2 The existing dwelling must have existed prior to the adoption of this ordinance (March 13, 1990).**

The house was built in 1975. The Board agreed Criterion 513.2 is satisfied.

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

The apartment will be on the first floor within an existing single-family dwelling and occupied by the home owners. The Board agreed Criterion 513.3 is satisfied.

**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 existing house is owner-occupied and is 2,748 square-feet. The Board agreed Criterion 513.4 is satisfied.

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

The proposed apartment will be 799 square-feet. The Board agreed Criterion 513.5 is satisfied.

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

The apartment will have 1 bedroom. The Board agreed Criterion 513.6 is satisfied.

**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. Department of Environmental Services (NHDES). 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 Board was in receipt of a letter from the Building Inspector, Kevin Kelley, stating that "no Certificate of Occupancy(s) will be issued until the existing system is proven to be sufficient, or the installation of the new system begins for both the home and the apartment."

Mr. MacDonald said that he is a septic installer and his son is a septic designer. The tank will not be inspected until the snow melts and the mud dries.

The Board agreed Criterion 513.7 cannot be satisfied until tests for adequacy for both units is verified; the most the Board can do is to consider granting it conditioned on verification on the adequacy of the septic system.

**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.**

There will be no new entrances. The apartment will be entered through the garage.

The Board agreed Criterion 513.8 is satisfied.

Mr. MacDonald explained that he will need to have a State approved septic plan on file in case the current system fails.

Chair Buber commented that the proposal will add one bedroom and the septic system design is based on the number of bedrooms.

Mr. Fullerton referred to Mr. Kelley's letter and said that Mr. MacDonald has agreed to have the system tested for failure and to also verify the tank and field size and location; this agreement is to the satisfaction of the Building Inspector.

**Chair Buber requested a motion from any member to approve the Special Exception for the Accessory Apartment with the condition that, no Certificate of Occupancy(s) will be issued until the existing system is proven to be sufficient, or the installation of the new system begins for both the home and the apartment.**

Mr. Gordon suggested the following condition to the motion, that the Special Exception does not become effective until the Zoning Board receives, from the Building Inspector, documentation that he has issued a Certificate of Occupancy.

Chair Buber said he didn't see why the Applicant would have to be held up starting construction of the apartment; they just can't occupy it until the septic system is proven to be in compliance.

Mr. Gordon and the rest of the Board agreed with Chair Buber.

**Chair Buber moved and Mr. Lagassa seconded the motion to grant the petition for Special Exception for an Accessory Apartment regarding Case #2015:03 with the following condition: No Certificate of Occupancy(s) will be issued until the existing septic system is proven to be sufficient, or the installation of the new septic system begins for both the home and the apartment. The vote was unanimous in favor of the motion (5-0).**

Chair Buber declared that the Board would end the public hearing portion of the meeting and enter into a public meeting.

Chair Buber called for a 10 minute recess.

Chair Buber reconvened the meeting at 7:31pm.

Mr. Lagassa recused himself from the two Motions for Rehearing filed by Attorney Steven Ells on behalf of 14 Maple Road, LLC, Paul and Luke Powell.

Mr. Williams stepped down.

Chair Buber seated Mrs. Reid for Mr. Janos, and seated Mr. Pinette for Mr. Lagassa.

#### **IV. Other Business:**

##### **1. Communications/Correspondence and Miscellaneous –**

In attendance for this application:

Paul and Luke Powell, Co-owners 14 Maple Road, LLC for both Cases, #2015:01 and #2015:02.

- 2. \*Motion for Rehearing – A Motion for Rehearing, pursuant to RSA 677:2 has been filed by Attorney Stephen Ells on behalf of Paul Powell, Manager – Maple Road 14, LLC, 28 Winnicut Road, North Hampton, NH, requesting the Zoning Board of Adjustment rehear the Appeal of a Decision of the Planning Board – Case #2015:02 (M/L 006-065-000). The motion filed is for**

Zoning Board Action, Discussion and Vote. No public testimony, input or introduction of evidence will be allowed.

The following points were submitted by Attorney Ells as part of the Motions for Rehearing he filed with the Board. Chair Buber read them into the record:

**NOW COMES Maple Road 14, LLC, the Applicant in Case No. 2015:02 and by and through its Attorneys, Holmes & Ells, PLLC, requests the North Hampton Zoning Board of Adjustment to rehear its Petition for Relief in said case and in support thereof says:**

1. The Zoning Board of Adjustment denied the appeal of the Applicant in Case No. 2015:02 because: "based on not being convinced that the ZBA has any jurisdiction to tell the Planning Board what powers they do or do not have when it comes to reviewing subdivisions before them, or what actions they might feel necessary to take when changes are made to the original approved subdivision plan."

2. The Applicant agrees with the Zoning Board of Adjustment that it has no jurisdiction to dictate how the Planning Board deals with subdivisions.

3. The application made by Maple Road 14, LLC to the Planning Board; in Case No. 2015:02 was for review and approval of new wetland mapping and had nothing to do with the subdivision or re-subdivision of the land in question. Accordingly, your review of that process is not a review of a subdivision matter.

4. This appeal by the Applicant was made in the context of its parallel appeal of the Building Inspector's decision to deny a building permit (Case No. 2015:01) as said decision of the Building Inspector was made because: "The Planning Board is requiring you (the applicant) to submit an amended subdivision plan before proceeding any further with development of the project."

5. The Building Inspector's decision not to issue a building permit is a zoning-related order or decision (RSA 677:1) where a building permit is required under Article VII, Section 701, Permits of the North Hampton Zoning Ordinance and appeals of decisions of the Building Inspector are authorized by Article VII, Section 702.2 of the ordinance.

6. RSA 676:5, III provides the Zoning Board with jurisdiction to hear and decide on the merits, the pending appeal in Case No. 2015:02.

7. The Applicant, in filing the appeal of the decision of the Planning Board with the Zoning Board of Adjustment, was attempting to exhaust its administrative remedies and to perhaps avoid the need for Superior Court litigation.

Chair Buber commented that he brought to Attorney Ells' attention at the February 24<sup>th</sup> meeting, to go back to the Planning Board with the intent and attempt of getting an amicable resolution to this issue. Attorney Ells said they would not go to the Planning Board because he felt the Planning Board prejudged that case.

267           **WHEREFORE, the Applicant prays:**

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269           **A. That the Zoning Board of Adjustment grant this Motion for Rehearing;**

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271           **B. That at the rehearing of this matter, the Zoning Board of Adjustment hear and decide**  
272           **the Appeal of the Applicant based upon the merits of the matter; and**

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274           **C. For such other and further relief as may be just and reasonable.**  
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276 Mr. Fullerton said that the Applicant's review is limited in scope under RSA 677:3.I "a motion for  
277 rehearing made under RSA 677:2 shall set forth fully every ground upon which it is claimed that the  
278 decision or order complained of is unlawful or unreasonable." The original application for Case #2015:02  
279 the Applicant described all relief requested, "Jurisdiction of Planning Board - Applicant seeks ruling that  
280 there is no Planning Board process which requires Planning Board approval of wetland mapping changes  
281 after the subdivision process has been completed." Mr. Fullerton said that his interpretation is that the  
282 Applicant has asked the Zoning Board to review the Planning Board's decision making process in this  
283 case. He referred to the summary of the original appeal - the Applicant requests that the Zoning Board  
284 find and rule that the Planning Board has misconstrued and misinterpreted its jurisdiction to control  
285 how the parcel is to be used after the subdivision process. Mr. Fullerton referred to the Zoning Board's  
286 Decision letter denying the appeal and said the basis of the Decision letter is that the Zoning Board  
287 doesn't have jurisdiction over the Planning Board's subdivision process. He said that he doesn't think  
288 that the decision to deny the Applicant's appeal was either unreasonable or unlawful.  
289

290 Mr. Gordon said that he believes that the two appeals - (1) Planning Board action and (2) action taken by  
291 the Building Inspector are intertwined and cannot be separated. He said the Building Inspector's  
292 decision to deny the building permit was based on the Planning Board's Decision to order cessation of  
293 any development. He said basically the Building Inspector denied the building permit, not on any  
294 violation of a Zoning Ordinance, but because the Planning Board is "ordering him" to deny it. Mr.  
295 Gordon said the first issue is, did the Planning Board exceed its authority, and the second issue is, was  
296 the Building Inspector's decision right or wrong, which is appealable to the Zoning Board. He said that  
297 the Planning Board's Site Plan Review Regulations did not apply to the original case because it wasn't a  
298 commercial or multifamily proposal. He said, in his view, the Board should take the opportunity to  
299 review the substance of the case and grant a rehearing. He referred to the Lemm Development Corp. v.  
300 Town of Bartlett Case cited by Attorney Ells, that Mrs. Wilson, at the last meeting, did not believe  
301 applied to this case; he said he thinks the Lemm Case is right on point and controlling in this case; he  
302 said it would behoove this Board to rehear the case even though it may not end in a different result, it  
303 would give the opportunity for the Board to Rehear.  
304

305 Chair Buber said he also put the two cases together and said he voted against the proposal that the  
306 Building Inspector should issue a Building Permit because the Planning Board required the Applicant to  
307 submit an amended subdivision plan before proceeding any further with development of the project.  
308 He said another issue he has is that even though it wasn't a condition of approval on the subdivision  
309 plan, it is stated under the notes of the Recorded Mylar that "the intent is to subdivide 006-065 into two  
310 single family residential lots." He referred to the Planning Board's conditions of approval, #6, that states  
311 "There shall be no changes to the Mylar except to meet the above Conditions of Approval". The  
312 recorded Warranty Deed also references the site plan. Mr. Buber said that according to the Planning  
313 Board minutes Planning Board members were stunned that two duplexes were proposed to be built

there, and feels it was not what the Planning Board was voting on when they approved the two lot subdivision.

Mrs. Reid said that the Mylar was recorded prior to the new owners purchasing the property and they were aware that the plan was approved for two single family residences. She said that the Zoning Board has an obligation to adhere to the recorded Mylar.

Mr. Fullerton commented that he researched the Mylar for the Morgan Way development and under the "Notes" on the recorded Mylar it states that the intent of the plat is to subdivide the parcel into 3 building lots, each capable of supporting a duplex. He concluded that the "Notes" appear to identify conditions specific to each individual plat.

Mr. Gordon commented that the Board is getting "hung up" on the Mylar. He asked the Board, if the applicant had enough upland to construct two duplexes initially, would the Planning Board have the authority to deny the subdivision application because they intended on building duplexes.

Mr. Pinette asked if the Board did not grant the rehearing would the case go to Superior Court.

Chair Buber said it was an option. It is also an option for the Applicant to go back to the Planning Board, but it was stated by Attorney Ells that they would not do that because he felt the case was prejudged by the Planning Board.

Mr. Gordon said that it states in the January 6, 2015 Planning Board minutes that Mr. Wilson said that if the Applicant were to go back to the Planning Board with an amended subdivision plan he would suggest a condition of approval that only a single family dwelling could be built on lot 006-065.

Mrs. Reid said that the abutters were never notified to the proposal to build two duplexes on the lots; she said the Zoning Board has no choice but to adhere to what is stated on the Mylar.

**\*Motion for Rehearing – A Motion for Rehearing, pursuant to RSA 677:2 has been filed by Attorney Stephen Ells on behalf of Paul Powell, Manager – Maple Road 14, LLC, 28 Winnicut Road, North Hampton, NH, requesting the Zoning Board of Adjustment rehear the Appeal of a Decision of the Building Inspector – Case 2015:01 (M/L 006-065-000). The motion filed is for Zoning Board Action, Discussion and Vote. No public testimony, input or introduction of evidence will be allowed.**

**IN RE: Appeal of a Decision of an Administrative Officer – the Building Inspector: Case No. 2015:01 – Maple Road 14, LLC, Applicant**

The following points were submitted by Attorney Ells as part of the Motions for Rehearing he filed with the Board. Chair Buber read them into the record:

**MOTION FOR REHEARING  
RSA677:2**

**NOW COMES Maple Road 14, LLC, the Applicant in Case No. 2015:01 and by and through its Attorneys, Holmes & Ells, PLLC, requests the North Hampton Zoning Board of Adjustment to rehear its Petition for Relief in said case and in support thereof says:**



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362 1. The stated reason for denial of the Appeal was as follows: "The basis for this denial  
363 is directly linked to the Motion to Deny the relief requested in Case No. 2015:02, and at this point  
364 becomes moot."

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366 2. The stated reason for denial of the Appeal in Case No. 2015:02 was as follows: "the  
367 Board at a duly Noticed Public Hearing held on February 24, 2015 denied the Applicant's appeal  
368 seeking a ruling that there is no Planning Board process which requires Planning Board approval of  
369 wetlands mapping changes after the subdivision process has been completed, Subdivision  
370 Regulation Section IV A and B, based on not being convinced that the ZBA has any jurisdiction to tell  
371 the Planning Board what process they do or do not have when it comes to reviewing subdivisions  
372 before them, or what actions they might feel necessary to take when changes are made to the  
373 original approved subdivision plan."

374  
375 3. The application made by Maple Road 14, LLC to the Planning Board, in Case No.  
376 2015:02 was for review and approval of new wetland mapping and had nothing to do with the  
377 subdivision or re-subdivision of the land in question. Accordingly, your review of that process is  
378 not a review of a subdivision matter.

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380 4. The Board's decision in Case No. 2015:02, to deny the appeal because the Zoning  
381 Board felt it had no jurisdiction to review the decision of the Planning Board, was a procedural  
382 decision.

383  
384 5. Regardless of the Zoning Board's position on jurisdiction in Case No.  
385 2015:02, there can be no question that the Zoning Board does have jurisdiction under Zoning  
386 Ordinance Article VII, Section 702.2 to hear and decide the appeal of the Building Inspector's  
387 decision (Case No. 2015:01) and that the Applicant is entitled to receive the Zoning Board's  
388 decision based upon the merits of the appeal. This appeal is most certainly not "moot".

389  
390 6. The Building Inspector and not the Planning Board is the party authorized to issue  
391 building permits: North Hampton Zoning Ordinance, Article VII, Section 701, Permits and RSA  
392 676:11 Building Permit Required. Permits and RSA 676:11 Building Permit Required.

393 7. RSA 676:13, Building Permits Restricted I. "The building inspector shall not  
394 issue any building or occupancy permit for any proposed construction, remodeling, or  
395 maintenance which will not comply with any or all zoning ordinances, building codes or  
396 planning board regulations which are in effect."

397  
398 The building permit requested by the Applicant is in full compliance with all  
399 zoning ordinances, building codes and planning board regulations.

400  
401 8. The Applicant is not asking the Zoning Board of Adjustment to step into  
402 the shoes of the Planning Board on matters of subdivision; rather, it is asking the Zoning Board  
403 of Adjustment to determine, on the merits, that the Applicant is entitled to receive a building  
404 permit from the Building Inspector.

405  
406 9. To make such a determination on the merits, that the Building Inspector was

correct or incorrect in his denial of the building permits, the Zoning Board of Adjustment must review all relevant facts and information available to it.

WHEREFORE, the Applicant prays:

A. That the Zoning Board of Adjustment grant this Motion for Rehearing;

B. That at the rehearing of this matter, the Zoning Board of Adjustment hear and decide the Appeal of the Applicant based upon the merits of the matter; and

C. For such other and further relief as may be just and reasonable.

Regarding the original Appeal of an Administrative Officer filed with the Board – Case #2015:01, Mr. Fullerton referred to Exhibit G – Planning Board Minutes of January 6, 2015 and Exhibit H – Planning Board Decision letter that both state in part, “the Planning Board requires the Applicant to submit an amended subdivision plan before proceeding any further with development of that project”. He said that his interpretation of the Applicant’s request, that the Zoning Board order the Building Inspector to issue a building permit, is circumventing the jurisdiction of the Planning Board. He said he doesn’t think the reason to deny the Applicant’s appeal was unreasonable or unlawful.

Mrs. Reid said that the Zoning Board cannot change what is on the Recorded Mylar. With regards to the Lemm Development Corp. v. Town of Bartlett Case, she said that the case was confusing to her in some respects but felt it was related to *commercial* property; not residential.

Mr. Gordon said that the Lemm Case is related to residential condominiums and the only difference with that case and this appeal is that North Hampton has Site Plan Regulations and Bartlett does not, but that doesn’t matter because the 14 Maple Road case is a subdivision, subject to the Planning Board’s subdivision regulations, but not to its site plan regulations.

Mrs. Reid remarked that if they were to move forward the Board should examine the Lemm Case a little more closely, and maybe have it reviewed by town counsel.

Mr. Gordon said *that* it is the only reason he was urging the Board to grant the Rehearing; not just for the benefit of the Applicant, but to give the Board the opportunity to take a closer look at the Lemm Case.

**Mr. Gordon moved and Mr. Pinette seconded the motion to grant the rehearing to Case #2015:01. The vote was 2 in favor, 3 opposed and no abstentions. The motion failed. Mr. Fullerton, Mr. Buber and Mrs. Reid voted against.**

**Mr. Pinette moved and Mr. Gordon seconded the motion to grant the rehearing to Case #2015:02. The vote was 2 in favor, 3 opposed and no abstentions. The motion failed. Mr. Fullerton, Mr. Buber and Mrs. Reid voted against.**

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

Mr. Pinette and Mrs. Reid stepped down.

Mr. Lagassa and Mr. Williams were reseated by the Chair.

Chair Buber reported to the Board that he and Mr. Fullerton attended the Merits Hearing for Virginia Weldon v. Historic Runnymede Farm yesterday and presentations were made by Attorney Imse on behalf of Virginia Weldon; Attorney Tom Hildreth, representing Historic Runnymede Farm, LLC and Attorney Matt Serge, defending the Zoning Board of Adjustment. Attorney Serge said that they may have a final answer sometime in May 2015.

Chair Buber referred to an update to RSA 674:33 regarding a time limit on variances and special exceptions:

RSA 674:33.I-a – “Variances authorized under paragraph 674:33.I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinances or by the zoning board of adjustment for good cause, provided that no such variance shall expire within 6 months after the resolution of a planning application filed in reliance upon the variance.”

RSA 674:33.IV – “Special exceptions authorized under paragraph 674:33.I shall be valid if exercised within 2 years from the date of final approval, or as further extended by local ordinances or by the zoning board of adjustment for good cause, provided that no such special exception shall expire within 6 months after the resolution of a planning application filed in reliance upon the special exception.”

The Board discussed adding reference to the above statutory provisions to all decision letters pertaining to variances and special exceptions.

Mr. Fullerton reported that SB 146 – Accessory Dwelling Units was approved by the Senate and now goes to the House for approval.

Chair Buber said that he spoke to Mr. Pinette who was recently elected to serve on the Budget Committee and asked if he would still be able to serve to the full extent on the ZBA while also serving on the Budget Committee. Mr. Pinette said that he would be able to.

Chair Buber asked if the Board wanted to consider appointing more than 3 Alternates (which they currently have). The Board has the right to appoint up to five alternate members.

It was a general consensus of the Board to keep the Alternate members at 3. It is working out well, but if there is a huge interest they would consider increasing the membership.

Chair Buber complimented the alternate members on the good job they are doing. They attend most every meeting whether they are needed or not, and that keeps them well informed.

**Mr. Pinette moved and Mr. Gordon seconded the motion to adjourn at 8:33pm.  
The vote was unanimous in favor of the motion (5-0).**

Respectfully submitted,

Wendy V. Chase  
Recording Secretary

**Approved April 28, 2015**