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**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, July 28, 2015 at 6:30pm
Town Hall, 231 Atlantic Avenue
North Hampton, NH 03862**

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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.
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12 **Attendance:**

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14 **Members present:** David Buber, Chair; Phelps Fullerton, Vice Chair, George Lagassa,
15 Charles Gordon and Mark Janos. (5)
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17 **Members absent:** None.
18

19 **Alternates present:** Dennis Williams and Robin Reid (2)
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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 Chair Buber Called the Meeting to Order at 6:32 p.m.
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28 Pledge of Allegiance -Chair Buber invited the Board Members and those in attendance to rise for a
29 Pledge of Allegiance and noted that reciting the Pledge of Allegiance is solely for those who choose to do
30 so and failure, neglect or inability to do so will have no bearing on the decision making of the Board or
31 the rights of an individual to appear before, and request relief from, the Board.
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33 Introduction of Members and Alternates - Chair Buber introduced Members of the Board and the
34 Alternates who were present (as identified above).
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36 Recording Secretary Report - Ms. Chase reported that the July 28, 2015 Meeting Agenda was properly
37 published in the July 13, 2015 edition of the Portsmouth Herald, and, posted at the Library, Town Clerk's
38 Office, Town Office and on the Town's website.
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40 Chair Buber then briefly explained the Board's operating Rules and Procedures to those present.
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42 Swearing In Of Witnesses – Pursuant to RSA 673: 14 and 15, Chair Buber swore in all those who were
43 present and who intended to act as witnesses and/or offer evidence to the Board in connection with any
44 Case or matter to be heard at the Meeting.

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46 **Minutes – May 26, 2015 – Mr. Janos moved and Mr. Lagassa seconded the motion to accept the**
47 **May 26, 2015 meeting minutes as written.**

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

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50 Mr. Lagassa commented that Attorney Matthew Serge has left the firm Upton and Hatfield that
51 currently represents the Town and inquired as to who would be taking over the court cases he began.
52 Ms. Chase informed the Board that Attorney Serge has gone to another firm and will remain
53 representing the Town on all the court cases he began with the Town.

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55 **II. Unfinished Business**

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57 There was no Unfinished Business before the Board.

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59 **III. New Business**

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61 **1. Case #2015:06 – Ronald and Sandra Fitzgerald, for property located at 118 Exeter Road, North**
62 **Hampton, NH, 03862; M/L 009-014-000; Zoning District R-2, requests a variance to Article IV,**
63 **Section 406 – front yard and side yard setbacks. The Applicants propose to construct a “farmers”**
64 **porch that will encroach approximately 10-feet into the front yard setback where 35-feet is**
65 **required and approximately 10-feet into the side yard setback where 30-feet is required. The**
66 **property owners and property location are the same as above.**

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68 In attendance for this application:

69 James Smith, JPS & Associates, Surveyor

70 Ronald Fitzgerald, Owner/Applicant

71

72 Mr. Smith presented the case and went over the five (5) criteria of the variance test:

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

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76 Mr. Smith said that the proposed porch will not infringe on the current use or enjoyment of the abutters
77 use of their land. It will not impede upon public safety or traffic patterns.

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

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81 Mr. Smith said that the proposed porch will not have a foundation or be built as a four season porch.

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

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85 Mr. Smith said the current structure was built in 1965 and is non-conforming to today's standards.

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

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Mr. Smith said that the porch would increase the structure’s current value, as well as, abutting structures. The appearance of the farmer’s porch would aesthetically add to the area.

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

Mr. Smith said that the literal enforcement of the Zoning Ordinance is an unnecessary hardship because of the placement of the existing structure.

Chair Buber asked if the “farmers” porch will have a roof over it.

Mr. Fitzgerald said that there will be a roof over it that will start below the dormer windows.

Chair Buber opened the Public Hearing and noted for the record that there was no one from the public in attendance.

Chair Buber closed the Public Hearing.

Board Deliberation:

Mr. Janos said that any improvements to the existing structure will be of benefit to the structure even though the improvement will encroach into the front yard and side yard setbacks. He remarked that it doesn’t appear to have a negative impact on abutting properties. Mr. Janos commented that the neighboring property that would be mostly affected by the proposal, the Wikes, did not bring forth any concerns to the Board, and the Daltons, who also abut the subject property, wrote an email communication favoring the proposal.

Mr. Lagassa agreed with Mr. Janos and said that the most difficult test to accomplish is the “hardship test” for a variance and this proposal is a classic example of what is considered a “hardship”.

Mr. Gordon said that the requests for the two encroachments satisfy all five criteria of the variance test.

Mr. Fullerton agreed and said his fellow board members summed up his comments succinctly and he agreed with everyone.

Chair Buber said that he had nothing further to add and suggested the Board break up motions into two parts; one for relief from the 35-foot front yard setback, and one for relief of the 30-foot side yard setback.

Mr. Lagassa moved and Mr. Janos seconded the motion to grant the variance to the 35-foot front yard setback.

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

Chair Buber suggested Mr. Lagassa amend his motion to include the amount of footage encroaching into the setback.

135 **Mr. Lagassa moved and Mr. Gordon seconded the motion to amend the original motion to include,**
136 **“that the encroachment into the setback not to exceed 10-feet”.**
137 **The vote was unanimous in favor of the motion (5-0-0).**

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139 **Mr. Lagassa moved and Mr. Janos seconded the motion to grant the variance to the 30-foot side yard**
140 **setback with the encroachment into the setback not to exceed 10-feet.**
141 **The vote was unanimous in favor of the motion (5-0-0).**
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143 Chair Buber reminded the Applicant of the 30-day appeal period pursuant to RSA 677:2.
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145 **IV. Other Business**

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147 Chair Buber commented that the Board’s Rules and Procedure is due for a review. The last update was
148 in 2012 and there are some sections that should have a second look at. He asked that the members look
149 them over and if there are issues or recommendations they have, they can be brought up to the Board
150 for discussion. He suggested they start working on it at the August meeting, if there is not much
151 business, and shoot for the fall to have it complete to publish and take into effect January 2016.
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153 Chair Buber asked the Board if they agreed to allow himself and Mr. Fullerton to meet with the Zoning
154 Administrator, Wendy Chase, to go over the rules of procedure regarding applications. He said all
155 suggested changes would have to come before the Board for approval. The Board and Ms. Chase had no
156 problem with that.
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158 Chair Buber said that in the past the ZBA has been invited by the Planning Board to give input on Zoning
159 Ordinance changes. He suggested that if there are any ordinances that a member of the Board feels the
160 need to be addressed they can discuss it at a meeting and he will reach out to the Planning Board Chair
161 and see if they could schedule a joint meeting to discuss any issues that the Board may come up with.
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163 There was no other business before the Board.
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165 **Mr. Gordon moved and Mr. Fullerton seconded the motion to adjourn the meeting at 7:02pm.**

166
167 Respectfully submitted,
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169 Wendy V. Chase
170 Recording Secretary
171 Approved September 22, 2015
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