



Office of  
**ZONING BOARD OF APPEALS**  
272 Main Street  
Townsend, Massachusetts 01469  
Phone: (978)597-1700 x1723 Fax (978)597-1722

William Cadogan, *Chair*  
Darlene Sodano, *Vice-Chair*  
Julie Johnson, *Clerk*

Anthony Genova, *Member*  
Craig Stevens, *Member*

John Giunta, *Associate member*  
Kelly Chambers, *Associate member*

---

**MEETING MINUTES**  
**June 19, 2013 at 7:00 p.m.**  
**Room 2**

**1.0 Preliminaries**

- 1.1 Call the meeting to order:** Acting Chairman Julie Johnson opened the meeting at 7:02pm.
- 1.2 Roll Call:** Present were members Julie Johnson (JJ) and Tony Genova (TG) and Associate member John Giunta (JG). Absent were Chairman Bill Cadogan, Vice-Chairman Darlene Sodano, member Craig Stevens and Associate member Kelly Chambers. Also present was Administrative Assistant Karen Chapman.
- 1.3 Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting:**  
*3.3 Planning Board Mandatory Referral re: 35 Scales Lane Site Plan Review*  
TG motioned to add 3.3 to the agenda. JG seconded the motion, with all in favor.
- 1.4 Review & approve minutes: 5/29/2013:** TG motioned to approve the minutes of 5/29/2013 as written. Seconded by JG, with all in favor.

**2.0 Hearings/Appointments/Work Sessions:**

**2.1 7:00pm: Public Hearing – Variance – NH Signs for North Energy Group – 197 Main Street Zoning Bylaw §145-52-Outdoor Lighting.**

JJ opened the public hearing at 7:04pm. JJ read the legal notice. Present for the applicant was Peter Marsh from NH Signs. The applicant intends to replace the manual price board on the existing sign by replacing them with a new electronic LED price changer and reface the existing sign. There will be no change in the size of the sign. Mr. Marsh states that his client should be allowed a special permit under Chapter 40A, Section 6 by way of the Board making a finding that the change to the preexisting nonconforming sign is not more detrimental than the existing sign to the neighborhood. Rich Hanks, Zoning Enforcement Officer denied a permit to Mr. Marsh on the grounds that it would not comply with Zoning Bylaw §145-52, Outdoor Lighting. Mr. Hanks states in his letter to the applicant of April 23, 2013 that “An internally illuminated sign has a fixture, housing, lamp or lamps, lamp holder and ballast; therefore it does not meet the definitions of the bylaw as an outdoor lighting device”. Mr. Hanks further states in his letter that “An acceptable method of illuminating the sign would be with down type lights”.

Michael Brown of 57 Gilchrist Road submitted information regarding this case and the Town’s lighting bylaw, which he helped write. Mr. Brown is concerned that the new and replacement lighting should conform to the bylaw, the property already has numerous non-conforming lights, conforming to the bylaw requirements is readily feasible, and that calculations of the light output of the applicant is incorrect.

Mr. Marsh reiterated his position that the Board only needs to make a Section 6 finding and grant a special permit. TG states that the applicant applied for a variance and not a special permit and

that the Board does not grant variances without all of the provisions in the variance section satisfied and these have not been satisfied in this application. Mr. Marsh requested an opinion from Town Counsel. JG motioned to continue the hearing to July 31, 2013 at 7:30pm. TG seconded the motion with all in favor.

**2.2 7:30pm: Continuation Public Hearing – Variance – Kevin Smith/Ken Tully – 61 New Fitchburg Rd - Variance from Land Space Requirements Table – Zoning Bylaw §145-32**

JJ reopened the hearing at 7:37pm. Present were Kevin Smith and Ken Tully. JJ read Town Counsel's opinion which the Board requested at that last hearing date. A copy of the opinion was given to the applicant. Mr. Tully was not aware that all 4 criteria of the variance had to be met. JJ asks if the town has a right to render the land unbuildable. The Board discussed the 4 criteria for granting a variance and it appears that all 4 can be fulfilled. The soil condition, shape, or topography of the land could be satisfied because the shape of the lot is such that it is entirely surrounded by State land and cannot be made conforming by virtue of purchasing more land. The nonconforming nature does not affect the zoning district in which the lot is located. Literal enforcement of the provisions of the bylaw would make this an unbuildable lot and therefore involve financial hardship to the applicant. Relief may be granted without substantial detriment to the public good—a residential house built in a residential neighborhood would not be a detriment or derogate from the intent of the bylaw. There are only three members of the Board present and a vote requires 4 members to be present, therefore the applicant agrees to continue the hearing and submitted a letter allowing an extension for the Board to issue a decision. TG motioned to continue to July 31, 2013 at 8:00pm. JG seconded the motion, with all in favor.

**3.0 General Business:**

**3.1 Vote Chairman, Vice-Chairman and Clerk for FY2014:** TG motioned to keep officers for FY14 the same as FY13 with Bill Cadogan as Chairman, Darlene Sodano as Vice-Chairman and Julie Johnson as Clerk. JG seconded the motion, with all in favor.

**3.2 Referral from Board of Health re: Harbor Trace irrigation wells:** Board commented as follows: *Having jurisdiction over the Aquifer Protection District, we are concerned about the futility of irrigation of lawns that were seeded with no proper barriers to protect leaching of chemicals into the water below.*

**3.3 Planning Board Mandatory Referral re: 35 Scales Lane Site Plan Review:** The Board has no comment.

**4.0 Correspondence:**

**4.1 Letter from Turnpike Village re: legal bills:** noted.

**5.0 Schedule**

Next meeting: July 31, 2013 – Public hearing 3 Maple Street

**6.0 Adjournment**

TG motioned to adjourn at 8:36pm. JG seconded with all in favor.

Minutes taken and transcribed by: Karen Chapman

Any paperwork used during this meeting can be found in the Town Clerks or Zoning Boards offices under the street listing.