



**Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, October 24, 2017 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.

In attendance: George Lagassa, Chair; Mark Janos, Vice Chair; Members Jonathan Pinette, Joseph Bernardo, and David Buchanan; Alternate member Robin Reid; and Recording Secretary Rick Milner.

I. Preliminary Matters.

Chair Lagassa called the meeting to order at 6:35 pm.

All potential witnesses for Cases #17:06, #17:07, and #17:08 were sworn in.

Mr. Lagassa presented the minutes of the July 25, 2017 meeting.

Mr. Janos moved that the ZBA accept the minutes of the July 25, 2017 meeting as written. Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

Mr. Lagassa presented the minutes of the September 26, 2017 meeting.

Mr. Janos moved that the ZBA accept the minutes of the September 26, 2017 meeting as written. Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

II. New Business.

A. Case #17:06 – Applicant: Robert Gray Construction, P.O. Box 252, Rye, NH 03870. The Applicant requests a variance from Section 406 – Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow construction of a building addition within the structure setback. Property Owners: Charles and Laurie White Family Trust, 77 Lovering Road, North Hampton, NH 03862; Property Location: 77 Lovering Road; M/L: 019-059-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Charles and Laurie White, applicants; Robert Gray, applicant and contractor.

Mr. Gray addressed the Board. Mr. Gray stated that the existing 77 Lovering Road property is a long, narrow 7.6 acre lot with 195 feet of frontage along the roadway. The existing home is setback 130 feet from the roadway. Mr. Gray presented a plan which indicated:

a. the proposed construction of a 720 square foot addition with a setback of 23 feet 7 inches to the westerly side lot line where 30 feet is required,

b. the location of the septic system, water well, paved driveway, and accessory structures on the site, and

c. floor plan for proposed addition with 688 square feet of living area (1 bedroom, 1 bath, kitchen, and living room).

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.

47 Mr. Gray stated that the location and roof pitch construction of the proposed addition off the left side of
48 the existing home would make the addition look normal by maintaining the proportions of a standard
49 cape-style home.

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51 Mr. Gray addressed the five criteria for granting a variance identified in the State of NH RSA's.

52 1. Granting the variance would not be contrary to the public interest. The encroachment into the
53 setback is less than 7 feet along a minimal distance in relation to the long side yard lot line distance.

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55 2. The spirit of the ordinance is observed in that ample side yard clearance will remain for light, air,
56 utilities, and privacy.

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58 3. Substantial justice would be done since spirit of ordinance is observed and the property owners
59 would be allowed to develop their property.

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61 4. Surrounding property values will not be adversely affected since the proposed addition would be an
62 improvement to the property. Also, the existing home is set back on the property while the home on the
63 westerly abutting property is set up near the roadway.

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65 5. Literal enforcement of the ordinance would result in unnecessary hardship for the property owners.
66 Due to the unique layout of the existing property and current locations of well, septic system, effluent
67 disposal area, and driveway, there is only one option for placement of the home addition which results
68 in an encroachment on the westerly side yard setback.

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70 Mr. Pinette asked if the existing septic system is approved for the proposed additional bedroom.

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72 Mr. Gray confirmed that the septic system is approved for the additional bedroom.

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74 Mr. Janos asked if other options for construction of the addition without the need for a variance were
75 considered.

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77 Mr. Gray explained that the location of the well and septic system and irregular elevation changes in the
78 area of the existing home eliminated other options for placement of the proposed addition. Also,
79 proposed placement of addition would allow for proper roof alignment between the existing home and
80 the addition to allow for snowfall safety and other considerations.

81
82 Mr. Lagassa noted that the effect of the proposed setback encroachment on the westerly abutter is
83 limited since that home is set forward on the abutting lot and the applicants' home is set back on their
84 lot. Mr. Lagassa asked if the living area in the proposed addition may be used as an accessory dwelling
85 unit.

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87 Mr. Milner confirmed that the applicant has filed an application with the Planning Board for approval of
88 an accessory dwelling unit in the addition.

89
90 Mr. Lagassa asked for comments from the public. No comments were made. Mr. Lagassa closed the
91 public hearing at 6:59pm. Mr. Lagassa suggested that the Board consider each of the five variance
92 criteria.

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Mr. Lagassa stated that he was in favor of granting the variance since the proposed encroachment was minor in nature.

Mr. Janos stated that he agreed with the applicant's representation that the topography around the existing home and the location of the well and septic system only allowed for placement of the addition as proposed by the applicant.

Mr. Buchanan moved that the Zoning Board of Adjustment grant a variance from Section 406 – Yard and Lot Requirements of the Town of North Hampton Zoning Ordinance to allow construction of a building addition with a westerly side yard setback depth of 23 feet, 7 inches as represented in the application presented to the Board. Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

B. Case #17:07 – Applicant: Ryan Hayes, 249 Canaan Back Road, Barrington, NH 03825. The Applicant requests a special exception as required by Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow an auto repair business on the property. Property Owner: ZJBV Properties, LLC, 300 Gay Street, Manchester, NH 03103; Property Location: 68 Lafayette Road; M/L: 007-122-000; Zoning District: I-B/R, Industrial – Business/Residential District.

In attendance for this application:
Ryan Hayes, applicant.

Mr. Hayes addressed the Board. Mr. Hayes stated that he intends to move his auto repair business for higher end vehicles into the existing 5,000 square foot building on the 68 Lafayette Road site. The building was previously used as an auto body repair shop. The three year old business has outgrown its current space in Maine. Mr. Hayes presented a site plan, shop layout diagrams, and photos from his current shop to the Board. Mr. Hayes outlined the following business activities:

- a. The business will primarily perform maintenance, repairs, and inspections. No painting, body work, tire work, or rust repair will occur on the site.
- b. Fluid handling will be done in almost all cases by specialized vacuum extraction machines to eliminate the possibility of fluid spills.
- c. The business will handle approximately 6 to 8 vehicles per day using 2 to 4 employees.
- d. Vehicles will not be parked outside overnight.
- e. No equipment or vehicle parts will be stored outside.

Mr. Hayes addressed the criteria for authorizing a special exception identified in the Town of North Hampton Zoning Ordinance.

1. The proposed use will not diminish property values. All of the lots adjacent to this building are commercial users or vacant commercial lots. There is no alteration to the exterior of the building or site with this proposed use. The building was previously used as an auto body repair shop.

2. The proposed use will not adversely affect the public interests, safety, health, or welfare. All work performed on the site will be done inside the building. This eliminates the possibilities of dust, smells, and noise from reaching residences or businesses. The letter of intent attached to the application includes several fluid handling notes that ensure fluid spill control measures are in place. Professional companies will take waste fluids and dirty laundry off the site for proper disposal and cleaning. Traffic impact will be negligible with estimated 6 to 8 vehicles per day.

Mr. Lagassa asked for clarification regarding the proposed septic system.

Mr. Hayes stated that the septic system is approved and currently being installed. An application for site plan approval will be submitted to the Planning Board.

Mr. Lagassa asked for comments from the public. No comments were made. Mr. Lagassa closed the public hearing at 7:17pm. Mr. Lagassa suggested that the Board consider the special exception criteria.

Mr. Buchanan moved that the Zoning Board of Adjustment grant a special exception as required by Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow an auto repair business on the property located at 68 Lafayette Road as represented in the application and letter of intent presented to the Board and subject to the following conditions:

- 1. No outside storage of equipment or vehicle parts.**
- 2. No overnight outside storage of vehicles.**
- 3. No work on vehicles performed outside of building.**
- 4. No tire service, alignments, wheel balancing, painting, body repair, dent repair, body panel replacement, rust repair, or exhaust work will be performed.**
- 5. The primary method of fluid removal, in most cases, will be by specialized vacuum extraction machines.**
- 6. No waste fluid disposal will occur on the property.**

Second by Mr. Janos. The vote was unanimous in favor of the motion (5-0).

C. Case #17:08 – Applicant: Michael Bass, 40 Soldiers Field Place, Boston, MA 02135. The Applicant requests a variance from Section 403.2 and Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow a second dwelling unit where two dwelling units on a lot are not permitted. The Applicant also requests a variance from Section 408.1 of the Town of North Hampton Zoning Ordinance to allow a lower living area of 614 square feet where a minimum of 720 square feet is required. Property Owner: The 120 Mill Road Realty Trust, c/o Bass, Doherty, and Finks, PC, 40 Soldiers Field Place, Boston, MA 02135. Property Location: 120 Mill Road; M/L: 006-147-001, 006-154-000, and 007-173-000; Zoning District: R-2, Medium Density District.

In attendance for this application:

Michelle and Christopher Rondeau, applicants; Timothy Phoenix, attorney for applicants; Scott Fiorentino, architect for applicants; and Paige Libbey, engineering consultant for applicants.

Mr. Phoenix addressed the Board. Mr. Phoenix explained that Michael Bass is an attorney who manages the 120 Mill Road Trust for Michelle and Christopher Rondeau. The Rondeaus wished to establish a working farm on the nearly 60 acre lot. Three lots were recently merged to create the current lot boundaries in order to resolve a boundary line issue associated with construction of a proposed greenhouse. A large existing home, carriage house/garage, and older barn currently exist on the property. The applicants intend to operate a small, personal use farm with a full-time, on-site farm manager. It is necessary to have a farm manager on-site to adequately care for the livestock and crops. Therefore, the applicants propose to create a second dwelling unit for the farm manager on the second floor of a newly constructed second barn in the rear of the 120 Mill Road property.

Mr. Phoenix showed overhead photos of the 120 Mill Road property to illustrate the large amount of forest areas and farm activity areas in the back of the property where the new barn is located. The remote location near the farm activities is a more appropriate location for a farm manager dwelling.

Mr. Phoenix explained that a second dwelling on a property is not allowed by the Town of North Hampton Zoning Ordinance Sections 403.2 and 405.3.2. The applicants request a variance to allow the second dwelling unit. The applicants also request a variance from Section 408.1 to allow a living area in the second dwelling unit of 614 square feet where a minimum of 720 square feet is required.

Mr. Phoenix addressed the five criteria for granting a variance identified in the State of NH RSA's.

1. Granting the variances would not be contrary to the public interest. The farm manager dwelling is in full compliance with the stated purpose in Section 508.1 of the zoning ordinance. "The residents of North Hampton continue to value the rural aspects of the town. They wish to encourage the establishment of new farms and agricultural activities, and to facilitate the continued operation and maintenance of its existing well-managed farms."

2. The spirit of the ordinance is observed. Providing eating and sleeping quarters for a farm manager is consistent with a "practice on the farm incident to, or in conjunction with such farming operation..." detailed in Section 508.4.B.5 of the zoning ordinance.

3. Granting the variances will not diminish surrounding property values. The barn/second dwelling unit is located near the center of a 60 acre heavily wooded parcel, unseen from the road or any other parcel. Having the farm employee living on site will actually decrease the amount of traffic to and from the site.

4. The requirements for unnecessary hardship are met.

a. Special conditions distinguish the property/project from others in the area. The site is very large at approximately 60 acres. The barn cannot be seen from Mill Road or any other nearby lot. The proposed agricultural activities meet the spirit and intent of the North Hampton Zoning Ordinance. The dwelling unit for the farm manager is necessary to provide around-the-clock and year-round attention to the agricultural operation.

b. No fair and substantial relationship exists between the general public purposes of the ordinance and its specific application in this instance. The intent of the R-2 zoning district restriction to one dwelling on a lot is to promote adequate air, light, space, area for the provision of wells, septic, stormwater management, and to prohibit overcrowding of land from both use and aesthetic perspectives. At 60 acres, the parcel provides more than adequate separation between neighbors and space for well, septic, stormwater management, and agricultural activities. The 614 square foot dwelling unit providing living space for one individual will significantly help agricultural operations and slightly decrease traffic entering and exiting the site.

c. For all of the stated reasons, the proposed use is reasonable.

5. Substantial justice will be done by granting the variance. There is no benefit to the public which outweighs the loss to the applicant. Given the large size of the lot and location of the dwelling unit well back in a forested area, there is no gain to the general public in denying the variances. Denial of the variances will result in a loss to the applicant by prohibiting the ability to have round-the-clock management of the agricultural operation which is encouraged by the zoning ordinance.

Mr. Lagassa asked for clarification regarding the farm manager/employee concept.

Ms. Rondeau addressed the Board. She stated that their current farm operation of four years in Hampton Falls is operated by a single person who manages the farm activities and occupies a small living space on the property. The proposed use on Mill Road will be similar in nature.

Mr. Bernardo asked for clarification regarding the use of the existing carriage house on the property.

Mr. Phoenix stated that the carriage house would be used as a garage with an office space proposed in area above the garage. Even though the carriage house has a bathroom, septic system, and kitchen area it will not be used as a living area.

Mr. Lagassa asked for comments from the public. Abutter Don Philbrick addressed the Board. Mr. Philbrick asked if the proposed farm operations could expand in the future.

Ms. Rondeau stated that the proposed farming activities and structures are intended to be for a small, personal use farm.

Mr. Lagassa closed the public hearing at 7:53pm. Mr. Lagassa suggested that the Board consider each of the five variance criteria.

Mr. Pinette stated that the proposed agricultural use is what North Hampton needs and is good for the Town. The small size of the proposed living area above the barn precludes the use of the space by more than one person.

Mr. Bernardo stated that the proposed use is consistent with what the Town wants as its identity.

Mr. Lagassa stated that the limited size of the dwelling unit and its use associated with agricultural operations makes the proposal acceptable in his opinion.

Mr. Janos stated that basic zoning objectives are met by the proposed use. As the Malachy Glen case noted in the applicant's memorandum states, "one way to ascertain whether granting the variance would violate basic zoning objectives is to examine whether it would alter the essential character of the locality..." The proposed use would enhance the character of the area and not be detrimental.

Mr. Buchanan moved that the Zoning Board of Adjustment grant a variance from the following sections of the Town of North Hampton Zoning Ordinance:

1. Section 403.2 and Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow a second dwelling unit as represented in the application presented to the Board where two dwelling units on a lot are not permitted subject to the condition that all federal, state, and local permits and approvals are obtained by the applicant.

2. Section 408.1 of the Town of North Hampton Zoning Ordinance to allow a lower living area of 614 square feet as represented in the application presented to the Board where a minimum of 720 square feet is required subject to the condition that all federal, state, and local permits and approvals are obtained by the applicant.

Second by Mr. Pinette. The vote was unanimous in favor of the motion (5-0).

Mr. Lagassa reminded the Board that, due to holiday season, if a meeting is necessary for December, the meeting will be held on December 13.

284 **Mr. Janos moved to adjourn the meeting at 8:03. Second by Mr. Lagassa. The vote was unanimous in**
285 **favor of the motion (5-0).**

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287 Respectfully submitted,

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291 Rick Milner
292 Recording Secretary