



Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, January 23, 2018 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; and Recording Secretary Rick Milner.

I. Preliminary Matters.

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

Mr. Lagassa presented the minutes of the December 13, 2017 meeting.

Mr. Pinette moved that the ZBA accept the minutes of the December 13, 2017 meeting as written. Second by Mr. Bernardo. The vote was unanimous in favor of the motion (5-0).

II. New Business.

A. Case #18:01 - Applicant: Jeremiah O'Sullivan, 11 Mill Road, North Hampton, NH 03862. The Applicant requests a rehearing of the Zoning Board of Adjustment's decision to grant a special exception as required by Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow a public utility building associated with the Mill Road water treatment facility site plan for property designated as Tax Map/Lot 003-004-000. Property Owner: Aquarion Water Company of New Hampshire, 600 Lindley Street, Bridgeport, CT 06606; Property Location: Mill Road adjacent to 3 Mill Road and Hampton town line, North Hampton, NH 03862; M/L: 003-004-000; Zoning District: R-1, High Density District.

In attendance for this application:

Jeremiah O'Sullivan, applicant; Carl McMorran, Aquarion Operations Manager; James Collins, Aquarion engineering consultant; and Ari Pollack, Aquarion attorney.

Mr. Lagassa explained that the agenda item regarding Case #18:01 was not a public hearing. The Zoning Board of Adjustment (ZBA) was conducting a meeting open to the public to consider only the applicant's request that the ZBA rehear Case #17:13.

Mr. Lagassa presented to the Board a rehearing request and associated documents submitted by Jeremiah O'Sullivan. Mr. O'Sullivan requested a rehearing with respect to the ZBA's decision to grant Aquarion Water Company a special exception to permit construction of a public utility building/water treatment facility with associated piping on the property designated as Tax Map/Lot 003-004-000. Mr. O'Sullivan's documents stated the following grounds for a rehearing:

a. The majority of the ZBA misunderstood and misapplied the facts of the testimony and reports of expert witnesses that Mr. O'Sullivan's property would not suffer any diminution of value when the water treatment facility building is constructed.

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b. Members of the ZBA misunderstood and mistakenly interpreted the intent of the section of the Town of North Hampton Zoning Ordinance detailing the public interests, safety, health, and welfare criteria for granting a special exception.

c. Mr. Lagassa's past professional association and business relationship with electric utility companies disqualified him from acting as an impartial juror during the proceedings for Case #17:13.

Mr. Buchanan stated that he sees no conflict associated with Mr. Lagassa's participation in Case #17:13. Also, Mr. Janos made no technical correctable error interpreting the applicable special exception criteria. Even though Mr. Buchanan was one of the dissenting votes for the Case #17:13 decision, he fully supports and trusts his fellow Board members to impartially apply the law. After reviewing the rehearing request documents, the original application documents, and the tape of the meeting, he sees no changes in conditions or technical errors that would warrant a rehearing of Case #17:13.

Mr. Janos stated that the ZBA thoroughly reviewed the application submitted for Case #17:13. Abutters and other members of the public were given more than adequate opportunity to present evidence or make comments. The special exception was granted on sufficient legal grounds. Granting a rehearing would be inappropriate.

Mr. Bernardo stated that he agreed with the comments of Mr. Buchanan and Mr. Janos.

Mr. Pinette stated that he believes that the appraisal process and documents presented by the Aquarion Water Company stating that property values would not be diminished as a result of the proposed construction are not accurate. Also, the ZBA received a petition earlier today signed by several abutters opposing the decision to grant the special exception. The opinion of the abutters should hold some significant weight regarding the decision to rehear the case. Mr. Pinette supports a rehearing of the case in order to take a site walk of the proposed construction area to better understand the materials presented in the case.

Mr. Lagassa stated that several abutters who signed the petition had every opportunity in three previous hearings before the Planning Board and one previous hearing before the ZBA to voice their opinion and did not until today. People's opinions may have been changed if they attended the hearings and heard the evidence presented by Aquarion Water Company.

Mr. Lagassa stated that the decision made by a majority of the ZBA for Case #17:13 is better characterized as a difference of opinion rather than an error made by the Board or a misapplication of the law.

Mr. Lagassa stated that he rejects the concept that he had any conflict for which he should have recused himself from considering the case just because he has worked with public utility companies in the past. He has never represented a water company or been involved in the appraisal of a water company. As one of the primary participants in the drafting of the Town of North Hampton Code of Ethics, Mr. Lagassa is well aware of criteria for determining a conflict of interest and the potential for any conflict never crossed his mind.

Mr. Lagassa asked the Board if any members wished to discuss the possible conflict issue. No comments were made.

95 **Mr. Pinette moved that the ZBA grant a rehearing of the Zoning Board of Adjustment's decision to**
96 **grant a special exception as required by Section 405.3.2 of the Town of North Hampton Zoning**
97 **Ordinance to allow a public utility building associated with the Mill Road water treatment facility site**
98 **plan for property designated as Tax Map/Lot 003-004-000. Second by Mr. Buchanan. The motion**
99 **failed on a vote of 1-3-1 with Mr. Pinette in favor; Mr. Lagassa, Mr. Janos, and Mr. Bernardo opposed;**
100 **and Mr. Buchanan abstaining.**

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102 **Mr. Janos moved to adjourn the meeting at 6:52pm. Second by Mr. Bernardo. The vote was**
103 **unanimous in favor of the motion (5-0).**

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105 Respectfully submitted,

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109 Rick Milner
110 Recording Secretary