



**Meeting Minutes**  
**Town of North Hampton**  
**Zoning Board of Adjustment**  
**Tuesday, September 26, 2017 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 Case  
10 Record and available for inspection at the Town Offices.

11  
12 **In attendance:** George Lagassa, Chair; Mark Janos, Vice Chair; Members Jonathan Pinette, Joseph  
13 Bernardo, and David Buchanan; Alternate member Robin Reid; and Recording Secretary Rick Milner.

14  
15 **I. Preliminary Matters.**

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

17 All potential witnesses for Case #17:04 and Case #17:05 were sworn in.

18  
19 **II. New Business.**

20 **A. Case #17:04 – Applicants: James Buchanan and Michael Oiler, 27 Birch Road, North Hampton, NH**  
21 **03862.** The Applicants request a special exception as required by Section 405.3.2 of the Town of  
22 North Hampton Zoning Ordinance to allow light manufacturing use (duct work fabrication) on the  
23 property. Property Owners: James Buchanan and Michael Oiler, 27 Birch Road, North Hampton, NH  
24 03862; Property Location: 5 Birch Road; M/L: 013-021-000; Zoning District: I-B/R, Industrial –  
25 Business/Residential District.

26  
27 In attendance for this application:

28 James Buchanan, applicant; Bernard Pelech, attorney for applicant.

29  
30 Mr. Pelech addressed the Board. Mr. Pelech stated that the 5 Birch Road property was the former site of  
31 an old gravel pit. The site is currently being used for the storage of vehicles. The applicant intended to  
32 construct a 40 foot by 100 foot building to be used for office space, storage of vehicles, and a HVAC duct  
33 work fabrication shop. The zoning ordinance requires that a special exception be granted to allow the  
34 duct work light manufacturing use. Mr. Pelech presented a photograph of the applicant's current  
35 fabrication shop. Mr. Pelech stated that the fabrication work consists of bending metal and is conducted  
36 for approximately two hours per week.

37  
38 Mr. Pelech addressed the criteria for authorizing a special exception identified in the Town of North  
39 Hampton Zoning Ordinance.

40 1. The proposed use will not diminish property values. The site is well buffered by surrounding natural  
41 vegetation. All building setbacks will be met.

42  
43 2. The proposed use will not adversely affect the public interests, safety, health, or welfare.

44 a. There will be no discharge of hazardous materials or fumes.

45 b. There will be no liquids discharged into the ground.

46 c. There will be no storage of pollutants or chemicals.

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.

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47 d. There will be no noise concerns due to the fact that most of the machines used in the duct work  
48 fabrication process are hand-operated.

49 e. There will be no lighting issues due to the fact that the business operations will occur during normal  
50 daylight business hours.

51 f. There will be no large amounts of water used.

52

53 Mr. Pelech stated that he believes that the application meets all of the special exception criteria.

54

55 Mr. Lagassa asked if Board members had questions for the applicant.

56

57 Mr. D. Buchanan asked if any soldering would occur during the fabrication process.

58

59 Mr. J. Buchanan stated that no soldering would occur.

60

61 Mr. Bernardo asked if the fabrication process would include any press pounding of the metals.

62

63 Mr. J. Buchanan stated that only bending of the metal, no pounding, would occur.

64

65 Mr. Pinette asked if the current business operations will expand or additional equipment will be added  
66 at the proposed site.

67

68 Mr. J. Buchanan stated that the business will not expand and no additional equipment will be added.

69

70 Mr. Pinette asked for clarification regarding the proposed lighting for the site.

71

72 Mr. J. Buchanan stated that only security lighting positioned on the building would be used.

73

74 Mr. Lagassa opened the public hearing at 6:50pm. No comments were made. Mr. Lagassa closed the  
75 public hearing at 6:51pm.

76

77 Mr. Lagassa suggested that the Board consider the special exception criteria.

78

79 Mr. Lagassa stated that the proposed building location is very well hidden. The proposed duct work  
80 fabrication use is consistent with allowable uses in the Industrial-Business/Residential zoning district.

81

82 Mr. Janos stated that he believes that the application meets all of the requirements of the special  
83 exception criteria.

84

85 **Mr. Bernardo moved that the Zoning Board of Adjustment grant a special exception as required by**  
86 **Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow a light manufacturing use**  
87 **(duct work fabrication) on the property located at 5 Birch Road. Second by Mr. D. Buchanan. The vote**  
88 **was unanimous in favor of the motion (5-0).**

89

90 **B. Case #17:05 – Applicants: Cynthia and Wayne Whitcomb, 48 Woodland Road, North Hampton, NH**  
91 **03862.** The Applicants request a variance from Section 403.2 and Section 405.3.2 of the Town of  
92 North Hampton Zoning Ordinance to allow an antiques sales business use which is not permitted in  
93 the R-2 Zoning District. Property Owners: Cynthia and Wayne Whitcomb, 48 Woodland Road, North

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94 Hampton, NH 03862; Property Location: 48 Woodland Road; M/L: 006-008-000; Zoning District: R-2,  
95 Medium Density District.

96

97 In attendance for this application:

98 Cynthia and Wayne Whitcomb, applicants.

99

100 Mr. Whitcomb addressed the Board. Mr. Whitcomb stated that the applicants have restored an old 1757  
101 schoolhouse moved to the 48 Woodland Road property from another location in town. The property  
102 also is the site for their home and two garage/storage buildings. Mr. Whitcomb presented photographs  
103 of the exterior and interior of the schoolhouse building. The applicants are seeking approval to use the  
104 schoolhouse building as a place for customers to visit to browse and buy vintage clothing and antique  
105 furniture restored by the applicants. The business would be open on Thursday, Friday, and Saturday  
106 once per month. The applicants do not expect more than one or two customers at a time. Three or four  
107 parking spaces are proposed on the site for customers. No additional building construction will occur.

108

109 Mr. Whitcomb further stated that the proposed business was more of a hobby for the applicants, rather  
110 than a commercial business venture. Based on the applicants' experience at their current York Beach,  
111 Maine location, a light turnover of stock is anticipated. The purpose for having the business at their  
112 residential property is to avoid travel to Maine and eliminate overhead costs of the rental unit in Maine.

113

114 Mr. Whitcomb and Ms. Whitcomb addressed the five criteria for granting a variance identified in the  
115 State of NH RSA's.

116 1. The application is not contrary to the public interest. The schoolhouse is a great historical building in  
117 town. The building is small, but inviting. Using this building as a small part-time selling point, the  
118 applicants feel the public would be pleased to have the schoolhouse as a place of interest to visit.

119

120 2. The application is consistent with the spirit of the ordinance. The current presentation of the  
121 neighborhood would remain as it is today. The introduction of a small antique shop would be humble.  
122 Once a month, the building may have a few visitors. There would be no impact on surrounding homes or  
123 neighbors.

124

125 3. Substantial justice would be done by the granting of the variance. Since the property is accessed off of  
126 a main road, there would be no traffic issues. There are two entrances to the site and ample parking on  
127 the site for anticipated amount of customers.

128

129 4. Values of surrounding properties would not be diminished. The use of showing and selling vintage  
130 goods would be limited. There will be no extra activity that would impact the neighborhood. There will  
131 be no new construction or visible changes to the property. Only signage would be a sign in the window  
132 and a flag indicating when the business is open for customers.

133

134 5. The schoolhouse is perfect in character and location. Having the business on their property would  
135 help alleviate business overhead expenses.

136

137 Mr. Pinette stated that he did not understand the hardship that would result in literal enforcement of  
138 the provisions of the ordinance. He asked the applicants for clarification.

139

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140 Mr. Whitcomb stated that the hardship would be that the applicants could not pursue their hobby of  
141 selling vintage goods on the site. Overhead costs of another location may be prohibitive to continuing  
142 the business.

143  
144 Mr. Bernardo asked how much revenue the current business generates.

145  
146 Ms. Whitcomb stated that the current business generates approximately \$700.00 per month based on  
147 being open two days per week.

148  
149 Mr. Lagassa asked for clarification of the current uses within the buildings on the site.

150  
151 Mr. Whitcomb stated the following uses:

- 152 a. Residential home,
- 153 b. Schoolhouse used for storage of vintage goods,
- 154 c. Garage used to work on cars as a hobby, and
- 155 d. Garage used to park cars for personal use.

156  
157 Mr. Lagassa opened the public hearing at 7:12pm. Mr. Lagassa asked for comments in support of the  
158 application. No comments were made. Mr. Lagassa asked for comments in opposition to the application.

159  
160 Abutter Kenneth Ingalls addressed the Board. Mr. Ingalls stated the buildings on the site are well kept.  
161 The schoolhouse is a good representation of the Town's history. He is not in favor of a historical building  
162 being turned into a retail outlet for the following reasons:

163 a. Mr. Ingalls stated that he has concerns about the traffic in the immediate area of the proposed  
164 business site. The intersection of Atlantic Avenue and Woodland Road where the proposed business  
165 property is located has been the scene of many traffic accidents during his 17 years living near the  
166 intersection. A retail business may attract more traffic to the area and compound the traffic problem.

167  
168 b. A retail business in a rural environment will change the character of the neighborhood. The residential  
169 character of the neighborhoods in North Hampton needs to be preserved from introduction of  
170 businesses.

171  
172 c. The complexion of North Hampton is currently appealing due to its rural character. Property values  
173 are higher as a result of this appealing character. Variances that allow businesses to be introduced into  
174 residential neighborhoods change the rural character and negatively affect surrounding property values.

175  
176 d. Variances weaken the discipline to protect the character of the Town which the zoning ordinances  
177 provide.

178  
179 Mr. Lagassa closed the public hearing at 7:19pm. Mr. Lagassa suggested that the Board consider each of  
180 the five variance criteria.

181  
182 Mr. Lagassa stated that the Atlantic Avenue and Woodland Road intersection is dangerous. Additional  
183 traffic at that intersection is not a positive.

184  
185 Mr. Pinette stated that, based on his knowledge of other similar shops in North Hampton, the type of  
186 business proposed by the applicants tends to expand. Additional traffic and possible parking on the road

187 create a safety concern. The requirements of the hardship criteria are not being met. Property values  
188 will not be diminished. However, signage in a residential area may be problematic.

189

190 Mr. Bernardo stated that the application is contrary to the public interest and not consistent with the  
191 spirit of the ordinance. Traffic safety issues are well documented for this area. The rural character of the  
192 Town would be negatively impacted by introducing businesses into residential areas. Literal  
193 enforcement of the provisions of the ordinance would not create a hardship. The proposed use is more  
194 of a hobby than a revenue generating business. The application does not satisfy the requirements of any  
195 of the five criteria for granting a variance.

196

197 Mr. D. Buchanan stated that the application did not present any evidence satisfying any of the five  
198 criteria. He did not believe that he could make a decision based on the lack of information provided by  
199 the applicants answering to the five criteria requirements.

200

201 Mr. Janos stated that the application does not meet the grounds upon which to grant a variance.  
202 However, he likes the concept of using the schoolhouse for a small impact antiques shop. He is not  
203 against granting a variance. However, he needs more information from the applicants on how the  
204 application meets the variance criteria.

205

206 Mr. Lagassa stated that the application is contrary to the spirit of the ordinance. The Master Plan and  
207 other underlying documents upon which the zoning ordinance is based make a clear distinction between  
208 commercial and residential areas within the Town of North Hampton. A hardship is not created by literal  
209 enforcement of the ordinance. There are other locations in North Hampton where an antiques shop can  
210 be established. The application is contrary to the public interest. The rural character of the residential  
211 neighborhood would be changed. There is a legitimate concern that public safety would be negatively  
212 impacted by adding traffic flow to the area of the proposed business. Special events or customer flow  
213 beyond the applicants' expectations would negatively affect the neighborhood.

214

215 **Mr. Bernardo moved that the Zoning Board of Adjustment deny the request for a variance from**  
216 **Section 403.2 and Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow an**  
217 **antiques sales business use which is not permitted in the R-2 Zoning District. Second by Mr. Pinette.**  
218 **The vote was 3-1-1 in favor of the motion with Mr. Janos opposed and Mr. D. Buchanan abstaining.**

219

220 Mr. Lagassa suggested that the Board draft language giving the reasons for the Board's decision. The  
221 Board, by consensus without objection, drafted the following language:

222 **Summary For The Majority's Decision:**

223 **Denial of the variance request was based on the determination of the Zoning Board of Adjustment**  
224 **that all five of the standards for authorizing a variance listed in NH RSA 674:33 were not satisfactorily**  
225 **met.**

226

227 **1. The variance, if granted, would be contrary to the public interest. The rural character of the**  
228 **neighborhood would be changed by introducing a business into the residential zone. Public safety**  
229 **would be negatively impacted by adding traffic flow to the area of the proposed business.**

230

231 **2. The variance, if granted, would not observe the spirit of the ordinance. In accordance with the**  
232 **Master Plan, the Town of North Hampton Zoning Ordinance makes a clear distinction between**  
233 **commercial and residential areas within the Town of North Hampton.**

234

235 **3. If the variance was granted, a substantial injustice would result from multiple subsequent**  
236 **applications for introduction of businesses within residential areas.**

237  
238 **4. The variance, if granted, would result in diminished values for the surrounding properties.**  
239 **Businesses bring an increased flow of customers and traffic that could be disruptive to a residential**  
240 **neighborhood. The rural character of the neighborhood would be changed. Living in the area would**  
241 **become less desirable; thereby diminishing property values.**

242  
243 **5. No unnecessary hardship resulting from the literal enforcement of the provisions of the ordinance**  
244 **exists. There are no special conditions of the property that distinguish it from other properties in the**  
245 **area. Denial of the variance would not prohibit reasonable use of the property. The applicants failed**  
246 **to demonstrate any unnecessary hardship that would result from denial of the variance request.**

247  
248 **Mr. Janos moved to adjourn the meeting at 7:48pm. Second by Mr. Pinette. The vote was unanimous**  
249 **in favor of the motion (5-0).**

250  
251 Respectfully submitted,

252  
253  
254  
255 Rick Milner  
256 Recording Secretary