



Meeting Minutes
Town of North Hampton
Zoning Board of Adjustment
Tuesday, January 22, 2019 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.

Mr. Lagassa presented the minutes of the December 12, 2018 meeting.

Mr. Buchanan moved that the ZBA accept the minutes of the December 12, 2018 meeting as written. Second by Mr. Pinette. The vote was 4-0-1 in favor of the motion with Mr. Bernardo abstaining.

II. New Business.

A. Case #19:01 – Applicant: Michael Sheffield, 24 Walnut Avenue, North Hampton, NH 03862. The Applicant requests a variance from Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow previously existing commercial business uses (property management and tree service businesses) not permitted in the R-1 and R-2 Zoning Districts. Property Owner: 24 Walnut, LLC, 24 Walnut Avenue, North Hampton, NH 03862; Property Location: 24 Walnut Avenue; M/L: 014-129-001; Zoning District: R-1, High Density District, and R-2, Medium Density District.

In attendance for this application:

Michael Sheffield, applicant.

Michael Sheffield was sworn in.

Mr. Sheffield addressed the Board. Mr. Sheffield presented application materials to the Board which included a site drawing, pictures of structures on the site and parking locations, outline of current uses, and a historical narrative of commercial uses on the site since the 1950's.

Mr. Sheffield stated that he has been operating his property management/landscaping business on the site for approximately eight years. He has never had any complaints from neighbors. Originally, he rented space on the property. He is now the property owner. Due to the various commercial businesses that have existed on the site since the 1950's, he believed that the business uses were grandfathered. He is seeking a variance because he received an opinion that the business uses may not be grandfathered and need a variance to legally operate on the site.

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

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1. The variance will not be contrary to the public interest. This property was granted a variance for a cell tower on September 26, 2002. The previous use for a bus depot, as well as a cell tower, was not deemed contrary to the public interest at that time. The existing use for commercial landscaping-property management business and tree service business would seem to be no more intrusive, or less intrusive, than the previous use.

2. The spirit of the ordinance is observed. The existing businesses have not been a problem for neighbors. Mr. Sheffield intends to follow best practices to make a minimal or non-existent impact on neighboring residences.

3. Substantial justice is done. It would be very difficult to use this lot for a residence because it has a working cell tower and two existing commercial buildings on it.

4. The values of surrounding properties are not diminished. The property has existed with business uses since the 1950's. The surrounding property values remain strong and should not be diminished by the continued business uses on the site.

5. Literal enforcement of provisions of this ordinance would result in an unnecessary hardship. The special conditions of this property with two commercial buildings that have been in existence since 1957 and 1968, and a cell tower, would make it very difficult to change the site into a residential house lot.

Mr. Bernardo asked for confirmation that the commercial landscaping-property management business and the tree service business were the specific commercial uses that the applicant was requesting being granted a variance.

Mr. Lagassa confirmed that the application indicated that the commercial landscaping-property management business and the tree service business were the specific commercial uses indicated in the variance request application.

Mr. Pinette stated that he had no objection to the variance request. Based on his knowledge of real estate in the area since 2000, there has not been a negative impact on property values in the area created by the site's commercial uses. Properties have consistently sold at top dollar.

Mr. Lagassa asked if the Planning and Zoning office has received any abutter comments. Mr. Milner stated that one abutter came into the town offices and expressed her approval of Mr. Sheffield as a property and business owner. The abutter stated that she has lived across the street from the 24 Walnut Avenue location for many years and has experienced no problems from the various commercial uses on the site over the years.

Mr. Pinette suggested that any variance approval should have a condition attached which indicates that the variance applies only to the specific business uses stated in the application presented to the Board.

Mr. Bernardo asked for clarification whether the proposed uses on the site required Planning Board review.

Mr. Milner stated his opinion that Planning Board review is not necessary since the site was reviewed by the Planning Board during the approval process for the cell tower with similar business operations and structures in place.

Mr. Bernardo suggested that any variance approval should have a condition attached which indicates that the applicant may voluntarily choose to submit a site plan review application to the Planning Board.

Mr. Lagassa closed the public hearing at 6:54pm.

Mr. Janos stated that he agrees that literal enforcement of the zoning ordinance would result in an unnecessary hardship. Mr. Janos also stated that the lengthy period of time that the current business uses have existed on the site without comment or complaint by Town officials or neighbors is an important criterion to note while considering the variance request application.

Mr. Pinette moved that the Zoning Board of Adjustment grant a variance from Section 405.3.2 of the Town of North Hampton Zoning Ordinance to allow previously existing commercial business uses (property management and tree service businesses) not permitted in the R-1 and R-2 Zoning Districts for property located at 24 Walnut Avenue as represented in the application presented to the Board subject to the following conditions:

1. The commercial business uses shall be limited to the specific uses detailed in the application presented to the Board.

2. The commercial business uses shall not be changed or expanded without prior approval from the Zoning Board of Adjustment.

3. The applicant may voluntarily choose to submit a site plan review application to the Planning Board.

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

Mr. Pinette moved to adjourn the meeting at 7:00pm. Second by Mr. Bernardo. The vote was unanimous in favor of the motion (5-0).

Respectfully submitted,

Rick Milner
Recording Secretary