



**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**

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 Case #17:04 and Case #17:05 were sworn in.

**II. New Business.**

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

In attendance for this application:

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

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

Mr. Pelech 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. The site is well buffered by surrounding natural vegetation. All building setbacks will be met.

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

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

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

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.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Mr. Bernardo 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 a light manufacturing use (duct work fabrication) on the property located at 5 Birch Road. Second by Mr. D. Buchanan. The vote was unanimous in favor of the motion (5-0).**

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

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

In attendance for this application:

Cynthia and Wayne Whitcomb, applicants.

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

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

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

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

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

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

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

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

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

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

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

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

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

Mr. Whitcomb stated the following uses:

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

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

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

- a. Mr. Ingalls stated that he has concerns about the traffic in the immediate area of the proposed business site. The intersection of Atlantic Avenue and Woodland Road where the proposed business property is located has been the scene of many traffic accidents during his 17 years living near the intersection. A retail business may attract more traffic to the area and compound the traffic problem.
- b. A retail business in a rural environment will change the character of the neighborhood. The residential character of the neighborhoods in North Hampton needs to be preserved from introduction of businesses.
- c. The complexion of North Hampton is currently appealing due to its rural character. Property values are higher as a result of this appealing character. Variances that allow businesses to be introduced into residential neighborhoods change the rural character and negatively affect surrounding property values.
- d. Variances weaken the discipline to protect the character of the Town which the zoning ordinances provide.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Respectfully submitted,

Rick Milner  
Recording Secretary