



**Town of Seabrook  
Planning Board Minutes**  
Tuesday, May 6, 2014  
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; Jason Janvrin, Vice Chair; Roger Frazee; Michael Lowry, Ivan Eaton III, Aboul Khan, Ex-Officio, Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Paul Garand, Code Enforcement Officer;  
Members Absent; Sue Foote, Alternate; David Baxter, Alternate, Francis Chase, Paula Wood, Alternate,

Hawkins opened the meeting at 6:35PM, stating that this would be a Board work session with no cases on the Agenda.

**MINUTES OF APRIL 15, 2014**

<b>MOTION:</b>	Janvrin	<b>to accept the Minutes of April 15, 2014, as written.</b>
<b>SECOND:</b>	Hawkins	<b>Approved: In favor: Hawkins, Janvrin, Lowry, Eaton, Khan, Frazee, Abstained: Baxter</b>

**CORRESPONDENCE/ ANNOUNCEMENTS**

**Case #2012-18 Latium, Tropic Star gas station**

Hawkins reported that the Supreme Court Appeal of the Zoning Board of Adjustment was proceeding simultaneously with the remand procedure at the Planning Board.

**Uncle Hilde's, 920 Lafayette Road**

Garand said that pallets were being stored outdoors in the parking area. Hawkins asked for the storage to be marked on the siteplan. Janvrin thought that would require an application. Garand said this should be reviewed as an outside sales area.

<b>MOTION:</b>	Khan	<b>to find that an expedited application was required for the storage of outdoor pallets at the Uncle Hilde store, 920 Lafayette Road.</b>
<b>SECOND:</b>	Eaton	<b>Approved: In favor: Unanimous</b>

**Case #2013-15 Waterstone Retail Development - NextEra Complaint**

Hawkins referenced the NextEra letter detailing reservations with the Waterstone siteplan. Kravitz said another letter from NextEra had been received that day indicating that NextEra would be meeting with the Waterstone people in an effort to find a cooperative solution. Hawkins also noted that a response letter had been received from the NH Department of Transportation and would be discussed at the May 20, 2014 Planning Board meeting at 7:30PM in Seabrook Town Hall.



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### **FEMA Floodplain Maps**

Hawkins called attention to the Meeting on May 8, 2014 at 6:30PM at the Marston School Gymnasium in Hampton at which the recently released preliminary floodplain maps would be available for viewing, and FEMA representatives would explain the mapping process and schedule of procedures.

### **Case #2013-28 Marshall Heirs, Rushmore subdivision at Rocks Road**

Henry Boyd of Millennium Engineering, on behalf of the Green & Company informed the Board that Green would be willing to extend the water pipe line to the edge of the property as requested by the Planning Board, provided the Board allowed the cul de sac sidewalk to be reduced to the usual dimension. Boyd said that sidewalks never go all the way around a cul de sac, because no one would walk all the way around when they had a straight walk to reach the other side.

Hawkins explained that the Water Department wanted the water line to connect into the NextEra main line because the circulation for the subdivision would be stronger and easy for clean out. He acknowledged that Green was proposing to escrow \$10,000 with the town for 4 years so that the town could extend the water pipes in the future. Hawkins wanted the Applicant to use the \$10,000 to bring the subdivision piping out to the property line during the construction, leaving only a small portion for the town to connect up if an agreement with NextEra emerged. He asked Morgan what the procedure would be if the Boyd proposal were something the Board wanted. Morgan said there would need to be a hearing with the abutters notified.

Morgan emphasized that doing a water loop would enhance the property value. Khan agreed that the town would gain in that event. Hawkins said the town's portion to construct would be only a few feet. Eaton thought that was better than having to disrupt a homeowner's land at a later date, and said he would not walk all the way around on a sidewalk in a dead end street, Hawkins wanted Green to provide a letter of intent to bring the pipe to the property line and adjust the cul de sac sidewalk so this could be publicly noticed.

### **SECURITY PROCEDURES**

Attending: Oliver Carter, Town Treasurer.

Carter said that security was still being held for some old cases, and the case remained open. . Sometimes people forget or cannot be reached, or they had not begun the project so that the approval had expired. Hawkins said a list would help the Board in closing cases where the approval expired or nothing was done on the project. The release of security requires the applicant to obtain the department head ok that the work had been properly completed. Carter said that some letters of credit had expired and were not enforceable. Hawkins asked if Carter had difficulty in identifying the contact people. Garand said his office might have phone numbers.

Hawkins will add a compliance hearing to the next Planning board work session. One objective would be to at least close cases older than five years. Eaton wanted to know what would happen to security if a road had not been finished. Hawkins and Garand will meet with Carter to review open cases. Requesting the return of security requires a letter to the Planning Board together with a signoff by department heads. Letters of Credit should be closed if expired. Money should be returned if a project approval had expired. Carter said that TD Bank regards a self-renewing l/c as illegal. Hawkins said the applicant should either find a willing bank or post cash. He



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wanted to eliminate the 60 day right for a bank to refuse renewal. Compliance needed to be enforced; the burden should be on the applicant. Without signatures of department heads, the Board should call the security. Janvrin said that Garand had to be involved.

Carter asked that the Board specify how much of the security to be retained, and to return the balance. If all of the security is to be returned the case should be closed. Hawkins said this should be specified in the vote and notice of decision. Carter noted that the notice of decision states that the minimum security was \$5,000. Hawkins said that language should be fixed; a vote should set security. Janvrin said if security was required the minimum should be \$5,000. Hawkins said the main issues were the roadways and drainage. If there would be no impact on the town, no security should be required. Morgan will rewrite Section 6. Hawkins asked for a monthly report from Carter. Kravitz noted that a security agreement is prepared when security is offered.

### **ROADWAYS**

Janvrin said he and Eaton had attended a NH Municipal Workshop re roadway procedure. In Seabrook, the Planning Board recommends acceptance of a town road to the Board of Selectmen. Lately, trash pick-up has been allowed by the BOS for roadways that are not yet town roads. There was a discussion of a Supreme Court ruling that if a municipality offers services e.g. police, trash pick-up it would be deemed an implied acceptance; a property owner would win. However, the Selectmen could declare a roadway to be an emergency lane under RSA 231:59 (a) until the Planning board makes the recommendation. Janvrin said the current practice was not ideal. Hawkins thought that the Board of Selectmen does not accept a roadway unless the Planning Board recommends it. Declaring an emergency lane would be an option. Garand suggested that developers sign an agreement to provide services.

Khan said the town did not pick up trash except in Beckman Woods because of a large cul de sac. Garand said that trash gets piled up at corner lots. Hawkins suggested a time frame, after which the obligation would return to the developer. Eaton thought the town could be sued. Baxter asked if state law was violated. Khan thought there would be more building around the Beckman Woods. Garand said to push Green & Company to finish Beckman Woods. Marshall was not site specific. Morgan reminded that the Board had reduced the security, and should review this practice. The security held at one point might not be adequate if work had to be done in the future. Janvrin said in the future, security should be held until the project was complete. Hawkins said security should be held until the project can be closed; no partial refunds. Khan thought if there was a problem, sales could be stopped.

### **APPLICATION FEES**

Hawkins said that expedited applications supposed that there was no impact on the property. But there could be an impact if buildings were remodeled e.g. traffic impact. Kravitz called attention to Chase's concern that the expedited fees were too high for one unit. She pointed out that the Honey Pot process at 920 Lafayette Road was very extensive and time consuming. The size of a building was not the determinant of the number of meetings required for an expedited application. Hawkins recommended removing the \$100 per 1,000 square feet of impacted area from the expedited fees. Kravitz recalled that at one point the Board had discussed applying additional fees if a case warranted it. Morgan will recommend the language changes.



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### **PARKING REGULATIONS**

Garand said the problem is that the parking spaces for retail stores and restaurants in the same property area tends to get mixed up in re the number of required spaces i.e. a restaurant and a retail store may claim the same spaces. Hawkins said the minimums are not effective. Khan pointed out that hardships are often claimed for waivers.

Morgan did not want the parking areas to be too small so that customers park on the street. On the other hand, the parking areas should not be overly big as at the Kohl's and Lowe's. The new MS-4 impervious surface issues in re stormwater and drainage were also concerns, as the town could become responsible for run-off problems. Garand commented that a warehouse might have low parking space usage or turnover, while a supermarket would have a high intensity usage. Service type businesses should be defined as to parking needs e.g. hair salons. Morgan would propose a range of requirements, noting that the Board had been cautious with the Demoulas south plaza. The problem occurred when retail units were a part of a mixed use shopping center. Hawkins said the Planning Board could set clear standards. Garand said that parking should be self-sufficient for a unit or building. He was concerned that Demoulas and Home Depot were blowing snow into the wetlands.

Baxter liked Morgan's approach. Hawkins said that developers start with the biggest building or store, and end up with too little parking, landscaping, and snow storage on the site. Garand asked why allow snow storage on the planting areas; this should be on pavement. Hawkins said the issue is the build-out and conserving property. They should cut back and do the landscaping first. The question is what would be reasonable. Currently the board has no say with retail and restaurant parking. Garand said to keep the parking for the restaurant seating as is. The retail calculation should be revised, e.g. the new Aspen site will have 9 dental stations. Janvrin commented that Stapes and Applebee's share parking. Garand said the problem is one owner with multiple uses. Hawkins said the Planning board could require additional parking. Garand noted that 920 Lafayette Road units have varied hours of operation. Baxter said this should be at the sole discretion of the Planning Board. Hawkins said if there was enough land it's not a problem. Now the buildings were too big for the lots. Baxter said it depended on the layout.

Hawkins said that shared parking could not be counted twice. Retail use should be one space for every 250 square feet of floor area, and a minimum of one space for every 300 square feet of floor space, at the sole discretion of the Planning Board. Janvrin asked what if a new use is high intensity. Morgan reminded that parking regulations had been moved from zoning to site plan regulations.

### **Utility Access Easement**

Hawkins referenced the Planning Board's Attorney's concern about an overreaching easement, being illegal, and asking for a better definition of the purpose, This item needs to be reviewed.

### **Site Plan Regulations**

Hawkins said now that the Town Meeting had approved the North Village Zoning, it was important to review how much of the Smithtown Village Site Plan ordinance could be applied to the North Village, and what might have to be added or adjusted. .



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**Map Updating**

Hawkins asked Morgan and Garand to confer and recommend their map changes at the July Planning Board work session. Janvrin wanted to participate in the process.

**Impact Fee Subcommittee**

Hawkins said the town had hired Bruce Mayberry to an impact fee work session for the purpose of learning what was “doable”. The discussion was eye opening and encouraging. Mayberry said the first step would be to identify the current capacity use. An impact fee could pay for excess or unused capacity or upgrades e.g. replacing asbestos pipes. The fee had to spread out to everyone that would receive benefits. Hawkins said that the town could finance a good portion of infrastructure with a fee based on the proportional use contribution. Baxter said the fee had to be ratably paid by any people in the town who would get benefit. Eaton commented that an 80 foot ladder truck was only needed for big boxes. Hawkins said it would not be based only on the building height.

Hawkins said the task would be to discover where there was more capacity that could be used in the future, e.g. unused sewer capacity, or at the new police department dispatch center. He thought the opportunity was greater than had been thought, and could involve schools, sewer, and a public safety impact fee. Janvrin asked if unused funds would have to be returned after six years. Hawkins said it would, but the fee could be applied to what the town had already paid for. He cautioned that this could involve a lot of work and documentation; the insurance value could be used to declare the asset value. The fee schedule and the ordinance had to match. Baxter said a double payment could be a barrier to entry. Hawkins said [with an exaction] a business pays with respect to its own impact. Garand said the town was doing the collection for the state. Hawkins said a road could be fixed in a timely way. Khan said the town needed to be business friendly, and thought 2 fees would be too much. Hawkins said the taxpayers should not be on the hook for new [infrastructure] work; exactions were used for roadways within the town. Khan said exactions were easy fees to implement. Hawkins said in any case the purpose for the funds had to be specified.

Hawkins adjourned the meeting at 9:20 PM

Respectfully Submitted

Barbara Kravitz, Secretary  
Seabrook Planning Board