



Town of Seabrook  
 Planning Board Minutes  
 Tuesday, June 3, 2014  
 NOT OFFICIAL UNTIL APPROVED

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

Janvrin opened the meeting at 6:35PM.

**MINUTES OF MAY 20, 2014**

Janvrin offered the following corrections to the May 20, 2014 Minutes: typos on page 5 – none = non, page 6 – Woodland spelling, page 8 – egg =eg. He asked for other comments. Khan said Chase did not vote on Khan's motion to grant the landscaping request for Case #2014-10.

<b>MOTION:</b>	Lowry	<b>to accept the Minutes of May 20, 2014 with typos corrected.</b>
<b>SECOND:</b>	Chase	<b>Approved: In favor: Janvrin, Khan, Frazee, Lowry; Abstained: Chase</b>

**CORRESPONDENCE/ ANNOUNCEMENTS**

**Case #2008-23 DDR – Walmart request for sidewalks sales**

Attending Jim Grafmeyer, Vice President, DDR;

Garand said that DDR was requesting that Walmart be allowed to conduct sidewalk sales, maintaining that this would be within the envelope of the Court settlement. Janvrin recalled that for a similar request, the Board had waived jurisdiction..The change in hours would appear on the as-built. Garand said they were also requesting to extend the hours of operation from 7AM to 10PM as at the previous location, to 6AM to midnight and 24 hours on holidays. He said the police and security on site had no issue with this. Lowry wanted the tire shop to keep to specific hours and asked for the 7AM to 8PM. Morgan asked what assurances there would be that the merchandise would not be stacked across the sidewalk forcing pedestrians into the traffic lanes. Garand said there was an additional 10 feet beyond the sales area, and they could not block the cart entrances; this would only involve seasonal sales; they cannot restrict the sidewalks to less than 6 feet for pedestrians. Garand said he had an email. Morgan said that sketch was too small to be read. Grafmeyer said they will have Walmart do a detailed drawing depicting the outdoor sales area Chase asked if there would be actual cooking on grills on the site. Garand said grills would only be displayed for sales. He asked if waiving jurisdiction would be appropriate. Morgan said that action was essentially retreating from the question; a vote would be more appropriate. .

<b>MOTION:</b>	Chase	<b>to approve the Case #2013-28 DDR - Walmart request to expand the Walmart hours of operation to 6AM to midnight, 24 hours on holidays, and tire shop hours from 7AM to 8PM, and to allow sidewalk sales as described to the Planning Board on June 3, 2014, provided that Walmart provides a detailed drawing showing the sidewalk sales area, and returns to the Planning Board for any changes in the above.</b>
<b>SECOND:</b>	Lowry	<b>Approved: Unanimous</b>



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### **Walton Street Bridge**

Janvrin followed up on the safety incident reported at the last Board meeting; the Selectmen were informed that the state will remove the Bridge reportedly on June 6. .

### **Dows Lane**

Janvrin referenced the letter in the packet from Keri Fowler concerning a malfunctioning sewer pump on Dows Lane. Morgan will research this issue and report to the Board at a later meeting.

## **PUBLIC HEARINGS NEW CASES**

### **Case #2014-14 – Proposal by Harborside Restaurant Group, LLC to extend operating hours for Castaways Restaurant at 209 Ocean Boulevard, Tax Map 26, Lot 91;**

Attending: Ted Mountzouris, owner, Pillar Cardona, restaurant manager;

Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering;

Boyd said they wanted to address some of the neighbors' concerns; he hoped everyone had been to the wonderful spot to eat; the food gets better and better. In the past they had some issues with smoke and fire pits, and some loud music that bothered neighbors in the back. They wanted to extend their seven day hours of operation from 7AM to 1 AM which would be in keeping with any other town restaurants or bars eg Round Rock had similar hours. Boyd said because there had been some complaints about people lingering in the parking area. they met with Morgan, the Town Manager, and Dick McGuire of the Beach Precinct about how to address some abutters concerns.

Boyd said as a courtesy to the Board, at this meeting they would also like to speak about approval for the firepits. They would like approval for the firepits, but did not think this required Board action. Also, the tables in the grass and stone area off of the deck was a use that they should have as allowed. In the past complaints came from the small firepits where they burned wood. The Manager had worked with the fire department for small propane units (picture submitted. Boyd said the Fire Chief did not have a problem. In the future they would like to pipe in propane gas already on the site A picture was submitted to the Board.)

Boyd said the restaurant had a maximum number of allowed seats of 285 based upon a Planning Board approval decision; Note #5 references 28 seats around 7 tables for seasonal use. Those seats could not be used in the restaurant i.e. 285 seats was the overall total. This meant that if those seats are being used outdoors, the indoor restaurant would have 28 fewer seats. They current do the same on the upper deck which is not always open; this is at the Manager's discretion. The request was not for an expansion of seating; they could not add seats to the 285. Boyd said that in any beach community people want to listen to music. At the meeting the discussion was specific to soft live music Thursday through Sunday from 5PM to 9PM, so this would not be a worry during late evening hours. It cannot be an annoyance or disturbance. Boyd said that the Applicant wanted to clear up any issues, and have an area restaurant that the neighbors could enjoy.

Janvrin asked Morgan if fire pits were within the scope of an expedited application. Morgan said the public notice would have to be expanded to include music and firepits, along with the  
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expanded hours. Janvrin thought these items were structures that were not in the expediter application. Boyd said they would do whatever was necessary for compliance; nothing prohibited having music, and tables in a stoned in area that could be moved; they were not structures that would require Planning Board approval. He did not see why this request had to be publicized as anything else. They could put the public notice out and change the application if the Board wanted, but asked the Board to think about how simple this was. Janvrin noted that live music was not on the 2012 siteplan. He thought that the Beach Precinct ZBA decision conditions were was not noted on the plan, and asked if they required music to be unamplified. Boyd said the zoning was on the plan, but was not sure that the conditions [referenced by Janvrin] were binding on the Applicant. They were within the Beach Village District zoning laws, but music would be under the beach noise ordinance which was similar to the uptown regulation which says annoyance and disturbance. They were trying to what was reasonable; these were not electrified guitars. . .

Janvrin said there had been issues in re uptown bars or restaurants where their noise was discernible at the property lines. This seemed to apply to commercial properties i.e. no noise shall be discernible at the property line, which seemed to be hard to meet. For example, the Honey Pot was held to that. He thought that some restrictions were placed on the restaurant by the ZBA, or as part of the entertainment license. Boyd did not think so, but he could be wrong. He asked how a lawnmower could be operated without being discernible at the property line – it's impossible. Someone could not talk with their wife without it being discernible; that standard is crazy. The music at the Honey Pot or Chop Shop, a lounge or club was loud rock or hip-hop. Castaways was a restaurant; a singer with a beautiful voice and an acoustical guitar could be heard at the property line but was not an annoyance or disturbance. Family discussions across a table were a different thing. The impetus of the zoning ordinance was not to be an annoyance. He thought loud music, even James Taylor at 11 AM could be annoyance, but someone strumming a guitar at 9PM in the summer was not an annoyance; he noted there was an outside bar.

Janvrin asked for comments from the owner. Mountzuris thanked the Board, and said they were in the 6<sup>th</sup> season. The music is one or two singers and acoustic guitars playing James Taylor, Jimmy Buffet, Beach Boys, or the Beatles. They will not have offensive reggae or blasting hard rock and roll. It is acoustic, relaxing; people want to eat and listen to the background music. It's been that way since they bought it, and they will continue to commit to that. Chase asked why they came to the Board. Janvrin said the applicant was before the Board for a change of hours. Morgan said the previous approval was for 11PM; they had added a couple of items. Chase said that the firepits were on the plan, but asked if the Board's approval was needed. Morgan said that was up to the Board to decide. Janvrin said in 2012 someone told them to cease and desist; he thought the Beach Building Inspector told them to remove them because they were not approved by the Planning Board. He thought they were on this plan because they were asking for an ok from the Board. Boyd had a different opinion, and said if that was the route taken they would not have a problem, but they were temporary structures - lawn furniture. He would agree if they were building a structure; they had a right to use their property. He did not understand why this was a big issue, especially since they had abandoned the use that brought the complaint about the smoke.

Garand asked what the patio area was made of. Boyd said crushed stone. Garand asked if that would be an issue with the open area and if it required a NHDES permit. Boyd said a building could not be within 50 feet of the highest discernible tide line, except for another 12 feet for a deck. This would be pulled up and stored in the cellar where the firepits were now; it's a temporary thing. Chase asked if a permit was needed for the heaters. Khan said about two years



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ago the issue was smoke which no one knew where it was coming from. The Building Inspector found the firepits. Now that they propose to have no smoke, he wanted to hear from the neighbors. Boyd said Khan was right, and the Fire Department did not have a problem with the wood burning kits. But to eliminate the smoke issue, they did away with it. Lowry asked if there was something from the Fire Department. Boyd said they could get a letter; this could be a condition.

Janvrin said that abutters could then speak, and asked for their name and address so the Board could know their location. Theresa Kyle, an abutter across from Castaways, said they had created a nuisance problem for 6 years, and there was a lack of abiding by the rules, regulations, or ordinances. They were always trying to do something different from what had been advertised. For example, the application was to extend the hours of operation, but now the discussion was about music, firepits etc. The application listed Harborside Restaurant LLC, but a 5 year lease was to Harbor View Entertainment LLC which she thought should be on the application because they controlled the use of the property for 25 years as recorded in the Registry of Deeds. Kyle called attention to the part of the application which said that the applicant was responsible for reviewing and complying with all town and state regulations, and asked if that included wouldn't paying taxes; there was a \$9,926.83 recorded 2012 tax lien. Kyle said their business was not in good standing with the Secretary of State, as they had not filed their certificates due April 1 with the Department of Corporations. In effect for those two reasons Kyle said they should not be allowed to have this hearing. If they had not paid their taxes like everyone else, they should not be coming in to ask permission for special favors.

Kyle said the state enforcement liquor bureau said, because of their problems at the Page restaurant in Portsmouth where someone died as a result of a beating. Dussi and Mountzuris were not to have a lounge type liquor license in New Hampshire for 3 years, and they were not to be in association with any other [such] entity. She asked the bureau why they were allowed to keep Castaways open. The bureau restaurant said the license was for a full restaurant liquor license, with no lounge or like situation; a full kitchen had to operate for every open hour. She asked if they would keep a kitchen operating from 7AM to 1AM. Kyle said during the past year, because things got so bad, she appeared several times before the Board of Selectmen and [Selectman] Khan directed the Town Manager to look into the problem because it was getting so bad. They were doing whatever they wanted to do. Kyle said she was not the only person that complained; there were lists of people that called the police, and some called selectmen at their homes to complain. They had not been nice to the abutters.

Kyle said the Town Manager called in the owner and several department heads and tried to have everyone get along. Kyle said she was not trying to close a restaurant that paid its taxes and followed the rules. They found that there had not been a business license since 2011 in disregard of the rules and regulations, and had had entertainment without an entertainment license. She noted that Eastman's was stopped from having outside music; she thought any type of music was an annoyance. Kyle said Castaways had stayed open after approved closing hours when employees and friends had remained on the premises socializing, according to the Police Chief who sent officers there, and gave them a summons to describe what they were doing. Castaways had open fireplaces in the open back area which had not been approved. Kyle said when she complained to the Fire Chief, he told her they did not have firepits. This was a surprise because it was the night she had called the police who called the fire department because of the smoke. She was told to speak to a deputy chief who would take care of this.

Kyle said after the meeting, the Town Manager made them file the business licenses. They could not have amplified music outside, only soft unplugged music without microphones were

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allowed. The firepits were to be removed as they were a danger and not allowed by the Planning Board; the state did not allow walking around with alcohol. According to the approved plans, Castaways was to close the kitchen at 10PM and everyone out by 11PM. She recalled Dussi saying they would be closed and gone by 10PM. The Town Manager agreed they had to have a hard closing with everyone out by 11PM and closed. A couple of weeks later the police were called, and again several times throughout the winter especially at Thursday and Sunday night football times. They did not care about being out by 11PM, but would do what they wanted. Kyle said the neighbors did not buy their homes with a restaurant operating across the street– it was a closed Matt's Clam Bar. Mr Azzouri put up a small restaurant building bought by the current owners. They did an expansion of two decks, music outside of the decks, and firepits which they said was not a nuisance. Kyle said she was not the only person complaining, and about the Citizens' Committee formed about how they ran the Page; they were successful in getting them out of town. Kyle and Seabrook inherited this. She said the music was a nuisance, and read from the Beach Precinct zoning ordinance – Noise Control::

...”the occurrence Activities that may be obnoxious or injurious by reason of the emission of odor, dust, refuse matter, noise, vibration, or similar conditions or that are dangerous to the health or safety or value of the property or to the community, shall be prohibited. “

Kyle asked the Board to take into consideration that prior taxes had not been paid, the lack of filing for a business certificate until they were made to do so by the Town Manager, and the lack of filing the appropriate paperwork with the Secretary of State's office. Kyle said that on April 2, 2013 the Planning Board meeting erupted when they were trying to get something done without giving notice to abutters. The Board did not allow them to do that at which time Dussi threatened to sue the Board causing a commotion. Kyle said it was stupidity to think about suing because they were violating the ordinances. As an abutter she strongly opposed any music or extension of hours to 1AM in view of the fact that the state said they could not have a lounge liquor license or be associated with anybody in a lounge. This started out as a seasonal family restaurant, as stated in meeting minutes, that had now turned into a yearlong restaurant; by extending their hours she thought it appeared that they were trying to circumvent what the state liquor bureau said and have a lounge. She asked what family went out to eat at midnight. Kyle was strongly opposed and asked that her remarks be given a lot of consideration, especially in re the “ridiculous” application which was so vague with sneaking in the outside music that had been previously prohibited. It was not nice.

Janvrin asked for questions from the Board. Khan thought it would be fruitful to recognize Dick McGuire and Joe Jill of the Beach Precinct. Boyd said since he filled out the “ridiculous” application, he wanted to respond. Janvrin asked if the commissioners wanted to speak, emphasizing that they did not have to. [[Katherine Enzio's concerns were with the extended hours, and the police and fire department fewer positions, and given everything else going on in the town, to have then responding to this situation when everything is bumper to bumper. As a citizen and former of the ZBA, she felt there was not much lighting in the parking area, and for safety for people coming out of a restaurant late at night. Kyle said that Planning Board approvals in the extension of the upper deck, it was said that there was nothing to be put out in the back area; it was to be open space with rosa ragoza bushes. If the firepits were to be moved out, why did they need underground gas lines. She asked if that would be a violation of the approval.

Janvrin asked Morgan, in light of acceptance and the need for a new public notice, logistically could the Board proceed further without renoting the other added items. Morgan said that was

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a matter for the Board to decide. Boyd said at the meeting with the Town Manager he asked if the owners had the right to do things on their property. He asked that the Board be polled, noting that the Town Manager thought they were pretty benign. Morgan said the question was whether the public notice was adequate. Boyd understood that only the Board could decide that. Chase was unclear as to why other items were being discussed when they only came in for an extension of hours. If the other items did not need Planning Board approval, they should not be discussed. If they need Board approval, the application should have listed them. He asked why the plan had been altered with other items, if the hours were the only request. Lowry agreed as did Janvrin; it was the consensus of the Board. Janvrin asked Morgan about acceptance. Chase said that an altered plan had been submitted; it was not needed because the subject was hours. Morgan asked if Chase would take no jurisdiction over the firepits. Chase said if they had the right to do the other things, the Board should not be discussing them. If they had to come back to the Board for the firepits, that had to be stated in the application and noticed to abutters.

Morgan asked if a notice should be sent out about the fireplace and the music. Janvrin said he did, and asked administratively if they should not accept the application. Morgan said if the notice was defective, that had to be straightened out before deciding whether the application was complete. Boyd said if there was a problem, it should be addressed now; otherwise why should they come back. Janvrin said that beyond the administrative issue, he had no problem with extending the hours of operation. He did want letters from town staff, and wanted to make certain that the Board had the right to take the jurisdiction if the notice was defective. Boyd said that the Applicant believes they should have the right to do the other things. Morgan said there would be a new notice to extend the hours of operation, address the firepits, and the proposal for the light music. He asked if anything else should be in the notice that was not on the previous plan. Boyd did not think so.

McGuire thought that the siteplan did make some reference to land between the district building and Castaway's property, showing an easement. Boyd said it was legally referred to as Parcel A, but was never conveyed out because all of that land used to be part of the state highway. When Azzouri bought the land, Boyd had helped him with Parcel A. Parcels B and C went to the Beach Precinct, but he was not sure what happened. McGuire said when the state raised the price of that property, the Precinct was no longer interested. Boyd pointed out the approximately 16 foot easement which he understood was to be conveyed to Azzuri. A question arose after the plan had been submitted to the Board, that that had not been done and forwarded to the new owners. McGuire said it was the opinion of the Beach Precinct that no easement had ever been authorized by the Precinct for the Castaways property. They would challenge the plan showing that easement which they do not believe existed. So far, Parcel C is controlled by the state, and Castaways and Parcel B by the Precinct. Chase asked if that was the right-of-way division; McGuire said it was.

Boyd said Parcel C existed and the Planning Board had approved the lot line adjustments. The Precinct chose not to purchase the land, but the intent was to convey the land but that never happened. Janvrin suggested the best resolution would be to take this up with the NHDOT division of highways. Jill said they had been told that the land still belongs to the state, and the town uses it. Janvrin said the Planning Board had no jurisdiction over a state highway. Jill agreed. Bob Preston of Preston Real Estate said he'd been in the business for 40 years, and his parents for much longer. Over time he rented to thousands of people coming to share the beaches. Recently the beach was vibrant, getting more and more businesses. There were certain inconveniences in a beach community. For example, there is traffic going by Brown's and Markey's but they are making a living. Ceal's is next to his business so he hears the orders shouted. Sometimes the odor is fantastic, but the guys are making a living at The Fisherman's



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Coop. He lives a few blocks away and hears the boats turned on in the morning, but people are going out to fish and the guys make a living.

Preston said it was important to support the neighbors trying to make a living. He would want his neighbors to meet around their firepits, and not at his rentals. Last week he had 4 lanes of traffic going both ways in front of his business. There was more emissions coming from those cars than would come from the firepits, and more noise, but no one says anything. That's what happens at the beach. It was important to be reasonable so there is a chance to make a living. He thought it was nice for people to walk down to the restaurants for wine and a meal, and then walk home. It's dangerous to have a beer and get into a car. He thought what the Applicant was asking was entirely reasonable. Preston had been in the restaurant business, and said they cannot be closed up in an hour; it takes a while to clean everything up, restock, and prepare for the next day. He thought this was good for the Beach, and wanted to see it happen.

Janvrin asked if there was time to renote for June 17; Kravitz and Morgan said no. Chase said not to accept the application, and have the requested data submitted in a new case. Janvrin asked Morgan for the procedure. Morgan said not to accept the case at this meeting, and continue to a date certain. Boyd said they would research the easement issue; Janvrin said to note this on the plan. Boyd said if it did not validly exist, it should not be on the plan. Khan asked him to look at whether there is enough lighting in the parking lot. Boyd did not see a desire to create more light. Usually they try to protect the neighbors [from too much light]. Lowry wanted letters from the police and fire departments. Janvrin added the Beach Precinct and Building Inspector, and any Village actions eg the ZBA. Boyd was not aware of any action. ; perhaps it had to do with setbacks. Janvrin thought it might not have been for this applicant, but it was on the lot. The music issue would be with the Board of Selectmen. Khan added that it would be hard for him to vote on anything with unpaid taxes, and asked for the tax record. Boyd agreed with Kyle that if they owed taxes they should be paid.

Boyd hoped they would not have to wait a month. Janvrin said there was not enough time to notice for the next meeting; July 1 would be a work session without hearings. Mountzouris apologized for unpaid taxes of which he had not been aware. The reason for asking to stay open until 1AM was that they could not do a New Year's Eve party because of the hours of operation. A lot of people wanted to go, but they cancelled. He said that McGuire suggested they ask for the later hour so that problem would not occur again. He would not stay open to 1AM. They stop serving at 10PM; people are paying their checks and the staff cleans up and does what is necessary to shut the restaurant. No one is partying; he may smoke a cigar outside on the deck, but hoped that was ok on his property.

Mountzouris said that it was very unfortunate that someone died at the Page, especially since they had owned it for 7 years and had operated the business quite well. The person passed away as the business was closing for the evening. It was also on the record that alcohol was not a factor; there was no intoxication. The private investigators checked this out, and they watched the video surveillance cameras. It was a violent crime by a person who just two days earlier had a bench arrest. He had lived with that burden for a year; it was very difficult to survive. They still own the property. On the Liquor Commission records the charges were dropped because all the reports show that alcohol was not a factor. The only finding was that a woman was drinking an alcoholic beverage while dancing. Castaways was not looking to stay open until 1AM to serve alcohol. They cannot have a cocktail lounge license for 3 years; they are now going into the second year. The description of a cocktail lounge is a nightclub, and they had no intention of that. Janvrin commented that the Town of Seabrook had no cocktail lounge.



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Mountzouris said he was the one who spoke to the scooter people, not that they were blocking his property, but that they were lining up the scooters across the easement and not allowing passage for fire or police. He spoke to them twice about their blocking state property. [At this point someone in attendance interrupted and Janvrin reminded that individuals had to address the Board, not each other.]. Mountzouris said scooter customers were parking cars in the restaurant spaces; he told them they could not take restaurant spaces and would be towed at their expense. They cannot park scooters blocking the easement, because restaurant customers' cars had been towed. All that was clarified was that they could not block the state easement. Now the scooters are close to the building where they were supposed to be. Mountzouris said he called the owner and apologized for the misunderstanding.

**Janvrin continued Case #2014-14 to July 15, 2014 at 6:30PM in Seabrook Town Hall.** He asked that the Applicant supply the requested letters; Kravitz asked Boyd for another set of abutter labels. Boyd asked for the items the Board wanted. Janvrin said letters from the Police and Fire Department Chiefs, or the Fire Department Deputy Chief who was the enforcement officer. Janvrin asked that the Beach Building Inspector be present at the meeting, and said he would invite him. Han had asked for the up to date tax record and business licenses. Boyd said he would do this. Marcy Bergan requested that people be given an amount of time to talk, as there were several attendees who had wanted to speak. Janvrin said they would be welcome at the July 15 meeting.

[Janvrin recessed the hearing at 8 pm and returned at 8:10PM]

**Case #2014-15E – Proposal by GRA Real Estate Holdings, LLC to move Universal Stone to 609 Lafayette Road (utilizing 5,300 square feet for stone cutting and retail sales), Tax Map 8, Lot 3.**

Attending: Rusty Lavin, Seabrook Trucking; Adriano, Universal Stone;  
Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering

Boyd said that Adriano had a stone business on Chevy Chase Road that he wanted to move to the ArcSource building 609 Lafayette Road, about 500 feet away. This would mean that all of the cars on the site now will go away. Some stone slabs would be displayed outside; all of the stone Work would be done inside; the water used to cool the diamond blades would be recycled. Adriano has operated for 9 years, paying taxes to the town. Garand recalled that the site had been approved as a convenience store with traffic issues, but that did not open. The car dealer took over the site overburdening it with about 40 cars; that business will leave the site. Adriano's current building will be taken down for the Waterstone retail development. Adriano wanted to relocate to continue his business locally, and would be low impact and generate low traffic.

Morgan asked if Garand had any stipulations. Garand said not as long as the parking area is kept for the stone business and was maintained. No complaint had ever been brought on the current business site. Janvrin said that currently the use impacted the 16 foot right-of-way, and asked if Garand would recommend that that never be impacted. Garand asked the Applicant to explain where the outside lifts would be. Adriano said they would not block anything; they would use the back parking area. Janvrin asked if they were using about 10 parking spaces at their current location. E thought there were four spaces available at the front; Garand did not think they would even have four cars at a time. Boyd said the site had adequate parking based on retail use, and there would be fewer cars. Janvrin asked if there was enough space for his deliveries. Adriano said there were 3 16 foot trucks that go out one at a time, which is depicted on the drawing. Janvrin asked if there would be tractor-trailer deliveries. Adriano said they could not get in.



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Janvrin asked for questions from the Board. Chase asked what they do with the waste. Adriano said it goes into a dump truck; he wanted clean space. Garand commented that this was not hazardous waste. Khan commented that Boyd had represented the ArcSource and convenience store applications. There being no further questions from the Board. Charles Mabardy, with the BP Station next to the site said it would be a pleasure to have this business. Janvrin wanted stipulations that they not block any handicap spaces or the right-of-way as depicted on the drawing. Chase asked if he wanted more spaces. Janvrin thought it did not matter, but asked if Chase wanted to stipulate the number of spaces.

<b>MOTION:</b>	<b>Lowry</b>	<b>to accept Case #2014-15E as administratively complete for jurisdiction and deliberation.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>

<b>MOTION:</b>	<b>Lowry</b>	<b>to approve the Case #2014-15E – Proposal by GRA Real Estate Holdings, LLC to move Universal Stone to 609 Lafayette Road (utilizing 5,300 square feet for stone cutting and retail sales), Tax Map 8, Lot 3. conditioned on not blocking the handicap spaces or the right-of way.</b>
<b>SECOND:</b>	<b>Janvrin</b>	<b>Approved: Unanimous</b>

Lowry recused himself from Cases #2014-09 and #2014-10.

**Case #2014-09 – Proposal by DDR to erect a 8,580 square foot mixed use building (retail space and an 87-seat restaurant) at 5 Provident Way, Tax Map 8, Lot 55-30** continued from April 1, 2014, April 15, 2014; May 20, 2014;

Attending: Jim Grafmeyer, Vice President, DDR;  
 Appearing for the Applicant: Mark Verostick, project engineer, Gordon Leedy, landscape architect, Robin Bousa, transportation director, VHB; Attorney Morgan Hollis,

Grafmeyer said that the two remaining issues were traffic and stormwater quality. He referenced the Board’s traffic consultant RSG’s David Saladino’s letter re exaction issues and confirmed, that as Saladino had summarized, DDR was willing to cap its overall site square footage at 415,000 square feet. The trips that then would not be used for the reduced 25,000 square feet could be reallocated to the outparcels.

Janvrin said that before addressing the stormwater issue, the Board would look at its Attorney’s communication. Hollis asked if it was the Board’s policy to release the memo, or keep it only for the Board. Janvrin said after reading it the Board might decide to release it to Hollis. Morgan asked if he should summarize the legal opinion; Janvrin said yes. Morgan said according to the board’s Attorney, DDR was vested in re the stormwater drainage. Janvrin commented that the Board would need a roll call vote to release that item to the public. Khan saw nothing negative in releasing that document.



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<b>. MOTION:</b>	<b>Khan</b>	<b>to release the Planning Board Attorney's memorandum in re stormwater dated June 3, 2014 to Attorney Hollis.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Janvrin, Khan, Frazee, Chase</b>

Janvrin provided the Board's attorney's memo to Hollis, noting that DDR had the right to use the onsite drainage that was approved as part of the DDR project; that subject was moot; he thought the traffic issue was also moot because of the cap on the square footage. He asked Grafmeyer to again provide DDR's letter to that effect; Grafmeyer provided the letter. Janvrin also reported that the Board's attorney had indicated that if DDR agreed to the proposed square footage cap as proposed at the last meeting, it would be consistent with the Settlement Agreement between the Town and DDR for the DDR project. That meant that no exaction fee would be required for this outparcel and the other outparcel before the Board. Janvrin asked for Morgan's view in re the traffic. Morgan thought that Saladino was fairly clear in his conclusion. Janvrin noted that the conditions of approval would be few, but would include the boiler plate conditions to meet the requirements of the town department heads, the siteplan meet with the satisfaction of the town planner, Janvrin said the minimum security according to the regulations was \$5,000, and recommended that amount be allocated as \$4,000 for landscaping and \$1000 for pedestrian connection with sidewalks and the bank property

Morgan asked for the status of the sidewalk. Grafmeyer said that Scott Mitchell wanted DDR to do the sidewalk up to the property line; Mitchell would take it from there. Verostick clarified that Mitchell wanted the DDR to construct the sidewalk up to a point, and he would complete it after determining the best connection point on his property. Janvrin asked if Morgan wanted other conditions; there being none. Chase asked about a bike rack. Verostick said it did not show on this plan; they had talked about placing a bike rack near the bus stop. Verostick said that would be an acceptable condition.

<b>. MOTION:</b>	<b>Chase</b>	<b>to approve Case #2013-09 - DDR to erect an 8,580 square foot mixed use building (retail space and an 87-seat restaurant) at 5 Provident Way, Tax Map 8, Lot 55-30 conditioned on:          (i) the Applicant shall meet all of the requirements of the department heads;          (ii) the final siteplan to be entirely satisfactory to the town planner;          (iii) the Applicant to provide security in the amount of \$5,000 of which \$4,000 shall be for the landscaping, and \$1,000 shall be for constructing and connecting the sidewalk to the property line of the abutting bank property;          (iv) the Applicant shall cause a bike rack to be placed in the vicinity of the bus stop, and          (v) all outstanding reimbursements shall have been paid, and          (vi) the provisions set forth in the Notice of Decision shall be applicable.</b>
<b>SECOND:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>



**Case #2014-10 – Proposal by DDR Seabrook LLC to erect a 5,633 square foot Outback Steakhouse at 712 Lafayette Road, Tax Map 8, Lot 55-10,** continued from April 15, 2014, May 20, 2014;

Attending: Jim Grafmeyer, Vice President, DDR;

Appearing for the Applicant: Mark Verostick, project engineer, Stacy Miller Gordon Leedy, landscape architect, Robin Bousa, transportation director, VHB; Attorney Morgan Hollis  
Attorney John Sokul, Hinkley Allen;

Leedy addressed the modifications to the plan based on previous comments from the Board. They understood that the landscaping along Lafayette Road should be beefed up. The Liberty Elms were meant to provide a shade path along Lafayette Road; another elm had been added and the two trees were placed nearer the roadway. In the parking area two spaces were eliminated and they added islands for interior landscaping. A 16 caliper maple tree in fairly good condition was identified; they relocated the drainage, regarded the site, and adjusted the walkway. Khan asked if anything had changed since the last meeting. Leedy said it had not. They had enhanced the landscaping on the side and also added screening vegetation on the DDR side of the parking area. They were seeking two waivers: (i) the overall amount of interior landscaping, and (ii) the 15 foot dimensional requirements for the islands.

Leedy said when laying out the original siteplan they looked at a number of alternatives. Outback needs a certain number of parking spaces to operate effectively, and have a really good idea of what they need to be successful. The current submission was the most efficient way to lay out the property. The benefits of this plan go along with current thinking to push the buildings toward the street and put the parking behind the building, shielded from view from the street. They had about 13 percent internal landscaping around the islands and in the corners, but overall green space was about 35 percent, mostly where the public would see it. Leedy said this would be an important benefit to people traveling on Lafayette Road, and a long way toward the requirement for landscaping in the parking areas to create an attractive retail environment. It had come along way with the Board's comments. Outback's building was their new design with exciting architecture; they had added landscaping along the front of the building making it very attractive.

Leedy said 76 spaces were shown on the plan, and they were able to park 20 additional spaces on the DDR property through a lease arrangement. If the number of spaces were reduced, they would not be able to operate effectively. Khan thought they were shy of 7 percent landscaping in the parking area. He recalled the arguments presented at this meeting and the last one, as well as Grafmeyer's view that this is all one project. He asked if Grafmeyer could create another 7 percent of landscaping in a good visible location somewhere in the total project so the town regulation could be satisfied. Chase said the Board went through all of the work to make these regulations, and everyone wants to bend the rules. Maybe putting more landscaping elsewhere on the total site could be a good alternative for meeting the regulations. Janvrin thought Khan's idea of would enhance the overall project. Chase thought DDR should return to say what they could do. Leedy said including the green strip on the Outback lot they were about 16 percent. If they included some landscaping off the site it came to about 18 percent, a lot closer, but would still require a waiver.

Leedy explained how the geometry for the calculation would be adjusted, if the view was with the perimeter as well as the internal landscaping. The truck templates for product delivery and access had to be considered, when deciding how the site parking had to lay out. If there were enough space to accommodate the linear islands, they could get to the 20 percent; they did not have that space on the lot. Leedy said at more than 35 percent, the plan had twice as much open space overall as the ordinance required. The open space is visible and perceptible to



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people passing by vs. being broken up in spots of a parking lot. Screening is provided and there would be limited visibility of the parking lot. He strongly thought that the plan met the spirit and intent of the regulations.

Janvrin recognized Charles Mabardy, from the abutting SUNOCO property. Mabardy said he had looked at the details of the proposal; it was right next door and he really liked it. It would work well for the town, the community, the traffic and all of his customers. The parking and the landscaping was very well put together. The parking would be back from the road and the landscaping was beautiful. They have saved as many trees as they possibly could. Mabardy thought that the trees on his property also would help the proposal. He thought the Outback was a great quality restaurant, and did not want something of lesser quality. It was not fast food, and would bring a better customer to Seabrook. Mabardy said that a lot smaller sites, even 12,000 square feet, had gotten waivers. He thought this was the best situation, commenting that he was next door so he would be the one to complain. He would appreciate whatever the Board could do.

Morgan asked for the height of the route 1 pylon sign, and if it complied with the zoning. Leedy said the sign was 20 feet, and was compliant for the new zoning. Janvrin thought it was scaled down. Leedy said it was like the Applebee's sign. Janvrin thought that was much more tasteful, and asked if there would be directional signage from the DDR property to see where the Outback entrance was. Verostick pointed out the three square-foot directional signs on the plansheet which would meet the zoning requirements. Chase asked what would have to be done to the plan to make the landscaping comply. Leedy said they would have to eliminate 13 parking spaces, in which case the green space would rise to about 38 percent overall.

Janvrin asked about the parking lease. Grafmeyer said it would be DDR, with Walmart's approval as a condominium member, writing that they agree to the spaces on DDR property. Janvrin thought the regulations required that to be a recorded easement; Morgan was not aware of that. Janvrin asked if it had to be to the satisfaction of the Planning Board. Chase thought it did, recalling a situation where the Board had allowed parking on an adjacent lot, but that property had changed hands. Grafmeyer said there would be a note on the plan. Janvrin asked in the unlikely event that DDR were to sell this property to Outback, how enforceable would the parking agreement be for the new owner, or if a new owner of the DDR project objected to the sharing of the parking spaces. He asked Morgan if an easement should be required. Morgan thought an easement was unnecessary because the owner of the restaurant would be motivated to solve their parking problem. Janvrin said that would be letting the market handle the issue if it was acceptable to the Board, but he thought that was something the Board generally wanted. Khan asked if this would be creating another Getty north. Morgan said did not think so because the biggest parking lot in Seabrook was next door. If someone wanted to go to Outback, they would park wherever they wanted. Janvrin asked if there was an access easement between this property, McDonald's and DDR for the access drive. Grafmeyer said there was. Janvrin was satisfied.

Janvrin said that, as per the Board's Attorney, the stormwater drainage was vested for this parcel, so a waiver request was not needed. The other issue had been the exaction mitigation in re trip generation per hour. As DDR had stipulated that it would not build any further in Seabrook Commons, and upon advice of the Board's legal counsel and its traffic consultant, an exaction would not be required for this parcel. He asked if Board members had any other outstanding issues there being none. Janvrin said as with the Case #2014-09, there would be landscape, a walkway to an adjacent property, and he would recommend the security of \$5000, of which \$4000 would be for landscaping and \$1,000 for the walkway. He wanted to revoke the



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landscaping issue, because a majority of the Board had been available for the vote. Janvrin said that at the last meeting he'd asked the Outback people how they came up with the building size. There are some things in the market that the Board cannot control; the Outback building prototype is being used country wide. The turning templates for truck deliveries would be very difficult if they had to eliminate the 13 parking spaces for compliance. The intent of the regulation is so there are not vast expanses of hot top or asphalt impervious surface. The open space is about 35 percent overall. He thought they would never achieve the 20 percent compliance, however, if the Board thought they had met the intent of the regulation, it could be waived.

Chase asked if there could be some additional landscaping in another location. Janvrin thought that would further the intent and asked Grafmeyer if this could be done on the strip. Leedy said it was already planted. Verostick showed the main landscaping plan for the DDR project. Grafmeyer asked if that could be enhanced. Khan thought that Grafmeyer on his 54 acres could find place for a couple of more trees in a visible place to satisfy the Seabrook regulations. Grafmeyer said they would find somewhere for that on the property. Janvrin referenced the earlier discussion about the bus stop, and asked if that would be a suitable area for a couple of large caliper shade trees. Grafmeyer said it could noting that at this point there was nothing there. Khan asked what would be needed from DDR in re that change. Morgan said that Grafmeyer's agreement would be in the minutes which should be sufficient for a couple of trees. Chase asked about a bike rack. Janvrin said that a bike rack was going up on the Mabardy property. Mabardy said it would be accessible to both properties.

<b>MOTION:</b>	Khan	<b>to grant the requested waiver relief for Case #2014-10 conditioned on DDR placing two large trees near the bus stop.</b>
<b>SECOND:</b>	Janvrin	<b>Approved: Unanimous</b>

Janvrin said he would motion the stipulations for Case #2014-10 to be the same as for Case #2014-09. Khan said he would second the Motion, emphasizing that Outback would bring a lot of jobs to Seabrook. Janvrin asked for further discussion; there being none.

<b>MOTION:</b>	Chase	<b>to approve Case #2013-10 – DDR Seabrook LLC to erect a 5,633 square foot Outback Steakhouse at 712 Lafayette Road, Tax Map 8, Lot 55-10, conditioned on:</b> <b>(i) the Applicant shall meet all of the requirements of the department heads;</b> <b>(ii) the final siteplan to be entirely satisfactory to the town planner;</b> <b>(iii) the Applicant to provide security in the amount of \$5,000 of which \$4,000 shall be for the landscaping, and \$1,000 shall be for the bus stop and constructing and connecting the sidewalk to the adjacent property to the north.</b> <b>(iv) all outstanding reimbursements shall have been paid, and</b> <b>(vi) the provisions set forth in the Notice of Decision shall be applicable.</b>
<b>SECOND:</b>	Khan	<b>Approved: Unanimous</b>



Lowry resumed his seat.

**Case #2013-15 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC and Waterstone Retail Development, Inc. to demolish existing buildings on Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to construct a 168,642 square foot shopping complex with associated parking and access drives;**

Attending: Anton Melchionda, principal, Doug Richardson, Vice President Development and Operations, Waterstone Retail Development;

Arleigh Greene, GRA

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Jeff Dirk, Vanesse Associates;

Appearing for DDR: Jim Grafmeyer, Vice President, DDR;

Appearing for NextEra Energy: Michel Ossing, licensing, Sarah Gebo, Communications Manager, Steven Coes, project manager:

Melchionda asked to address the open items, noting that the Board had asked them to work through the issues with the Provident Way abutters, DDR and NextEra, who were in attendance. They had submitted a change in the original siteplan from a roundabout to a traffic signal on Provident Way. They were continuing to work with the abutters to come to agreement on the flow of traffic and the functionality; NextEra had problems in terms of fueling and emergency access. They wanted to satisfy the town, and also be in agreement with the abutters. Earlier that day the abutters and the consultants met with Waterstone, and all are in agreement that Waterstone will put a light on Provident Way at the intersection that the share with DDR and the access to NextEra.

Melchionda said one of the original stipulations was that prior to the certificate of occupancy being issued, they would have final agreement with NextEra and DDR on the final design yet to be established with NextEra and DDR. At this point they had conceptually laid out what the final design would be which the NHDOT had conceptually approved. Waterstone asked that the Board require a similar stipulation that before any certificates of occupancy were given to this project, they would return to the Board with DDR and NextEra and the NHDOT to show that they were all in conceptual agreement on the final design, including the traffic mitigation activities they would be doing on Route 1. Additionally, prior to any certificate of occupancy the return to the board with DDR and NextEra to show that they are in complete agreement with the final design for the light servicing the three abutters of Provident Way. He wanted the DDR and NextEra representatives at this meeting confirm that they will continue to work together on the design they expected to be complete in the next month or so, and that they are all in agreement in the spirit of having a successful project that everyone can get what they need from this project, and have no issues left.

Janvrin asked hypothetically, given that requirement, what would happen two month from now if they could not come to agreement. Melchionda said that based on the work done to date, and their relationship with all of the consultants, they were very confident that they were very close to the final design. It is a risk that Waterstone assumes. In fairness to the abutters, they had not yet had time to digest some of the information and correspondence that had been sent to the Board. They would come to the Board, or submit in writing their final approval for that intersection. At that point the condition would be lifted and the certificates of occupancy could be issued. Janvrin said this would not hold up the building permits. Chase asked if this only applied to the Provident Way intersection. Melchionda explained that the final design that would come from NHDOT would have to be acceptable to both NextEra and DDR, because they are an integral part of the



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circulation of traffic. Waterstone felt it was important to work with both of the abutters, the Planning Board, the consultants and the NHDOT, not just to get the approval, but to end up with a project that had no access issues that would take away from the success of the project. They were trying to be considerate of the town's issues that had existed and address them to everyone's satisfaction.

Janvrin wanted to hear from both abutters. Grafmeyer said the summary was pretty accurate. They had talked that day; DDR was fine only conceptually with the traffic light until they had the time to go through the analysis of both Provident Way and the Route 1 intersections and understand the configuration to be sure that it would be acceptable to DDR. He referenced a letter sent earlier indicating that they would also need to approval the Route 1 design. Grafmeyer had committed VHB time for Bousa to work with the other consultants. Janvrin asked if a NextEra representative would like to speak to whether the proposal would be acceptable to NextEra. Coes asked if the Board had a copy of the proposal that was discussed among DDR, Waterstone and NextEra. Janvrin said a concept drawing of the light had been in the Board's prior packet. Coes thought that would have been about 2 weeks ago. Khan asked if Coes had been at that day's meeting. Coes said he was, and there was a discussion based on a changed plan; he supposed the Board had no knowledge of this. If NextEra's concerns were addressed, that would be fine. Eastbound traffic on Provident Way was one concern. There was a dedicated left turn lane into DDR, and a second lane for left turns and straight through or right turn.

Coes said additionally, there would be a flash light that could be triggered for fire vehicles. Coes said in the event of an emergency, which they did not expect, NextEra would call the town to trigger that light to allow passage of first responders or to leave the site. This would have to be set forth in an agreement between NextEra and the Town. He wanted to be sure that in addition to the agreement among Waterstone, DDR, and NextEra, the town would be involved. Janvrin's understanding of the Route 1 intersection, was that the cameras were directly linked to the Police Station and possibly the Fire Department who have the remote ability to trigger that light. Khan said that was installed for the DDR project. Janvrin said that NextEra was asking for the same arrangement at the Provident Way light to be constructed by Waterstone; this would be a Selectmen's issue. Khan said Exira's security could also have that ability. Coes said they were not asking for that, but there would have to be something evidencing this in writing; he wanted to get that on the table for the town's information.

Morgan wanted to understand whether if the flash system had to be used, employees at NextEra would have priority. Coes said it would go to a flashing green for east-west, and flashing red for north – south. Morgan asked what that would do for the hundreds of shoppers at DDR and Waterstone who also would be trying to head west. Coes said that everyone would be subject to the lights at Route 107. Morgan asked if the light to be installed would give priority to one party at the expense of the other two. Coes said cars traveling east or west would have priority; cars exiting the shopping centers could go west on the red light if there were no cars coming. Morgan thought that if the flash system were triggered, it would probably quickly break down. Dirk said it would be the same as if there were no signal; people coming out of the side exist would have to wait to enter Provident Way.

Janvrin said he and Khan were part of the emergency service committee for the power plans. As Khan had said previously, a lot of folks think the nuclear power plant sends up a signal and it's everybody for themselves, which was not realistic. The situation progresses over time; the evacuation order for the shopping centers could come long before the evacuation order for the power plant which may be the last out. Morgan thought the perception would drive the behavior. Janvrin said he'd been involved in all the drills for 20 years as a ham radio operator for back-up



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communications. It's a scaled response to an emergency at the facility; evacuation was not always the requirement. If Coes' meant that people would make a right or left turn after stooping, his perception was it would work i.e. it would be exactly as it would be with no light there. Coming out of DDR or Chevy Chase now would require stopping in an emergency situation.

Morgan asked about whether the final design could be ready in a month. Dirk said because of the change to a light, they would have to resurvey the existing conditions. The survey was being completed; they would need about a month to take the concept plan to the final design. Janvrin thought it could be difficult to get the three engineering firm to agree on anything in a month. Dirk thought the Board's consultant was comfortable with the concept design, and they had had very detailed comments. They were not starting from scratch. There was common ground with two of the traffic consultants, and another consultant just received the paperwork. He did not think it would be that difficult.

Janvrin referenced a letter from Michael Ossing of NextEra, and asked if he would like to summarize his letter which the Board had not yet had the time to review. Ossing said his letter speaks to two concerns: unfettered traffic flow east and west (in and out), and accommodating the large equipment for which the traffic light vs a roundabout was the preferred access. Ossing said they attended the meeting with DDR and Waterstone that day. Melchionda's description of the proposal would be acceptable to NextEra.

Khan remarked that from the time DDR came to Seabrook many years ago, NextEra's representative Dick Winn sat through the Board meetings without expressing concern. He thought that if the concerns expressed by Ossing were the only concerns, he thought that was reasonable. Morgan asked Dirk to name the three traffic consults. Dirk said in addition to himself, the Town's consultant was David Saladino, and Robin Bousa of VHB was DDR's consultant. Morgan asked if NextEra had a traffic consultant. Dirk did not think so; he thought they would let the dust settle and look at the outcome. Janvrin asked for confirmation from NextEra. Ossing said they did not have a traffic engineer but one of the requisites of their emergency plan is the ability to get on and off site. Janvrin said that seemed to be the main concern.

Lowry asked if NextEra did not have a traffic engineer, how did they know that a roundabout would not work. Ossing said roundabouts don't provide unfettered access in and out of their site. Lowry thought roundabouts could supply that. Ossing said his experience was that with roundabouts whoever gets there first gets the right-of-way; it's not unfettered access. Dirk said that NextEra had specified the size of the trucks that had to get through as 21 feet wide, to design the roundabout that would accommodate that size would lose the roundabout benefit and have to go straight through. If a truck tipped even a little bit they would have major problems. A roundabout of that size would lose the semblance and no longer be a roundabout i.e. it would limit the effectiveness of what a roundabout should do. The trucks had to go straight through because the circle would be so small that the trucks could not make the turns around the travel circle. Janvrin had been present when the casks had been moved through. The trucks spanned a land and one-half. The concern with a vehicle that wide is not the traffic around them, because the police shut down the roads, but they cannot tilt.

Dirk said if the design was for a 21 foot wide truck, the circle would be so small and the pavement around it so wide that there would be no traffic circle; it would lose all of its effectiveness. Janvrin said there would be no control. Ossing said a roundabout that size would require access to NextEra property which would have to be submitted to the NRC. The light does not require that.



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Janvrin said at the last meeting he thought they could get to a final approval with the Provident Way access being the only outstanding issue; it seemed this was still the situation. Melchionda said they hoped the language for the approval could be worked out beforehand. Janvrin said that Morgan had envisioned the conditions for a final approval, and asked if the two RSG stipulations could be appended to that list. Morgan asked for the Waterstone schedule.

Melchionda said it was important for the project that Waterstone and the Board be in agreement that all of the Board's requirements for the project had been met. They thought they had done that during the last year and a half. They had followed up on every request and requirement and had followed the town's rules and regulations. They were requesting final approval from the Board on their project as it pertains to the siteplan with the outstanding condition being that the language in the conditional approval be slightly changed, and that the certificate of occupancy not be issued until all of the conditions had been met. In this regard they would request a simple amendment to one of the conditions to add that a condition of occupancy would be the submissions of the written statements of NextEra and DDR that they were in agreement with the modifications made on Provident Way i.e. that the Board had given final approval and that they had met the other conditions. Melchionda said they were very close to agreement and Waterstone was very important confident that would happen. It was very important to the project to have final approval subject to that one condition. Chase thought it was Provident Way and Route 1. Melchionda confirmed this, saying it would just be amending the one offsite condition.

Janvrin asked how putting the off beyond this meeting would affect tenants and the like. Melchionda said the final approval was crucial because tenants were requiring the ability to move forward at this point. Time was of the essence for the final designs and getting all of the pieces in place in order to meet the obligations and commitments they had made to the tenants. They understood they would be coming back as the boiler plate and other conditions were met and they were in complete compliance with anything that had been outstanding. Khan thought that at the last meeting the only outstanding item was the signal at Provident Way. He recommended that the Board decide on the light issue, so that it could then debate whether it wanted to approve the project at this meeting. Chase asked if Janvrin had other issues. Janvrin wanted to add the two stipulations recommended by the Board's traffic consultant in a letter of even date:

- 1) "... Provident Way/Site Driveway Intersection: Prior to the issuance of a building permit, the Applicant will produce a revised siteplan showing the northbound left-turn lane exiting the Seabrook Crossing site at Provident Way with a minimum storage capacity of 200 feet.
- 2) ... Signal Optimization and Coordination: within six months of substantial completion of the project, the applicant's traffic engineers shall conduct, or cause to be conducted, peak hour traffic counts during typical weekday evening and Saturday midday periods at the following signalized intersections along US 1: 1) New Zealand road, 2) NH 107/Provident Way, 3) Perkins Avenue/Site Driveway, 4) Railroad Avenue, 5) Lowe's/Southgate Plaza, and at the Provident Way/site Driveway..."

Janvrin asked for Morgan's view. Morgan was less comfortable at this point. He was a little uneasy about a three-way negotiation in re the Provident Way intersection light, asking what if they returned in three months without agreement. Melchionda said the point of agreement was whether or not there would be a traffic light – they are agreed on a traffic signal. They have developed a plan, but the information was not delivered in time for the other parties to review it.



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They are completely confident all the issues would be resolved; that is why they asked them to be at this meeting. They were committed to putting in that signal, and were going above and beyond working with the abutters making sure that everyone [is satisfied]. Morgan said in the course of satisfying the abutters they make up with a solution, but the board would not know about it for a month. Dirk added that the way the Board approved conceptually, they would still need rights of entry even if they did not go into NextEra's or DDR's property. No matter what, even if they did not have to go onto NextEra property, DDR could say No. That was the current position as well as the original submission. They still need rights of entry which could be denied by any property owner, that doesn't change. If they got a No, they would have to come back to the Board to work out a solution.

Morgan supposed that the parties could agree to an arrangement that the Board did not have in mind. By then, Waterstone was a month into the process building the shopping center and working on Route 1. He asked how that would be handled. Janvrin thought this meant sequencing so they could start the Route 1 work until a final plan approved by all the abutters was submitted and discussed at the Board for a final approval. He asked Morgan if this could be taking this incrementally. Morgan said the Board could entertain that, but he was looking at the risks. Khan commented that they had already started the project. Morgan said they had not started the offsite yet; if there was an approval at this meeting, they would start the offsite work.

Melchionda said the plan would be the same, and asked Dirk to display it. Janvrin asked if that was the plan already distributed to the Board. Dirk said the only difference was that it incorporated the recommendation from [the Board's] consultant i.e. what was a through lane to NextEra became a through/ left-turn lane and a right-turn lane to assure there would not be a queuing of cars trying to enter DDR or the Waterstone projects affecting the Route 1 intersection. The eastbound lanes were a left turn and a right, consistent with the Board's consultant's requests. Janvrin said another recommendation was to move the left turning lane on Provident Way back going east. Dirk pointed out an island made smaller to account for that. Dirk said that Saladino wanted to be sure there was 200 feet of queue storage. The concern was for the mobility of trucks. Dirk said that Saladino was comfortable with this plan based on his latest review. Janvrin asked if the sidewalk had moved to the recommended location. Dirk said it had. Janvrin said it was hard to envision only one lane going west emptying both projects, as well as the nuclear power plant during refueling, before spreading out. He asked if that would be sufficient for full build-out in 2024, even though the consultants say it would. Dirk said not all the traffic travels at the same time with a signalized intersection. There would be a pulsing which is why coordination with the Route 1 signal was so important, and another lane would not be needed.

Chase asked when the signalization would actually be working. Dirk said it all had to be constructed and operational prior to a certificate of occupancy. Chase asked about DDR; the signal would not be there. He thought the signalization would be in place when DDR opened. Dirk said they would have to readapt this. Janvrin noted the Saladino recommended condition for a peak hour analysis of the lighting sequence operation, adjusting the coordination sequence if needed, six months after the completion of the project (see above). Dirk confirmed this. Chase asked if the state was involved. Dirk explained that Saladino's recommendations were not onerous because the state was requiring the same thing. Janvrin asked if the light at the Walmart entry would be sequenced. Garand thought it would be coordinated soon.

Garand wanted clarification, as at this time he was only allowed to issue the foundation permit, but steel was being delivered later in the month. He wanted a decision as to what the Board would allow them to do, because the mall would be moving forward; can buildings be



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demolished or constructed. Occupancy was the hinging factor,. But to move forward the permits had to be released. Khan suggested polling the Board re a traffic light or roundabout to move the meeting forward. Janvrin said the Applicant had withdrawn the roundabout; he did not think it appropriate for the Board to demand they put it in. Chase said he would vote yes, but he knew that a roundabout could be designed and the definition of a roundabout changed to satisfy NextEra. He had seen this done in other states. Chase wanted the project to move on. Lowry agreed, saying he would not fight over a traffic light or roundabout. If NextEra did not want a roundabout, go with the traffic light. Frazee said the power plant had to process a huge truck, and commented that he wanted nothing to do with adding more street lights to Route 1.

Khan said that this was the only thing the power plant had asked in the last 8 years. It was reasonable that they wanted to have their flow of traffic easily go through that intersection. All three parties were on the record at this meeting with directional agreement. He did not think there were other issues. Chase said he was not in disagreement about getting the trucks through, but he thought someone could design something that would work for both conditions.

[Item 7?8?9? add to the satisfaction of DDR, NextEra, and the Board's traffic consultant. After discussion about how to insert the satisfaction of the Board's traffic consultant into the appropriate condition. In this regard, Melchionda proposed it be added to condition #8 of the conditional approval and restated and added as #9 of the new conditions proposed by Morgan. Janvrin asked if NextEra and DRR concurred; each said they did. Saladino's two proposed conditions would be added as #10 and #11.

Janvrin asked for the applicable revision date. Morrill said the light was not yet on his siteplan. Dirk said the drawing with the traffic light presented at this meeting was revised on June 2, 2014. [Exhibit A]. Morgan said that Exhibit A as presented to the Planning Board on June 3, 2015 would be added to the Case #2013-15 Jones & Beach siteplan revised on May 5, 2014; this would be applicable to the approval vote. Janvrin noted that the exaction figure of \$922,800 had been voted at the last meeting. Kravitz said that the Applicant would be taking advantage of the 90 percent figure so the amount of \$830,920 could be inserted in the appropriate condition. Melchionda confirmed this. Chase asked that the language to be inserted in the vote be identified. The Board discussed how to correct the conditions precedent paragraph in Morgan's proposed offsite conditions. Morgan restated the following as #9:

The Applicant shall return to the Planning Board and shall be subject to site plan review in regard to all access and egress issues as well as to all offsite improvements [omit exaction language as covered elsewhere] that the Planning Board deems to be necessary. No Certificate of Occupancy shall be issued until such improvements shall be completed to the satisfaction of the Planning Board's transportation consultant, NextEra and DDR.

Janvrin asked if the Board had any other condition to be considered. Kravitz said that the security had not yet been addressed for the vote, and asked for clarification as to what would be voted at this meeting. Morgan said that on March 4, 2014 a motion was made for security. Kravitz asked if the plan to be referenced in the vote stated all of the other conditions. Morgan said that was the intent. Janvrin said that the condition #3 stated that financial security was required in the amount determined by the Board's engineer. Kravitz said the amount was motioned subsequently; the amount should be in the vote just as the exaction amount was stated. Morgan said the motion was for offsite improvements. Chase said to make another motion. Janvrin said the offsite conditions of approval would be put together with the onsite



conditions for the final vote. Kravitz suggested that whatever was to be voted was on the table at this meeting, as the whole proposed vote. Melchionda agreed. Janvrin said the conditions for this approval would be these offsite conditions plus those conditions that already appeared on the siteplan. Chase disagreed, saying that the onsite conditions had already been agreed.

Melchionda said at the last Planning Board meeting they had agreed to the calculations for the exaction and the security that the Board passed, so those conditions had been satisfied. Kravitz' concern was that all of the conditions would have to be listed in the Notice of Decision for Case #2013-15 – there would not be two final NODs. - one for onsite, and one for offsite. A year from now no one would know to look for two NODs. Kravitz did not see a problem except for the language for the final vote with all of the conditions. Janvrin said the vote at this meeting would be for all of the conditions already on the plan plus those discussed at this meeting – all would be in the vote. Janvrin said all of the conditions would be listed on the final siteplan. Chase asked for clarification of the vote. Janvrin said it would be on the conditions presented by Morgan at this meeting (as amended), plus the two conditions recommended by the Board's traffic consultant, and reaffirming the conditions already set from the onsite improvements. Kravitz recalled that conditions were always stated in the vote.

Khan said the conditions already voted would not have to be restated at this meeting, but would be stated in the Minutes. Janvrin said any motion would be to reaffirm the conditions previously voted. Kravitz said they would be all written out in the vote as stated in the Minutes. Janvrin said there was consensus on that. Khan asked if anything had to be stated about sidewalks. Melchionda said they would meet the state requirement and nothing had to be added to the vote. Janvrin said he would read out the offsite conditions discussed at this meeting:

**Conditions Precedent:** I move to grant conditional site plan for **off-site improvements** associated with the proposal by Waterstone Retail Development to construct a 168,642 square foot shopping center at 570 Lafayette Road on land owned by Arleigh Greene, as depicted on a site plan prepared by Jones & Beach, dated March 19, 2013, revised **May 5, 2014** (Case #2013-15), and consistent with the Conceptual Improvement Plan prepared by VAI, revised **June 2, 2014**, subject to the following conditions precedent:

**1) Adherence to TRC Recommendations:** On January 28, 2014, the Town of Seabrook's Technical Review Committee (TRC) issued numerous recommendations. The implementation of these recommendations, to the satisfaction of the Town Planner, is hereby made a stipulation of this conditional site plan approval.

**2) Compliance with Departmental Recommendations:** Town department managers issued several recommendations in regards to this proposed shopping center. The applicant shall comply with the recommendations, to the satisfaction of the respective department heads.



**3) Compliance with Recommendations** by the Town's traffic consultants, RSG, and in particular, those specified in the memorandum from David Saladino to the Planning Board dated May 20, 2014.

**4) Mitigation for Off-Site Traffic Impacts:** Waterstone shall submit an exaction fee to the Town Treasurer in the amount of **\$922,000, or \$830,920 as a donation**, so as to assist the Town in mitigating the off-site impacts of Waterstone's shopping center, consistent with Section 10 of the Site Plan Review Regulations.

**5) Off-Site Improvements:** No Certificate of Occupancy shall be issued until such improvements have been completed to the satisfaction of the Planning Board's transportation consultant.

**Final Approval:** The applicant is also subject to final conditions of site plan approval, as follows:

**6) Other Permits:** Waterstone shall obtain all applicable state and federal permits.

**7) Route 1 South:** No Certificate of Occupancy shall be issued until final completion of off-site traffic mitigation. This work includes, but is not limited to, the widening of Route 1 between Staples and south of the Route 107 intersection. These improvements shall be constructed as outlined by NH DOT in their project reference Seabrook X-A002(762), 16444. In addition, Waterstone shall install a full signalized intersection to preserve access for the residents of Perkins Avenue which is not part of the NH DOT plan. Waterstone shall be responsible for the cost of this work. Improvements shall be completed to the satisfaction of the Planning Board's transportation consultant.

**8) Reimbursement:** Waterstone shall fully reimburse the Town for expenses incurred from the review and oversight of the Waterstone shopping center by all of the Planning Board's professional consultants.

**9) Access/ Egress:** The Applicant shall return to the Planning Board and shall be subject to site plan review in regard to all access and egress issues as well as to all offsite improvements [omit exaction language as covered elsewhere] that the Planning Board deems to be necessary. No Certificate of Occupancy shall be issued until such improvements shall be completed to the satisfaction of the Planning Board's transportation consultant, DDR and NextEra.



**10) Provident Way/Site Driveway Intersection:** Prior to the issuance of a building permit, the Applicant will produce a revised siteplan showing the northbound left-turn lane exiting the Seabrook Crossing site at Provident Way with a minimum storage capacity of 200 feet.

**11) Signal Optimization and Coordination:** within six months of substantial completion of the project, the applicant’s traffic engineers shall conduct, or cause to be conducted, peak hour traffic counts during typical weekday evening and Saturday midday periods at the following signalized intersections along US 1: 1) New Zealand Road, 2) NH 107/Provident Way, 3) Perkins Avenue/Site Driveway, 4) Railroad Avenue, 5) Lowe’s/Southgate Plaza, and at the Provident Way/site Driveway intersection and use these counts to develop optimized weekday evening and Saturday midday timing plans (cycles, splits, and offsets). The optimized timing plans will be provided to NHDOT and the town’s traffic engineer for review. The Applicant’s traffic engineer will coordinate with NHDOT to implement these signal plans in the field within three months of completing the traffic counts.

Melchionda said they were in agreement with all of the conditions, at all of the conditions were asked if they were getting final approval agreed to these conditions they would be getting final approval at this meeting. Morgan said they must meet all of the conditions. Melchionda said that what was read out for the motion said “conditional”, they wanted to be sure that this was a final approval. **Kravitz asked Melchionda how quickly the security would be provided to the town. Melchionda said within 30 days of the Notice of Decision. Janvrin said this would become condition 12.** Kravitz noted that in accordance with the Site Plan Regulations the payment of exactions was required prior to the issuance of a certificate of occupancy.

<p><b>MOTION:</b></p>	<p>Janvrin</p>	<p>I motion to approve the Case #2013-15 – Proposal by Arleigh Greene, GRA Real Estate Holdings, LLC and Waterstone Retail Development, Inc. to demolish existing buildings on Tax Map 8, Lots 54-2, 54-4, 54-5, 54-7, 54-8 and 90, and to construct a 168,642 square foot shopping complex with associated parking and access drives conditioned on:</p> <p><b>Conditions Precedent:</b> to grant site plan approval for off-site improvements associated with the proposal by Waterstone Retail Development to construct a 168,642 square foot shopping center at 570 Lafayette Road on land owned by Arleigh Greene, as depicted on a site plan prepared by Jones &amp; Beach, dated March 19, 2013, revised May 5, 2014 (Case #2013-15), and consistent with the Conceptual Improvement Plan prepared by VAI, revised June 2, 2014, subject to the following conditions precedent:</p> <p><b>1) Adherence to TRC</b></p>
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	<p><b>Recommendations:</b> On January 28, 2014, the Town of Seabrook's Technical Review Committee (TRC) issued numerous recommendations. The implementation of these recommendations, to the satisfaction of the Town Planner, is hereby made a stipulation of this conditional site plan approval.</p> <p><b>2) Compliance with Departmental Recommendations:</b> Town department managers issued several recommendations in regards to this proposed shopping center. The applicant shall comply with the recommendations, to the satisfaction of the respective department heads.</p> <p><b>3) Compliance with Recommendations</b> by the Town's traffic consultants, RSG, and in particular, those specified in the memorandum from David Saladino to the Planning Board dated May 20, 2014.</p> <p><b>4) Mitigation for Off-Site Traffic</b> <b>Impacts:</b> Waterstone shall submit an exaction fee to the Town Treasurer in the amount of \$922,000, or \$830,920 as a donation, so as to assist the Town in mitigating the off-site impacts of Waterstone's shopping center, consistent with Section 10 of the Site Plan Review Regulations.</p> <p><b>5) Off-Site Improvements:</b> No Certificate of Occupancy shall be issued until such improvements have been completed to the satisfaction of the Planning Board's transportation consultant.</p> <p><b>Final Approval:</b> The applicant is also subject to final conditions of site plan approval, as follows:</p> <p><b>6) Other Permits:</b> Waterstone shall obtain all applicable state and federal permits.</p>
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	<p><b>7) Route 1 South:</b> No Certificate of Occupancy shall be issued until final completion of off-site traffic mitigation. This work includes, but is not limited to, the widening of Route 1 between Staples and south of the Route 107 intersection. These improvements shall be constructed as outlined by NH DOT in their project reference Seabrook X-A002(762), 16444. In addition, Waterstone shall install a full signalized intersection to preserve access for the residents of Perkins Avenue which is not part of the NH DOT plan. Waterstone shall be responsible for the cost of this work. Improvements shall be completed to the satisfaction of the Planning Board's transportation consultant.</p> <p><b>8) Reimbursement:</b> Waterstone shall fully reimburse the Town for expenses incurred from the review and oversight of the Waterstone shopping center by all of the Planning Board's professional consultants.</p> <p><b>9) Access/ Egress:</b> The Applicant shall return to the Planning Board and shall be subject to site plan review in regard to all access and egress issues as well as to all offsite improvements [omit exaction language as covered elsewhere] that the Planning Board deems to be necessary. No Certificate of Occupancy shall be issued until such improvements shall be completed to the satisfaction of the Planning Board's transportation consultant, DDR and NextEra.</p> <p><b>10) Provident Way/Site Driveway Intersection:</b> Prior to the issuance of a building permit, the Applicant will produce a revised siteplan showing the northbound left-turn lane exiting the Seabrook Crossing site at Provident Way with a minimum storage capacity of 200 feet.</p> <p><b>11) Signal Optimization and Coordination:</b> within six months of substantial completion of the project, the applicant's traffic engineers shall conduct, or cause to be conducted, peak hour traffic counts during typical weekday evening and Saturday midday periods at the following signalized intersections along US 1: 1) New Zealand</p>
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	<p>Road, 2) NH 107/Provident Way, 3) Perkins Avenue/Site Driveway, 4) Railroad Avenue, 5) Lowe's/Southgate Plaza, and at the Provident Way/site Driveway intersection and use these counts to develop optimized weekday evening and Saturday midday timing plans (cycles, splits, and offsets). The optimized timing plans will be provided to NHDOT and the town's traffic engineer for review. The Applicant's traffic engineer will coordinate with NHDOT to implement these signal plans in the field within three months of completing the traffic counts.</p> <p><b>12) Security Amount:</b> <u>Waterstone shall submit security amount to the Town Treasurer of \$1,117,500 within 30 days of the issuance of the Notice of Security for Case #2013-15..</u></p> <p><b>Conditions Reaffirmed:</b> the following conditions precedent set forth in the conditional approval for Case #2013-15 granted by the Planning Board on March 4, 2014 are hereby reaffirmed in the entirety:</p> <ol style="list-style-type: none"><li><b>1) Adherence to TRC Recommendations:</b> On January 28, 2014 the Town of Seabrook's Technical Review Committee (TRC) issued numerous recommendations. The implementation of these recommendations, to the Town Planner's satisfaction is hereby made a stipulation of this conditional siteplan approval.</li><li><b>2) Compliance with Departmental Recommendations:</b> Town department managers issued several recommendations in regards to this proposed shopping center. The applicant shall comply with the recommendations, to the satisfaction of the respective department heads.</li><li><b>3) Financial Security:</b> In order to ensure the timely and proper completion of utilities, landscaping, drainage, lighting and other infrastructure improvements, Waterstone shall provide cash or an irrevocable letter of credit issued by a New Hampshire bank in the amount to be determined by the Planning Board's consulting engineer.^ The above referenced letters of credit and other financial guarantees shall be subject to approval, as to form, and content, by the Planning Board's legal counsel and the Town Treasurer.</li><li><b>4) Engineering Oversight:</b> The Town's consulting</li></ol>
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	<p>engineer will monitor the installation of on-site utilities and other infrastructure improvements. Waterstone shall reimburse the Town for the cost of this oversight.</p> <p>5) Reimbursement: Waterstone shall fully reimburse the Town for expenses incurred from the review of the Waterstone application by all of the Planning Board's professional consultants.</p> <p>6) Applicant Proceeds at own Risk: Prior to the issuance of a Building Permit, the applicant shall submit a written declaration acknowledging that no site plan approval is final until such time as the conditions of final approval, enumerated below, are deemed completed to the satisfaction of the Planning Board.</p> <p>Final Approval: The Applicant is also subject to final conditions of site plan approval, which will include:</p> <p>7) Other Permits: Waterstone shall obtain all applicable state and federal permits.</p> <p>8) Access/Egress: The Applicant shall return to the Planning Board, and shall be subject to site plan review in regards to all access and egress issues, as well as to all off-site improvements and associated exaction fees (See Section 10 of the Site Plan Review Regulations) that the Planning Board deems to be necessary. No Certificate of Occupancy shall be issued until such improvements have been completed to the satisfaction of the Planning Board's transportation consultant. [See #9 above].</p> <p>9) Route 1 South: No Certificate of Occupancy will be granted until final completion of off-site traffic mitigation as detailed in Exhibit A. This work includes but is not limited to the widening of Route 1 between Staples and south of the Route 107 intersection. These improvements will be constructed as outlined by NHDOT in their project reference: Seabrook X-AOO2 (762), 16444 Exhibit B. In addition Waterstone will install a full signalized intersection to preserve access for the residents of Perkins Avenue which is not part of the NHDOT plan. Waterstone shall be responsible for the cost of this work. Improvements will be completed to the satisfaction of the Planning Board's transportation consultant.</p> <p>10) Reimbursement: Waterstone shall fully reimburse the Town for expenses incurred from the review of the</p>
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		<b>Waterstone application by all of the Planning Board's professional consultants.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Unanimous</b>

Morrill noted the motion was read out as “conditional” approval. They wanted to be sure that the vote that was taken was for the final approval. Janvrin said the conditions of approval for onsite and offsite would be the final approval. Melchionda said their request for this meeting, which was how they left the last meeting, was they were agreeing to all of the conditions that were read and the Board would grant the final approval [at this meeting]. They would meet all of the conditions with the certificate of occupancy and building permits clearly stated so they could move forward; they would deliver the final siteplan. Morgan said they would have to come back to the Board to discuss the traffic signal. Mechionda understood this. Morgan said they would not have final approval until the Board had the traffic signal discussion and was fine with the resolution. Khan did not have that feeling. Melchionda said they had satisfied the requirement of showing the Board what would happen for traffic mitigation, and in the spirit of good faith work with their abutters. Morgan said they were looking to proceed on their site; he thought everyone was in agreement with that. Janvrin said they could start their offsite.

Melchionda said that to perform their obligations they could agree with the conditions they need to meet. The Board is agreeing that they had met the conditions so far and there were still some conditions to satisfy, but that the Board was making a final approval to meet their obligations and timing. They will be returning to the Board, but understood that the approval on the siteplan would say final. Janvrin thought it was a matter of semantics. Morgan said they were on the same page. Melchionda said they were looking for the final approval with conditions. Chase asked if they wanted the top of the document to say final approval. Janvrin thought the confusion was that the word “conditional” was in the conditions precedent motion. His intent was to grant approval with these conditions. Melchionda said they needed clarity to know what was on the plan. Morgan said they were all set.

**ONGOING CASES - CONTINUED**

**Case #2013-24 – Proposal by GRA Real Estate Holdings, LLC to re-locate the Seabrook Truck Center and construct a 23,600 sf building (service, office & retail) and a fueling station (diesel & CNG) at 27 & 39 Stard Road, Tax Map 4, Lots 9 & 11, continued from January 7, 2014; March 4, 2014; April 1, 2014; April 15, 2014; May 6**

Attending: Rusty Lavin; Seabrook Trucking;  
 Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering; Glenn Fergasun, Green Environmental

Janvrin understood that the Zoning Board of Adjustment had denied the variance for this property, and thought they wanted the Planning Board case to be continued. Boyd said they believe the ZBA had erred in their decision in re the maintenance and repair of vehicles. The Applicant still would be allowed the sales use of that facility and wanted to continue with the Planning Board case to get his building approved so he can move the trucking business. The Waterstone site that received approval at this meeting is where his business currently is, so he is under the same time constraints. Boyd said the ZBA did not have a quorum the first time, and then he got a split vote when it was continued. The Applicant wanted to continue with the planning process while they ask for a rehearing with the ZBA. They want the opportunity to show



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the changes to reflect the Planning Board and TRC concerns, the ZBA concerns and also the power company concerns.

Boyd said the fueling station had been removed. The TRC had been concerned about the parking and the potential for leaking vehicles. They have substantially expanded the parking and added equipment with a vortex unit. The pavement pitches to the center; there are 3 oil-water separators which settle out any hydrocarbons, go out through the vortex and to a constructed wetlands area for drainage, which the ZBA requested be relocated in connection with moving the fireworks trailers. They will submit an application to the Planning Board because the trailers would be on a different lot. They also talked with PSNH and Unutil in connection with their easements. Unutil will be putting in a sister line and wants barricades added around the new poles; allowances have been made although the timing of the installation is not yet known. They also want protection for poles in the fireworks area. PSNH doesn't allow any structures within their easement area; everything was outside of it except for the underground drainage treatment and the pavement which they do allow. Currently there are barricades 15 feet around the existing PSNH high towers. PSNH asked that any vehicles which the Applicant would store in the area be for sales, and not for repair.

Boyd said the Applicant was asking only for approval for sales; he cannot turn a wrench inside the building, or anywhere on the site. He's allowed to store, display, and sell his vehicles and parts. The Applicant is asking the Board to grant approval of the sales use while they are working on a review with the ZBA. They've realigned the driveway so that the geometry works to accommodate trucks. The other concern was in re the Water Department, and the aquifer area. Boyd said that the Water Superintendent had worked well with them and [Ferguson about the permeability of the soils and the runoff, and they had satisfied everything that was asked. They wanted to meet with the new town engineer or the Technical Review Committee. The Applicants were under great time constraints, partly because of the time they lost at the ZBA. Their business would be out of time by September. He asked that the Board move this along very quickly, understanding that they had done everything they were asked.

Ferguson had been retained for his expertise with truck sales and retail throughout New England. It was no surprise that this area was in the Seabrook watershed. He assumed that the Board wanted to know what measures the new facility had taken. He looked into the water-oil separators that Boyd had described, and also tailored some material submitted for the recently approved project for US Foods. Importantly he put together some hazardous waste plans for employees on the site. This would include pans for any vehicles where there might be some staining, to making sure that any sort of a spill on that site is handled by the water separators on the site. They did some testing and permeability studies re the impervious and will be putting in monitoring wells. Chase asked if these are for parts and trucks. Ferguson said they were. He was retained for some of the concerns that the Planning Board and town boards had regarding the close proximity to the water; he had addressed or will address all of them. Boyd said they wanted to be back in a couple of week to satisfy everything.

Janvrin said the next meeting would be June 17, 2014. Boyd asked if they had permission to meet with the new town engineer. Janvrin said to go through the Planning board office to arrange that. [Fergusson asked if there were questions to answer for the next meeting. Janvrin asked about the vortex unit and asked how many chambers it had. Boyd pointed out the location, and said they were structures like a big concrete tank with baffles etc. Boyd said the Water superintendent was impressed with more than one. Boyd said they had three. He commented that the XBA was concerned about what would happen if a wounded bird might land on the site if a truck were leaking some sort of oil. Boyd said the gates would be locked when no



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one was there the entire paved area would be encircled with a fence. A truck would be allowed to enter to get on the sealed surface and then call the trucking office; oil would not go off the site.

Boyd said that the Water Superintendent gave testimony at the ZBA, and urged members to watch that meeting. Janvrin asked if that testimony was after the TRC meeting for this case; Boyd said the TRC was months ago. They were confident and still are about getting the ZBA approval eventually. Janvrin asked if Boyd had the February 13 letter from Michael Fowler in re security et al; Boyd said he did not, and asked for clarification if there would be redundancy with Fowler, Kerivan, and the new engineer reviewing this case. Kravitz said that Fowler had done the usual initial review that included the costing for security purposes. Kerivan was not involved in this case. Boyd said that Fowler's letter would not have reflected the changes on the plan, and asked if he would need to see the plan as well. There were so many changes that they wanted to get this to TEC asap. Janvrin asked if Fowler should look at this again.

Morgan said that Boyd should look at Fowler's memorandum which Janvrin gave to him. Boyd thought they should pay for only one peer review. Janvrin clarified that Kravitz had said when the transition was made, Kerivan was working on about 10 cases. Janvrin said they were not sure if this case was one of them, so they should contact Kravitz for coordination on which engineer would have the case. Boyd was disappointed that his client had to pay for his engineering services but two or three others. He would have no problem having his client pay for the TEC as the new engineer reviewing the plan, but not for three.

**Janvrin continued Case #2013-24 to June 17, 2014 at 6:30PM in Seabrook Town Hall.**

#### **OTHER BUSINESS**

Janvrin announced that the Technical Review Committee meeting had been rescheduled for Friday June 13, 2014 at 10 AM in the Water Treatment Center.

#### **REMANDED CASE**

**Case #2012-18 – Latium Management Corporation, Tropic Star Development, LLC, and Scott Mitchell to demolish the Getty North station and replace it with a 1,200 square foot “retail” building and two gasoline dispensing islands at 663 Lafayette Road, Tax Map 7, Lot 87, continued from April 1, 2014, April 15, 2014;**

Lowry recused himself from Case #2012-18

Attending: Scott and Jim Mitchell, Tropic Star Development;  
Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers; Attorney Richard Uchida, Hinkley Allen Snyder, representing Tropic Star; Jeff Dirk, traffic engineer, Vanesse Associates; Frank Monteiro, petroleum engineers, MMF Design Consultants;

Janvrin said if the information was available, the case would be heard at the next meeting.  
**Case #2012-18 was continued to June 17, 2014 at 6:30PM in Seabrook Town Hall.**



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## **ONGOING CASES**

**Case #2013-26 11 New Zealand Road LLC and Charles Mabardy to establish a convenience store and restaurant at 11 New Zealand Road, Tax Map 7, Lot 87, continued from January 7, 2014, January 21, 2014; March 4, 2014, April 1, 2014, April 15, 2014;**

Janvrin said at the Applicant's request **Case #2013-26 would be continued to June 17, 2014 at 6:30PM in Seabrook Town Hall.**

Janvrin adjourned the meeting at 10:45 PM.

Respectfully Submitted

Barbara Kravitz, Secretary  
Seabrook Planning Board