



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Peter Evans, Vice Chair; Mike Lowry, Clerk; Aboul Khan; Paul Himmer; Robert Moore, Ex-Officio; Paul Garand, Code Enforcement Officer, Alternate; Elizabeth Tibodeau, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;  
Members Absent: Mark Preston

Chair Foote called the meeting to order at 6:07PM, and asked if the Board would agree to take agenda items out of sequence, at the request of Henry Boyd. The Board agreed.

### **HANNAH FOODS - DISCUSSION OF POTENTIAL FOR EXPANSION**

Attending: Wayne Peters, Plant Manager, Hannah Foods, representing George Hannah;  
Appearing for the Applicant: Henry Boyd, Millennium Engineering;

Boyd said Hannah wants to let the Planning Board know the status of its attempts to eliminate the problems with accessing the site through the residential zone, as well as of the company's anticipated business expansion. It now appears Florida Power & Light is amenable to allowing access through the South Access Road with an easement. Drawings were shown of the existing building and pavement, and the potential new access route. The original alignment involved an easement weaving through FPL property that had sharp turns for trucks. To build the road the shortest route through the wetlands would have involved about 18,000 square feet of wetlands. Mark West, was allowed by Hannah to look at the wetlands, and found an uplands island that allows a safer and more direct road with 10,000 square feet of wetlands impact, which is a different category of permit. The road will emerge onto the Hannah property. . Boyd acknowledged the need to return to the Planning Board for site review for the new access road, as well as a significant building addition.

Peters explained Hannah has been selected as the only vendor to supply fresh, refrigerated and frozen foods for a new Martha Stewart product line in 175 Costco stores nationwide. The initial phase, scheduled to begin in April 2008, means Hannah's business is expected to increase by about \$10,000,000 above the current \$25,000,000, and bring up to 60 new jobs to Seabrook. Peters said space at Hannah's facility is at the limit. The firm would need to expand the facility for this contract to include a visitors center, and perhaps move to two shifts. It is expected that Stewart representatives will be at the site often. The ability to expand is essential to this big undertaking. Morgan asked what happens to the Railroad Avenue access. Boyd said it would not be essential to the business operation and might have a breakable gate. Right now it is the only legal access. Foote said it should be left available for fire, health and safety purposes. Boyd said that would relieve some concerns about Route 1 safety lanes.

Boyd requested the Planning Board waive jurisdiction at this time to so Hannah may install an essential 20 x 50 foot coolant area characterized as an accessory use using a building permit. The Board showed the proposed placement position for the cooling units, which is already paved. Garand said last year the owners removed eighteen storage trailers on from the site and installed the required detention basin. The only restrictions on the site are the hours of operation and limiting traffic passing on the access road. The siteplan review can address other matters. Boyd said



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

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Hannah believes its hours of operation should be the same as any other industrial business. Garand pointed out the need to return to the Zoning Board of Adjustment on driveway matters. Evans asked if the proposed drainage area running through the B & M railway area will preclude the use of that corridor in the future. Boyd said this is an artificially wide area because there once was a depot. The B & M has indicated it would be willing to part with everything west of the sixty-six foot layout; the pavement may be removed and the area used for drainage. Garand asked about the location of the refrigeration units and if they will impact the residential abutters. Peters said they will be on the roof of the addition and behind the existing building. Boyd said nothing will be seen from the outside. Garand said there would not be an issue if the noise is contained.

Footo asked Morgan if there were any problems with the natural expansion of a business. Morgan said this was not a problem, and asked for confirmation that this conforms for industrial use. Garand said setbacks etc would be addressed with the building permit. Footo polled the Board for comments. Khan asked if the current entrance can remain open. Boyd said it would be left open until the proposed plan is done. Khan said his concern is that several large projects could potentially be using the South Access Road, and wondered if Railroad Avenue could take some of the traffic. Garand asked if there are limitations on the number of driveway cuts in the access easement. Peters said the only request is that the hours of operation do not coincide. Boyd said the abutters should be able to comment on such items and said this would occur when they return with a detailed planset for the road and building proposal. Moore said neighbors would have the same traffic and noise problems if the current access were left open. Boyd noted this is an access easement to Hannah and a ten-miles per hour limit is posted. Khan said the people who work in Hannah generally carpool which is a good thing. Boyd thought the neighbors' biggest concern was the truck traffic. Jason Page asked what would happen to the current compactors. Boyd said they will just be turned around. Evans said because there would be no new impervious surface, Hannah understands that there cannot be noise complaints, and they will return to the Planning Board for siteplan review, this is good for Seabrook.

<b>Motion:</b>	<b>Evans</b>	<b>to waive Planning Board jurisdiction at this time and refer the proposed Hannah Foods 20 x 50 foot cooler area to the Buildings Officer for a building permit.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### PUBLIC HEARINGS

**Case #2004-51 Request from Millennium Engineering on behalf of E Patel and Patel Realty Trust for a 360 day extension at 5 Main Street, continued from May 15, 2007.**

Footo noted several extensions to resolve site plan issues. Garand said the contractor is placing loam on the parcel. Footo asked how long the site work would take to complete. Boyd estimated about three months. Footo said to continue the extension for site plan compliance and completion to September 18, 2007 at 6:30PM at Seabrook Town Hall.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

<b>Motion:</b>	<b>Thibodeau</b>	<b>to continue the extension to meet the conditions of the Notice of Decision for Case #2004-51/Patel at 5 Main Street until September 18, 2007 at 6:30PM at Seabrook Town Hall.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

Footo said if the work is not done by that date, all necessary actions will be taken.

**Case #2007-13 - Proposal by Sandra Randall, Tina Harley, and Bruce & Cynthia Brown for a lot line adjustment at 38 & 40 River Street, Tax Map 23, Lots 38 & 40.**

Footo noted this case would have to be continued because of problems brought up at the Technical Review Committee. Also, Attorney Mary Ganz has asked for a postponement, and inquired if this situation could revert back to the original lot-line adjustment approval which the Planning Board had been asked not to record. Footo said the problem would be the same, as several issues about frontage and other site approvals emerged during Tech Review. Footo and Kravitz explained these issues to Harley last week in the Planning Board office. Footo said up to now the roadway had been treated as a loop-extension around River Street, and was receiving town services but, apparently, was never a town road. Therefore, the applicants need to consult with each other and their respective attorneys to cause the appropriate road deeds to be submitted, or the several easements created, that would be necessary to receive town utilities. This issue may affect other properties that have recently received approvals. Garand noted issues involving town services need to be sorted out.

<b>Motion:</b>	<b>Moore</b>	<b>to continue Case # 2007-13, proposal by Sandra Randall, Tina Harley, and Bruce &amp; Cynthia Brown for a lot-line adjustment at 38 &amp; 40 River Street to September 4, 2007 at 6:30PM at Seabrook Town Hall.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2007-14 - Proposal by Beach Shoppes Inc., to construct a 14' x 30' deck at Sharon's Sea Grill Restaurant at 186 Ocean Boulevard, Tax Map 26, Lot 88;**

Footo noted new revised plans were submitted at this meeting and asked if the Board would review them. Evans said this would be ok if no abutters present wanted the discussion held. Footo asked if any abutters wanted to keep to the Friday noon deadline for submitting revisions. There being none, Footo noted the items listed by the Technical Review Committee, including removing the side parking, depicting the lighting, no further impermeable surface, considering an emergency exit gate and sidewalk, and placing bollards or planters at the deck corners to prevent accidents. Additionally, the Applicant was asked to determine whether a wetlands permit is needed and, if not, to provide a letter to that affect. Footo asked Morgan if these items had been addressed. Morgan said everything had been done. Footo noted the wetlands permit or no-action letter had not yet been received. The relationship between Preston Real Estate and Beach Shoppe Inc, was discussed.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Morgan said the plan doesn't make a claim of ownership. Evans said if the parcel were sold to another owner, the approvals wouldn't need updating. Foote polled the Board for questions. Evans asked for a description of the proposed lighting. Groele said this would be decorative lighting on the deck or building for patrons to see where they are walking. Evans asked about the intended wattage. Garand said this needs to be small volt lighting. Evans asked if there are enough parking spots for the floor space of the expanded use. Garand said there is a large area in the back and also an area behind the deck that can be used for additional parking; some spaces were also added in the front last year. Morgan said the attempt is not to encourage any more impermeable surface. Evans said his concern was for the neighboring shops, and asked if the Beach Precinct governs parking. Garand said it does, but any non-residential use comes under site review. Foote asked for abutter comments; there being none.

<b>Motion:</b>	<b>Evans</b>	<b>to accept Case # 2007-14 as administratively complete for jurisdiction and deliberations</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

<b>Motion:</b>	<b>Evans</b>	<b>to approve Case#2007-14 Proposal by Beach Shoppes Inc., to construct a 14' x 30' deck at Sharon's Sea Grill Restaurant at 186 Ocean Boulevard, Tax Map 26, Lot 88, conditioned on (i) the lighting remaining functional or decorative, (ii) no more impervious surfaces, (iii) a permit for [wetlands] impact or a letter saying none is needed, and (iv) planters be placed at the corners of the deck to prevent accidents.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2007-10, a proposal by New American Homes LLC for a condominium conversion at 14 & 16 Jean Drive, Tax Map 7, Lot 50-100, continued from May 15, 2007**

Wayne Morrill of Jones & Beach engineers, appearing for the Applicant, said the items listed by Technical Review Committee had been revised in the plans including updating the flood hazard map, placing permanent wetland markers at every site on the subdivision, noting an access easement for water shutoffs, and depicting the limited common area. Foote asked about the multiple deeds that had been submitted. Morrill said he had identified the correct deeds at the Planning Board Office. Kravitz said there are both filed and original deeds in the file. Morrill will address this with Morgan and Kravitz and see that excess deeds are properly returned. Morgan said the deeds could not be matched to the plan. Foote said the correct deeds and condominium documents are necessary.

<b>Motion:</b>	<b>Moore</b>	<b>to accept Case # 2007-10 as administratively complete for adjudication and deliberation.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Footo asked if the common area and limited common area now add up to the total lot size. Morrill said they do. Footo polled the Board for questions. Evans asked if a waiver for the revision block location had been requested. Morrill said this would be requested. Footo asked for abutter comments; there being none.

<b>Motion:</b>	<b>Moore</b>	<b>To accept Case # 2007-10 - New American Homes LLC for a condominium conversion at 14 &amp; 16 Jean Drive, Tax Map 7, Lot 50-100, conditioned on (i) identification of the correct deeds, language, and condominium documents, (ii) a written request for a waiver of the title block structure, and (iii) compliance with the Condominium rules of the State of New Hampshire and the Town of Seabrook regulations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2007-11 - Proposal by Frank H. Beckman, Jr., Bruce & Cynthia Brown, and Sunk Rock Real Estate, LLC for a 54-lot subdivision between Farm Lane and Causeway Street, Tax Map 13, Lots 50, 51, 52, 53, 54, 67, 90 & 91, continued from May 15, 2007**

Attending: Michael Green, Sunk Rock Real Estate; Chris York, Millennium Engineering; Steven Ells, Attorney;

Appearing for the Applicant: Henry Boyd, Millennium Engineering;

Footo said the Traffic Study and Stormwater Management Reports have been recently submitted; the environmental impact study, school assessment study, and proof of permits are to come. Boyd said the Applicant understands the siteplans will need to return to the Technical Review Committee. The site specific permit has been submitted. Mark West has been hired and has delivered the NH Wetlands Bureau application. The Town Engineer's report is not yet complete. Boyd asked if the environmental impact study requested was about wildlife. Footo said it should address how the project affects the environment in that area, and could include assessing wildlife issues. Boyd said the design minimizes impact. Boyd said he would do a drawing of certain recommendations for existing intersections addressed in the traffic study. Additionally, Boyd submitted a letter concerning schools impact and a background article written by William Ray of New Hampshire Housing Finance. Morgan asked how applicable this information is to Seabrook. Boyd said it has some of the best information available, and he also obtained dwelling unit data from the Assessor's office as well as the K-8 student population figures. Morgan said to familiarize the School Board with the proposal. Boyd will schedule a meeting with the School Board.

Boyd said a session with the Conservation Committee will be on June 25. A letter from the Sewer Superintendent indicates the pumping station is adequate. A letter from the Water Superintendent says there shouldn't be a problem as long as the application for water usage doesn't come before mid-November because of anticipated new and recovered water sources. Because of questions



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

raised at the last meeting, a fifty-foot wide segment has been added to lot 52. The Assessor has assigned map and lot numbers. Thibodeau asked for the plans to be displayed. Foote said in-depth consideration was premature, as plan completeness has not been determined, and the plan set is headed back to Tech Review. Evans asked for input from the Parks and Recreation departments on the impact to their resources of setting land aside, as well as options that might be proposed for parks or recreation space that people can use. Foote said this might include a well-defined looped nature trail. Evans thought this a good idea, and said cost estimates for implementing and maintaining such enhancements are needed. Foote said the Community Center and the Rec Commission should be contacted. Evans said this is a good time to plan for the future of Seabrook.

Boyd asked what would keep this application from being considered complete, other than meeting with the School Board. Morgan said the next step is for the Board to determine whether the package is complete. Foote said there is sufficient data to advance to Tech Review. The items yet to be submitted don't usually go to Tech Review, but must be submitted in a timely manner. Boyd said other than the drainage, the Town Engineer's comments have been addressed; other Board requests either have been addressed or are in process. He believes the package to be very complete. Morgan asked when the environmental impact study would be ready. Boyd said about two weeks, although much of the study information might already be in the permit application. Evans believed the requested exhibits that have been submitted are up to town standards, or are in process.

<b>Motion:</b>	<b>Evans</b>	<b>to accept Case # 2007-11 as administratively complete for jurisdiction and deliberations.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

Foote said Case#2007-11 would be discussed at the July 23, 2007 Technical Review meeting. Foote continued Case#2007-11 to the Planning Board meeting of August 21, 2007 at 6:30PM in Seabrook Town Hall.

Kravitz asked that digital copies of the studies be provided. Foote asked if abutters had any comments and said they would not receive further public notices. Morgan asked if abutters had been notified. Foote confirmed they had, and some abutters were in attendance. Khan asked that the length of time board members have been resident in the town not be referenced during a presentation. Foote asked if any abutters had questions, comments or concerns that might be addressed at this meeting, pointing out the next hearing for this case would be August 21 and no public notice would be advertised; individual notices would not be sent.

Foote recessed the meeting at 7:30 PM and resumed the Public Hearing at 7:47PM.

**Case #1997-42/Border Winds/Benoit** continued from May 15, 2007

**Case #1999-24 Benoit/Randall Drive** continued from May 15, 2007.

**Case #2006-46 David Benoit for an amendment to the Border Winds Subdivision,** continued from May 15, 2007.

Evans recused himself from these cases.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Attending: David Benoit; Henry Boyd, Millennium Engineering; Jason Page and Lenny Demarais, Beechwoods Homeowners Association; several area residents;

Foote said this is an ongoing dispute. The Planning Board would like a conclusion with, hopefully, some form of resolution. Description and testimony would be heard, and then new items, if any, from abutters. Garand asked for the outcome of the court ruling in Ledge Road Realty Trust vs Town of Seabrook (03-E-0550). Page said the court upheld the Planning Board decision to not amend the original site plan. Garand asked if the court had directed that a compromise be reached. Foote read from the last page of court docket #03-E-0550 stating "the Board did not act unlawfully or unreasonably when it denied the petitioners' application for amendment"... Either the swale system or the granite curbing system could have been adequately implemented.. "The Board does not have to take into account changes to the site made by the petitioner without Board approval".

Foote noted the court's decision involved changes not properly submitted to the Planning Board. Case #2006-46 is a properly and duly submitted. Garand noted both the Town and the applicant have hired engineers and have their professional opinions. The Town is holding \$75,000 in site security. Foote said this is a maintenance insurance bond that can be used for faulty construction to repair, maintain or correct, but did not know if funds could be released to rebuild or restructure. Garand said it is time to come to some grounds for agreement. In two major rain events flooding was not noticed in the area, so the drainage does work. Foote concurred; there was no evidence of lot or yard flooding except for one household a year ago with a hose that appeared to be pumping into the catch basin.

Foote invited Benoit to speak. Benoit asked that the road be accepted, with reservations. He would not put in granite curbing; the hold-harmless document from residents, for himself and the Town, if he put in granite curbing, has not been produced. He is willing to work with the Public Works Manager or others designated by the Board, and resurface the sidewalks that were in poor condition. Benoit said he would not put in granite curbs because that would result in nineteen homes having water that don't have a problem now. Town officials previously said the swales would work better as long as more water is not put into the system. Although a set of drawings to show it would work was asked for, the talk on the job site was to build it, make it work, and do an after the fact as-built which Millennium submitted. Benoit feels the obligation to fix the sidewalks, and introduced the insurance binder, indicating it couldn't be used for this.

Benoit offered a form of warranty deed for the road to the Town which he said would be signed, if accepted. The Association can't get a hold-harmless release because he [Benoit] is an owner and would not sign such a release to himself. More than \$140,000 has been spent on maintenance in eight years for studies, engineering, road maintenance, lighting, etc. People that are not part of the Association deserve town services. He would redo the sidewalks to the residents' satisfaction; everything would be better. He won't put in granite curbing because the no one can guarantee the Town or himself harmless when people have problems, which he is sure they will have. When he had asked for advice on granite curbing or swales, the road was the height it is now and the drains were in the road. He paid to offset them. At the time, he was required to supply electric and chose to



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

put the poles underground because the granite curbing was eliminated. The sidewalks don't conform because there has to be 30 inches of dirt over the pipes and electrical lines. He will straighten this out. Everyone has worked diligently to solve a difficult problem. He did what he was asked to do; residents built lower than they should have. To jeopardize nineteen people for aesthetics is not common sense. He's not coming back. He's failed to win-over the people. The sidewalks are bad and need to be fixed. Granite curbing would help so few; some people won't let him go on their property.

Benoit said for the better interest of the Town, himself and the homeowners, he is asking the Planning Board to accept the road at this meeting subject to some type of reservation. He'll sign the deed at any time. If the Association has a problem with him, they can sue and, if sued, he would counter-sue the Association and individual homeowners. If granite curbs were put in, perimeter drains would be crushed. Some houses are pumping into town sewage which is a federal offense subject to a \$10,000 fine. Those affected will come first to the Town. There are problems that he did not cause. He is done negotiating. Not much happens at these meetings nor does the Association have a hold-harmless document.

Footo asked if the Association and/or residents know how many sump pumps there are, how many go to the subdivision stormwater drainage system, how many go to the sewer system, and how many have leaching systems on their property. Page said this might not be known for some houses that have switched ownership, and asked if the Town videoed the sewer. Footo said at least twelve houses more than likely pump into the sewer. Page asked who does the inspection before backfilling. Footo said the project spans two different forms of project administration, and through differing styles of two successive Town Managers. The project was built and complete under the first Town Manager who handled site security reduction himself. With the change of Town Managers, the Planning Board was told it would be responsible for site security reduction. Requests for road acceptance would continue to go to the Town Manager who would bring them to the Board of Selectmen for approval. The Planning Board has no knowledge of inspection reports.

Page asked what happens to those homeowners that may have connected to the sewer. Garand said the fine can be up to \$10,000. Moore said a pipe can get changed; future inspection wouldn't let that go. Footo said hopefully the sewer connection issue will be resolved. Once this becomes a town road everyone out there that has a sump pump; must apply to the Board of Selectmen for permission to pump into the town stormwater system. Benoit noted that around April of 2000 the Town was involved in a lawsuit with three Ledge Road people about a culvert that went across the road and caused flooding for them, and also the wells. Substantial work was done to upgrade the culvert and detention pond to fix that water problem and get the Town out of the lawsuit. So that was a change not on the plans, although it was permitted. Benoit said he paid for this work because he wanted a nice subdivision too, and there are other similar instances.

Morgan said everyone agrees the sidewalks were not correctly done and need to be fixed. Benoit said if the road was accepted by the Town with a reservation, he would do the sidewalks, but would not do work without direction from the Board. If there is not a resolution tonight, it would have to go to court as this is not a Planning Board issue. Morgan said the usual procedure is for the



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

developer to build first with the sidewalks in place. Benoit said he wants to know which direction to go in and asked for a Board vote. Maintaining the level fill caused the sidewalk "hump" problem. They can be leveled out and get as little grade as possible. Actually, they are on the wrong side of the road because of the transformer position. . Benoit he wants to make money and stay out of a lawsuit. This is one of the nicest projects in Rockingham County; others agree. Boyd said there had been letters from some department heads indicating the Millennium plan is the best course of action.

Michelle Kenyon said the Board should decide in the best interests of the people who purchased homes and stated the original paperwork stated both granite curbs and underground utilities were promised. They have been waiting seven years for the curbing, mailboxes, etc. Her daughter cannot ride a bike because the sidewalk is so bad. The Town should stand behind the taxpayers because the plans changed and they weren't notified. It is a nice subdivision because the residents take care of it. Foote asked if Kenyon had questioned the real estate agent from whom she purchased the house, and if she was aware that curbing goes in before the paving. Kenyon said she was not aware about the timing; the neighborhood was very young when she bought; they use a temporary mailbox because they were promised another when the curbing went in. She believed her husband had conversation with the real estate agent, and referenced the sales literature. Foote asked if the literature says or implies the Town or the Planning Board has any responsibility or put this paperwork together. Kenyon said no, it was the real estate agent advertisement for Messrs Benoit and Colliander. Garand said that is a civil situation. Benoit said Kenyon bought four months after the literature was produced; he would be willing to write a check to her for the original purchase price of her house

Lenny Demarais said at the time of his 1999 Purchase & Sale Agreement, the road was partially paved and granite posts and curbs were promised. Since then other town areas have granite curbs so they thought that was coming. Foote noted these were long-time town roads and there are problems with those sidewalks because of water runoff. Foote said individuals not in the construction business can't be expected to know, but real estate agents would. Demarais said the items showed on the plans. Linda Kuse said she had purchased her first newly constructed house and has serious water problems in heavy rain. At the time of purchase there was no road and only a couple of houses; she expected granite curbs.

Garand said the objective is to find a compromise so the Board can vote on it. Foote said there appears to be no compromise. Garand said the Board must decide in the best interests of the Town. Lowry noted there is no bond to pull for construction, only maintenance. Page disagreed with "no compromise" in light of hearing about issues with storm-drain tie-ins. Foote said the Board hears that residents want granite curbs, and the developer would fix the sidewalks but not put in granite curbs. Page said the court decision noted plan amendments don't get made the way it happened here, and the Planning Board requests were not followed. Foote said the court upheld the Planning Board decision. Page said he had looked at the plans before he bought and his house has no drainage problem. Charles Gunn said the swales work, but fill was put in over sand and washes out; there is a gully and the road edges are crumbling. A lot of water is coming in off of Ledge Road.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Morgan said to focus the discussion on common ground., and asked if anyone had a compromise to propose. Mike Picanso said the drainage from his house doesn't get into the catch basins because the drains and swales are not aligned and dirt and grass are dragged in front of his garage. His basement has no water, but in heavy rain opening the garage door brings in three inches of rain. If the Town accepts the road, what will happen next time. Demarais said he would like the granite curbs but, if this isn't happening, he wants to move forward. He said to look at the independent engineer's recommendations for which the cost had been estimated. Foote said the estimate was about \$235,000 for granite curbing because it would require another layer of asphalt. This will make the drainage problems even more extreme because the granite curbing will hold more water on the road. Demarais said to look at the independent engineer comments for some ideas. Evans believed that Ledge Road Realty Trust was previously misled by Planning Board statements, and does not remember notice to abutters. He has no water in his basement and is determined to keep it that way. He appealed to the Planning Board to make sure the neighbors' status quo is not disturbed. Benoit said that Evans knows granite would affect a lot of people. It's an unfortunate misunderstanding, but it's not the Planning Board's problem. Individuals can sue him (Benoit) or the realtor. He wants acceptance tonight with a reservation. Then, with Boyd's help, he will fix the items. When there is a sign-off, he will request the bond reduction. Benoit said he's sorry about misconceptions with him or the realtor, but was more concerned about the tremendous flow into the detention pond. The subdivision might not have been approved if submitted today. He bought the property with everything in place, asked for a sense of direction, and did the work. He's sorry, and would be happy to address the minor problems like the drains.

Garand noted that Morgan did caution about accepting anything in advance of the work being done. The repairs should be done to satisfy the Public Works Manager. An approval at this meeting would be premature. Richard McCann said his basement is dry but in heavy rains there is flooding in the back yard. Whatever action is taken should not adversely affect residents. He noted some of the catch basins only take in water that falls directly into them. Fixing this drainage problem should be easy. Two heavy rains have shown the detention is viable. Bernie Battle asked if a compromise is reached, who would be responsible for water that goes around drains. Foote said that would be the Department of Public Works at the direction of the Board of Selectmen. Battle said not to accept the road before the sidewalks are done. Boyd wondered if all of the residents had seen the Millennium plans that addressed both the sidewalks and other issues like catch basins and grading that Benoit was willing to fix. Boyd said individuals had been asked about their concerns. Benoit said he had purchased reports from Appledore Engineering and it is possible to know where the sump pumps are hooked in.

Foote noted that Case #2006-46 began to address the issues. Evans said the Association and Ledge Road Realty Trust agree there should be a town road. Moore said to work on a compromise, and asked Benoit if he would spend the \$75,000 on fixing the sidewalks and other minor repairs including resetting the top of the catch basin and putting shrubs or curbs at the entrance. \$250,000 to dig up the road is not feasible. Benoit said he would agree to the #75,000 expenditure. Moore asked about doing the sidewalks. Benoit said he agrees. Moore said there are no major drainage issues and asked if Benoit would fix the minor problems including resetting the top of the catch basins, Benoit said "yes". If there is money left, most of the subdivisions and even



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

commercial properties have curbing and maybe shrubs for perhaps ten to-twelve feet at the entrance. Benoit said not the granite curbs, but will do the rest of the items. Boyd pointed out that returns with granite curbing out front to control the cars turning. Benoit said he would go in two

feet. Moore said there were many misunderstandings going both ways, but it has to be resolved. Benoit is willing to spend \$75,000 on top of the approximately \$140,000 already spent on maintenance. The paperwork will have to be put together. Page asked if there is a way to get the Ledge Road water runoff into the catch basins at the entrance to the property. Kuse said the corner washes out in rainstorms. Benoit said the water off Ledge Road finds its way into the catch basin that has flooded out. Granite curbing at the entrance will interfere with the pipes underneath. Moore asked if that problem can be fixed another way. Benoit said he would ask Boyd, who said these problems were addressed in previous plans. He thought slope easements would be needed on the private property. Moore said drainage is a problem in a few minor places. Demarais said some driveways that slope down should probably have a berm. Benoit said the road is to the original set of drawings. In 2004 one homeowner had the problem. Benoit said he is not the builder. If driveways are built down, that is the homeowner's issues. After two years of snowplowing, the berm would be gone. Demarais said perhaps some of those issues could be addressed. Moore said this is one of the best subdivisions. With the sidewalks in place, other work can be done with the balance of the money.

Foote said the Board did not take action on Case #2006-46 because of the overwhelming sentiment of the residents that insisted they wanted granite curbing, or not to approve the plan. Garand said the Planning Board has to make the decision which some people might not like. It is time to move forward. Page recommended dealing with the original #2006-46 case; the other plans would be moot. Garand asked if Benoit is willing to fix to the #2006-46 plan. Boyd said that is not the plan to approve, for example, it installs overhead lights, crushing the perimeter drains; he was never in favor of this. [The plans were viewed.] Boyd said Millennium's "Corrective Measures" plan is the one to follow. Foote said the various plans need to be looked at together. Evans said a plan with overhead wires should be eliminated. Foote pointed out that three plansets were submitted with #2006-46 and were reviewed by Altus Engineering. Benoit said there is a sidewalk problem and a drainage problem that he will fix. At that point Millennium will produce an exact mylar, but the Public Works Manager or some other designee needs to sign-off. The security was reduced to \$75,000 because he had met all of the requirements at the time. Page asked if this would include the sidewalk on Randall Drive extension. Benoit said he did not recall that on any plans.

McCann asked for a timeline. Foote said the crucial point is whether the Board will insist on approving plans in advance or, as Benoit suggests, he do the work and provide an as-built with the likelihood that the work gets done this summer. Page pointed out that doing the sidewalks and slopes, and any needed easements has to take place between the owners and the developer, and asked if Boyd will provide drawings for abutters in advance. Boyd said he will provide copies of the plan he recommends. Demarais said there should be a sidewalk on Randall Drive. Boyd said they will look at that. Moore said if it was a minor subdivision it would not be required.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Foote asked Morgan if more comments were needed. Morgan said Benoit has agreed to do the sidewalks. Benoit said he really needs an engineer because the sidewalks cannot follow the contours of the road as originally planned. There is a need to agree on the slope, it can't be flat; some will be higher than others. Boyd said the Association will need to give an easement(s) to work on private land. Benoit noted the sidewalks are now on the opposite side of the street. Boyd said he will highlight the corrective measures plan. Garand said the Public Works Manager can review it and approve it in the field. Benoit said perhaps Boyd should review the plans with him and get a supporting letter. Foote asked if there is agreement. Garand suggested this should be done at the Tech Review meeting with minutes taken. Page said the work should be done this year and Benoit should then be able to be released from the court order. The basis should be the Library plan. Boyd should identify the lots that would be affected. Foote said the Board needs to know everyone is in agreement before going forward and then finding a few holdouts. Page said a well-attended meeting was held two months ago during which it was agreed to see what happens at this [June 19] meeting. Foote said there may be an Association, but one dissatisfied member can come to the Town. Several individuals at this meeting seem to be saying they can do without granite curbing; the Board would not want them to return after the work is done to ask for the curbing. Moore said in the worst case scenario, without all the easements, the sidewalk can be built in the right-of-way which won't be as nice.

Benoit said if road is accepted and he doesn't do the work agreed at this meeting, the Town retains the security. He is ready to begin next week. Page said to accept the road when the work is done and the sign-off is in. Boyd said John Starkey won't approve the road if the plan is not approved by the Planning Board. Morgan said the Board had acted. McCann said the right idea is to accept the road with reservations and move on. Benoit believed fourteen people will be affected. Evans said there were things in that "library" plan he did not like, and suggested asking the DPW Manager what he needs to approve the road. Benoit said that should be one of the reservations. Garand asked why the corrective action plan could not be approved at the Planning Board's meeting in two weeks. Kenyon said in the interim Benoit could be getting ready to do the work and the people that the plan affects could be at the next Planning Board meeting to say "yea" or "nay". Evans referenced an plan amendment which Foote said was conditioned on a "proof" plan that was not speedily provided to the Board.

Foote asked if the "right" plan could be located by July 17 (the next Planning Board meeting) and notice sent to the approximately fourteen residents whose sidewalks would be affected. Page said identifying the plan shown at the Library, getting it to the Association in advance of a meeting, and noticing the abutters seems the best. Boyd said he will have plans to show the Association the next night. Benoit referenced Moore's idea for an alternative installation. Benoit said he has a fifty-foot right-of-way with 26 feet of hard-top and 13 feet of swales; The town standards require a set-off of three feet. There is plenty of room for the sidewalks without any easements, but they would not be as pretty. This is a resolution that can be done right away. Page said they ought to know the properties involved within a week, and whether the 14-15 people will provide easements. The Association can meet before the Board's next meeting. Foote said if there is dissension, the sidewalk would be moved.



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

Foote continued Cases #2006-46, 1999-24, and 1997-42 to July 17, 2007 at 6:30PM in Seabrook Town Hall.

Foote closed the Public Hearing at 9:30PM.

### REQUESTS FOR SECURITY REDUCTIONS

Foote noted a request from Sam's Way Real Estate requesting the maintenance security in connection with Austin's Way be returned, and the case be closed. Garand asked if monies had been transferred to another case. Foote recalled when the construction security was released, the Board discussed that that money could be applied to the project on Ledge Road. That has not happened, but the Treasurer and Town Manager have said when security is released the monies go to the party that posted it. The two cases would be viewed as separate situations. Morgan asked if Bagley had been asked to agree. Foote said even though the CEO has issued a cease and desist/no occupancy, there is no agreement. Morgan said there should be a conversation with Bagley. Foote emphasized the Board cannot deny taking action on one project just because another project is lacking. These are two separate instances; with one having a partner. Garand said the funds might be released with a strong suggestion they be applied to the other project. Foote said this cannot be contingent. Morgan recommended a dialog with Charlie Bagley toward a mutual agreement. Foote said at the meeting when the construction funds were released, Bagley said they would be applied to the Ledge Road site. But that did not happen, and Foote doubted a conversation would help. Himmer asked if the paperwork on the work was complete. Foote said the road is in the maintenance phase and has already been accepted by the Board of Selectmen on November 7, 2006. At that time the BOS noted Austin Way had been up for a long time and Bagley might request an earlier reduction of the maintenance time because it had already been through multiple cycles. Evans didn't like the procedures, but it would help other projects if the money were released. Himmer asked if drainage and grading had been done. Foote said that was addressed when the Board recommended the BOS accept the road.

<b>Motion:</b>	<b>Himmer</b>	<b>To accept the request to return the maintenance security held in connection with Austin Way, and close the case.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Foote noted the memo to **Scott Dunn, the Town Manager, on the status of Merrimac Street**. Kravitz said Dunn had asked for written indication that the road could not yet be accepted. The relevant Planning Board minutes have been provided to Dunn. Foote said she had looked at Merrimac Street and confirmed there are two very large patches in the middle of the road. The road cannot be ready for acceptance until they are properly repaired. Morgan asked why the road needed patches. Foote did not know, but the patches are there.

**Foote noted Garand's memo asking about the status of impact fees**, and recalled that the Board had previously agreed the fee study needs to be done before the ordinance, which is fairly routine. The fee methodology is the critical step. The cost for such a study could be as high as \$15,000. One option is to contact the Economic Development Committee to see if it would take on the task



## Town of Seabrook Planning Board Minutes

Tuesday, June 19, 2007

NOT OFFICIAL UNTIL APPROVED

and the funding, as was done for the CIP. The alternative is to wait until March for a special warrant article and hope the Town votes in favor of appropriating the monies to contract with an expert. This would put impact fees two years out. Garand asked if Morgan had obtained the name of the expert previously referenced. Morgan said he has the contact information of the expert who is located in Maine. Foote recommended contacting the Economic Development Committee, although it has not met for over a year. Moore thought the committee has some funds.

<b>Motion:</b>	<b>Evans</b>	<b>to contact the Economic Development Committee to request funds to initiate the study required for impact fees.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

Foote referenced a memo from Garand recommending that mylars not be filed until site improvements are complete. The recommendation is the result of a conversation with an attorney. Foote agreed. Garand said this is something to look at to help the Town's process, noting some projects are around for seven years. Foote noted it is not just projects discussed at this meeting, but has occurred in several major subdivisions.

<b>Motion:</b>	<b>Evans</b>	<b>to not record mylars until site improvements are complete.</b>
<b>Second:</b>	<b>Thibodeau</b>	<b>Approved: Unanimous</b>

Morgan said he would review the regulations. Moore said the regulation referring to "substantially complete" is a good one.

Foote noted the **Epping Energy Efficiency Ordinance in the Board Packet**. Khan described the **Rockingham Planning Commission energy efficiency session at the Portsmouth Library which is a good example of a "green" building that will save money down the road**. Foote said following the Board's vote authorizing additional assistance, she has met with Clay Mitchell, who was one of the RPC presenters, and invited him to attend the Board's August 7 work session. Mitchell will familiarize himself with Seabrook's Master Plan, Rules of Procedure, the CIP, and Land Use Regulations before then. Foote said the objective is to get a global overview of Seabrook's situation, and then recommend what changes in Seabrook's regulations may be necessary or advisable. Perhaps a project that Mitchell might pursue would be identified. For example, Mitchell asked if Seabrook is mandating no water flow urinals, especially in public places. Moore said huge savings can result from using low-flow urinals. Foote said Eric Steltzer, the RPC liaison with Seabrook, has also been invited to the August 7 meeting to provide an orientation on RPC services. Written proposals following up on the May 7 Planning Board meeting are being readied for the August 7 meeting.

<b>Motion:</b>	<b>Lowry</b>	<b>to adjourn the June 19, 2007 Planning Board Public Meeting at 10:08PM.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

Respectfully submitted,  
Barbara Kravitz, Secretary  
Seabrook Planning Board