



Town of Seabrook Planning Board Minutes

Tuesday, September 21, 2010
NOT OFFICIAL UNTIL APPROVED

Members Present: Donald Hawkins, Chair; John Kelley; Robert Fowler; Robert Moore, Ex-Officio; Elizabeth Thibodeau, Alternate; Paul Garand, Code Enforcement Officer, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;
Members Absent: Sue Foote, Vice Chair; Jason Janvrin; Keith Sanborn; Paul Himmer, Alternate; Michael Lowry;

This meeting was held in the Seabrook Library.

Hawkins opened the meeting at 6:52 PM

MINUTES OF SEPTEMBER 7, 2010

In light of the Planning Board move from the Library back to the Town Hall, Hawkins tabled the Minutes of September 7, 2010 to the October 5, 2010 meeting.

SECURITY REDUCTIONS OR EXTENSIONS

Case #2009-01 - Proposal by DDR Seabrook, LLC to construct a 4,036 square-foot McDonald's Restaurant on Outparcel #2, 700 Lafayette Road, Tax Map 8, Lot 55,

Appearing for the Applicant: Malcolm McNeill Jr, McNeill, Taylor & Gallo;

Hawkins asked McNeill to speak to the DDR extension requests. McNeill said he represents DDR and McDonald's in re Case #2009-01 involving the relocation of the McDonald's which was approved on May 19, 2009. It is part of and dependant on the approval of the major siteplan, Case #2008-23 for the four-lot subdivision, which was denied at the same meeting and is the subject of litigation. After the denial of Case #2008-23, the case was appealed. There was then concern about the potential lapse of the McDonald's project Case #2009-01 approval, and DDR returned to the Planning Board on October 6, 2009 for an extension. McNeill said the Planning Board attorney recommended that the extension be to the date upon which the litigation ended, however, the Chair wanted a date certain. Accordingly, the extension was granted until the sooner of October 1, 2010 or the day after the Superior Court decision. .

McNeill explained that subsequently the Superior Court reversed the Planning Board decision which was then appealed to the Supreme Court. While it remains in litigation, DDR is unable to do anything. He requested that the extension be granted until the sooner of the ending of the litigation or a negotiated settlement with the Town, and he believed they were close to resolving the litigation. When the appeal is done DDR would be able to build, consistent with the prior extension.

Additionally, one condition was that the DDR Case #2006-32 Phase I plan was being "built". Perhaps for the 135,000 square foot store McNeill said he should have asked for "built-out" as no contractor could build it in six months. McNeill said that DDR was requesting that that condition be removed from the #2006-32 approval and it would then move to a two-year substantial completion.

Hawkins asked for Morgan's view. Morgan said he did not see a downside to the Town in re the extension. Hawkins asked his view of removing the condition as McNeill was requesting. Morgan did not see a problem, and commented that the court action was taking longer than expected. Hawkins asked for comments from the Board. Kelley objected feeling there was a propensity to ask for changes at the last minute. Thibodeau thought it was the logical thing to do. Hawkins did not see a problem with the extension, saying it made no sense to put a date that can't be acted upon anyhow because of the pending litigation; it is tied to the Phase II which is still in court. Hawkins asked when the 180 days would start. McNeill said the 180 days would commence from the date the litigation is terminated, and by



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deleting the reference to “built”, the date for substantial completion would become two-years or the approval would expire.

MOTION:	Thibodeau	to change the commencement date for Case #2009-01 to 180 days beginning with the date of termination of the litigation.
SECOND:	Moore	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Opposed: Kelley;

MOTION:	Moore	to remove condition # 4 from the conditions of approval for Case #2009-01.
SECOND:	Hawkins	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Opposed: Kelley;

Case #2006-32 – Developers Diversified Realty (DDR) Seabrook LLC for a 441,290 square foot shopping center 700 Lafayette Road, Tax Map 8, Lot 55;

Appearing for the Applicant: Malcolm McNeill Jr, McNeill, Taylor & Gallo;

McNeill explained that the Planning Board had approved Case #2006-32 solely with respect to the 135,000 square-foot Target project on March 18, 2008. Arleigh Greene and Demoulas appealed that decision and DDR joined in support of the Town. The Planning Board decision was sustained in Superior Court, and the Board confirmed the substantial completion date to January 12, 2011. DDR came back to the Board – DDR Case #2008-23 – to combine Phase I and Phase II. The Planning Board denied that proposal. DDR appealed to Superior Court which reversed the Planning Board decision. Subsequently, the Planning Board appealed to the Supreme Court. McNeill said that during all that time DDR was in no position to move forward with Phase I. McNeill said that DDR now requested changing the substantial completion date of January 12, 2011 to the date that is two years from the completion of the pending Supreme Court appeal. He said this is housekeeping in terms of the appeal and that the legal advice had been to link to the termination of the litigation. Hawkins noted that for the previous extension a date certain had been picked. Morgan said they had thought that the litigation would be long gone. Hawkins asked for further comments, there being none.

MOTION:	Thibodeau	to grant an extension for substantial completion of Case #2006-32 until the date that is two years from completion of the pending Supreme Court litigation [of Case #2008-23].
SECOND:	Moore	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Present: Kelley;

CORRESPONDENCE/ANNOUNCEMENTS

Hawkins called attention to a **letter sent from the Planning Board to the Chair of the Hampton Falls Planning Board calling attention to certain statements made during hearings for a function facility at 1 Lafayette Road in Hampton Falls.** He asked Garand to speak to his research. Garand said the Hampton Falls Planning Board approval included a septic system on property in Seabrook. However, Seabrook is fully sewered and does not allow septic systems on property in the Town. Morgan added that



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the proposal (i) would place the system too close to the property line, and (ii) violated the use provisions. It would mean there would be a large septic system on the Seabrook site rather than the substantial tax revenue that would result from development of the property. In the letter, Morgan also called attention to a copy of correspondence just received from the NH Department of Environmental Services raising a litany of issues about discrepancies and questions concerning the permit it had provided. The letter from Seabrook asked for the Planning Board to be kept apprised of developments. For information purposes, Hawkins distributed the NHDES letter and said this was a "wait and see" situation but the plan did not meet the Seabrook regulations.

Hawkins referenced a **request from Tim Johnson of M&K Realty to discuss the Case #2010-16 approval to construct improvements required by a 2001 Planning Board approval, at 920 Lafayette Road, Tax Map 7, Lot 91-203.**

Attending: Tim Johnson, M&K Realty;

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

Johnson said the NH Department of Transportation had agreed to allow sidewalks at 920 Lafayette Road, but would require the town to maintain them and an [agreement] form was provided to the town. Johnson said the Selectmen would not sign this and he did not blame them. Hawkins said the Selectmen were not comfortable maintaining sidewalks on State roads. This also is an issue for the Route 107 Bridge. He asked for Morgan's view. Morgan expressed frustration with this NHDOT policy, but it was not fair to hold up Johnson's project. Kelley asked if sidewalks were in the original plan and, if so, they could have been done years ago. Morgan said they were. Moore said the State won't allow sidewalks without the town agreeing to do the maintenance. He did not want the Town to become responsible forever. Boyd said then the state won't allow sidewalks. The options were to (i) omit sidewalks, (ii) relocate them on Johnson property, or (iii) escrow funds and install them later. Johnson said he could do sidewalks on grass and pavers on the north side. Moore thought that sidewalks done internally on Johnson's property would not be a problem. Hawkins said that would buy time until the situation could be resolved with the State. Morgan emphasized that this NHDOT policy affects the entire State. Moore asked if there was another solution. Garand suggested grass pavers. Boyd suggested gravel and asked for relief.

Garand asked about the dumpster location for the restaurant Johnson said they would need to be relocated. Boyd said to remove some unused pavement and pave elsewhere, or to park on the grass; the gravel needs to be stabilized. This would not cause an increase in non-permeable pavement. Hawkins said that when Johnson returned to the Board he was told to complete the site as in the original approval. The sidewalks is an issue where the Board has to say either there is an impasse, or sidewalks can be moved to private property. Boyd noted a variance would be needed to move the parking. Morgan said other changes would need a public hearing.

MOTION:	Hawkins	to allow the Case #2010-16 Tim Johnson 920 Lafayette road sidewalks to be moved internally on the south side, and to eliminate them on the north side.
SECOND:	Moore	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Kelley;

Johnson said that given the bank's denial, he cannot afford to post the security although he hoped that at some point he might be able to do so. Hawkins asked if there was a timeframe. Johnson could not say. Moore asked the amount of the security. Johnson said \$50,000. Hawkins suggested reducing the amount. Morgan said a list of what was costed for the security would be needed. Hawkins said for



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Johnson to continue making the improvements, and to return to the Planning Board if he wanted to change the original approval terms. He asked for the list comprising the items for the security amount.

Hawkins called attention to the announcement for the **Rails/Trails meeting on September 22, 2010**; anyone can attend.

Hawkins referenced **the dues letter from the Rockingham Planning Commission. The Planning Board share is approximately \$1600 and is in the 2011 Budget.**

PUBLIC HEARINGS

Hawkins opened the public meeting at 7:40PM.

ONGOING CASES

Case #2010-01 – Proposal by Steven Carbone to construct an 11,000 square foot facility for the sale and storage of fireworks at 287 Lafayette Road, Tax Map 9, Lot 64, continued from February 23, 2010; June 15, 2010; July 6, 2010; July 20, 2010;

Attending: Steven Carbone;

Appearing for the Applicant: Wayne Morrill, Jones & Beach Engineers;

Hawkins redistributed information from the Town Planner and the Planning Board engineer, and asked Morrill to bring the Board up to date. Morrill said in August of 2009 they went to the Zoning Board of Adjustment to consolidate and rebuild the building space to 11,000 square feet of which 9046000]]] square feet are for fireworks sales, approximately 300 square feet for offices, and 1064 for additional store space. The plan was reviewed by the Technical Review Committee on March 22, 2010. After the TRC meeting the Applicant decided to go forward with a redesigned plan comprising comments from the Applicant, the TRC, and the Morgan and Fowler comment letters, which it submitted to the Board on September 14, 2010. He said that Fowler had reviewed a slightly different plan, and asked if he would review the new plan set. Hawkins wanted Morrill to address the prior comments noting that they had been made on the original plan, so Morrill would have to lead everyone through those changes as well as the new revisions. The Board would then decide whether to return the case to the TRC.

Morrill read from the Jones & Beach September 21, 2010 written response to the Board referencing the items from the March 22, 2010 TRC Minutes, the Planning Board engineer's memorandum of May 24, 2010, and the Town Planner's memorandum dated January 18, 2010. He noted that the project application was found to be administratively complete by the Board on February 23, 2010. Morrill indicated that corrections had been made to the plans on April 12, 2010 and revised again in the current plans, dated September 14, 2010.

Technical Review Committee Minutes March 22, 2010.

*[[[Secretary's note: The responses that Morrill read into the record are **boldface**. Italics are for reference purposes. The plain text shows the discussion.*

- i. *[re pond elevations, steep slopes, drainage adjustments, swales, waterways]* **With the revision of the parking lot being designed with porous pavement, the size of the ponds were significantly reduced. The discharge from the ponds are through a rip rap [emergency] spillway to reduce the impact to the existing steep slope at the rear**



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- of the property.** Morrill added that the original plan had large ponds to the rear and large pipes discharging down the slope. The revision allows less degradation and reduced pond size which greatly improves the stabilization as Foote had previously suggested that the original design might cause erosion.
- ii. **The pond revision will allow the existing vegetative slope to remain and will not adversely impact Mary's Pond.**
 - iii. **To be addressed later in this response letter.** Morrill added that the driveway would be reduced from 40 feet to 24 feet which allows vehicle traffic to loop around the tent to an "exit-only" to the south. This serves to minimize back-up traffic. Morgan did not see the tent on Sheet C3. Morrill said the id numbers were to the TRC minutes. The tent would be found on Sheet C2.
 - iv. *[satisfy the water superintendent re the sizing of the water lines, shut-offs at the roadways, and oversight for discontinuance of lines.]* **Water tie-ins were modified to allow the domestic water, to the south of the lot, to be reduced to a 1 1/2" service with meter on the building and shut off at the Right-of-Way. The existing 3/4" service to the north of the site will be terminated at the water main and a 6" D.I. water main will be installed by direct bore to the water main in this location.**
 - v. *[explore alternatives and potential tie-ins to neighboring properties rather than dig under the road.]* **We investigated the water design alternatives and found that this design was the best for the applicant.** Morrill said they looked into connecting to the Community Center lines but that would have involved a lot of disturbance of town property. As they had to go into the town right-of-way to remove one line they would do the tie-in through that trench.
 - vi. *[satisfy the sewer superintendent re the placement of tie-ins etc, show sewer easements, renumber manholes, cap lines if needed;]* **Sewer manholes were renumbered, Note #6 on the Site Plan was updated, existing sewer easement width was modified to 28' as recorded [at the Registry of Deeds,] sewer tie-in information was updated.**
 - vii. *[re title block, survey lines etc]* **To be addressed later in this response letter.**
 - viii. **Wetland Scientist stamp has been added to the Existing Conditions Plan (Sheet C1).**
 - ix. **Seasonal sales area and seasonal storage areas shown on the Site Plan (Sheet C2).**
 - x. *[waiver for pavement adjustments]* **A waiver is requested to use the existing pavement location at the front of the site. The proposed entrance will have a 20' green strip and we are requesting that the existing pavement location be allowed for the remainder of the frontage.**
 - xi. *[have traffic engineer stipulate to no expansion of traffic]* **A letter has been previously sent to the Board indicating that the existing square footage of the buildings would not increase with the proposed site development. The zoning approval that was granted allowed the consolidation and rebuilding of structures, but did not allow a change of use or expansion. Therefore, the traffic volume shall remain the same**
 - xii. **Architectural elevations have been added to the plan set.**
 - xiii. *[specify light pole heights and provide cut sheets for wall mount fixtures, temper lighting impact on the Community Center, consider requesting a lighting waiver]* **The Lighting Plan has been updated with pole heights, cut sheets of fixtures and a waiver has been requested for the light trespass on the Community Center.** Morrill pointed out the relevant pages.
 - xiv. **Right-of-Way is clearly shown on the Site Plan (Sheet C2).**
 - xv. *[consider only two lanes for the entrance; anticipate future expansion of Route 1 lane]* **Northerly access to the site has been reduced to a 24' opening. An exit only is to be constructed at the southerly portion of the lot to assist traffic circulation on-site when the seasonal sales area is being used.** Morrill added that there are two 12-foot lanes at the entrance and another lane to exit south.



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- xvi. **The required parking for the proposed building and seasonal sales area is 94 spaces; we are proposing a total of 92 spaces to comply with Zoning Regulations. The seasonal sales and storage areas will be utilized at different times of the seasons and the parking layout will provide sufficient parking for the businesses.**
- xvii **Future dumpster location has been added to the Site Plan (Sheet C2).**
- xviii **Architectural elevation plans have been submitted with this plan set.**

Morgan asked if the definition of or limits to seasonal sales was on the plan. Morrill said it was not. Carbone said the flowers come in as early as mid March and the tent goes up about two weeks before. They are gone by July 4. They used to do fall sales for pumpkins. Morgan's concern was parking which Morrill said he would address later on.

Town Engineer Review (May 24, 2010, revised from February 10, 2010)

- **Sewer (No Comments)**
- **Water (No Comments)**
- **Drainage – We have redesigned a majority of the lot to be porous pavement. This has been used in commercial sites and has been proven to infiltrate surface water into underlying materials. A test pit was performed to determine the depth to the water table and the applicant is aware of the maintenance that will be needed to ensure the pavement functions as designed.** Morgan asked if there was a mechanism to assure the town that maintenance would be done. Morrill said there are notes on the plan and the stormwater maintenance plan would be recorded, and Carbone would sign the plan.
- **Traffic – Curb cuts have been reduced from 40' to 24' and an exit only has been added to the southerly portion of the site to assist in traffic circulation during use of the seasonal sales area.**
- **Escrow (No Comments)**

Town Planner Comments (January 18, 2010)

1. **The stormwater maintenance plan has been updated to be recordable. The plan has been stamped by a State of NH Licensed Land Surveyor and property line information has been added to the plan.**
2. **The plan has been signed by Mr. Carbone, property owner.**
3. **Digital plans will be submitted to the Planning Department once the plans have been approved by the Board and the Conditions of Approval have been met.**
4. **Title block, revision block and signature line have been adjusted to comply with the requirements.**
5. **Plans have been signed and stamped by a Licensed Land Surveyor.**
6. **The edge of Mary's Pond is shown and the 50' setback is depicted. The plans have been stamped by the Wetland Scientist.**
7. **The existing signs will remain; there will be no modification to the existing signs.**
8. **The Liberty Elm complies with Article VIII Section M, which states, "at least one Liberty Elm tree shall be planted on-site". The regulation does not indicate where the tree is to be planted other than "no closer than 150' from another Elm Tree".**
9. **The impermeable surface note on the Site Plan (Note #2) has been updated to indicate impermeable surface proposed 19.5%.**
10. **There is no need for a driveway permit from NH DOT. The use and size of retail is the same as existing. The curb cuts are in the existing locations and are proposed to be**



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- modified to be narrower than what currently exists. Morgan asked if a NHDOT permit was required when the width is adjusted. Morrill did not think this would be required. Henry Boyd informed that the NHDOT now wants to see any proposed adjustment to the curb cuts. Morrill said he would write to the NHDOT for clarification.
11. **Architectural plans have been added to the plan set.**
 12. **Hour of Operation have been listed on the Site Plan (Sheet C2) and Note # [20] on the Landscape and Lighting Plan reads “all outdoor lighting systems shall be equipped with timers to reduce illumination levels to non-operational values per Town Regulations”.**
 13. **Lighting details have been added to the Lighting and Landscape Plan (Sheet L1).**
 14. **See Response #10.**
 15. **We are requesting a waiver from the Planning Board to allow us to use the existing edge of pavement on a majority of the frontage to allow the seasonal sales area to circulate correctly. The northerly entrance has been modified to have a 20' greenbelt where the pavement currently exists.** Morgan questioned whether the proposal changed anything in the zoning regulations, pointing out that the Planning Board cannot change anything that is a zoning regulation such as the minimum width of the greenway. Morrill said this is existing pavement being modified on site. Morgan said that historically, the Planning Board has asked for green-belts when there is redevelopment, although not a lot of this was done in recent years. The minimum width for greenbelts along Lafayette Road is 20 feet. Hawkins asked for an explanation. Morrill they are modifying where ordinarily the pavement goes up to a green strip which may become a sidewalk in the future. As they are reducing the width of the driveway that goes up to the building from 40 to 24 feet; ordinarily they would replace some pavement with grass. However, for this project they want to retain the rest of the pavement on the site. Morrill showed the area on the plan. Morgan called attention to the State's insistence that towns take on the responsibility for sidewalk; maintenance. Morrill said the proposal is consistent with sidewalks at the Community Center Carbone said he only gave the state authority to put snow on the strip and did not sign it over to the State. Morrill said there is a small section that is State property from the edge of the curb to the property line. If this is an issue, he thought the sidewalk could go back onto the property side if the State would not maintain it. Garand said that at the Carbone meeting the ZBA asked about where the tent would go etc and thought the ZBA minutes should be consulted. Moore said if internal sidewalks were required it would also cut into the green strip. Garand agreed, and was not sure how to resolve it at this point. Morrill thought that the current small green strip would probably have to remain and Carbone would have to construct a sidewalk on the inside that would come out to connect with the sidewalk at the Community Center. At the ZBA they went through all of the uses and all of the trailers currently on the site. He thought the ZBA's approval was to bring all of those uses into one structure. Hawkins asked why the green strip could not be moved up to the parking spaces. Morrill said the problem is that the tent is 90 feet wide and protrude into the driveway so that cars could not get around the tent eliminating circulation on the site. Hawkins thought that confusing as there were parking spaces between the entrance and the exit, and another area up to the road. Morrill said if the tent were moved it would go into the driveway and there would be no way to get in and out. Hawkins asked if the tent could be mounted on grass. Morrill said the carts that people use when they buy plants wouldn't move very well on grass. Garand commented that to move materials also require a smooth surface.
 16. **The seasonal sales area is where the applicant currently sets up a tent to sell flowers and other outdoor items. When this area is not in use, the tent and display items will be stored in the seasonal sales storage area. The current operation utilizes 56 parking spaces when the tent is in use and we have redesigned the site to maintain the 56 spaces during the seasonal sales area use times.**



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17. **Cross walks have been added to the driveways along Lafayette Road.** Morrill said these would have to be moved to internal space.
18. **The driveways have been redesigned from the 40' originally proposed to a 24' northerly curb cut and an exit only on the southerly portion of the lot.**
19. **A waiver has been requested for the lighting impact on the Community Center.**
20. **Parking has been modified to have 94 spaces required and 92 spaces provided to comply with the parking regulations.**
21. **A future dumpster location has been added to the Site Plan (Sheet C2).**
22. **Snow storage areas have been moved away from Lafayette Road to not impede the view of motorists exiting the site.**
23. **Planning Board Case No. 2010-01 has been added to the plan cover sheet.**

Garand asked if the ZBA case # was notated. Morrill showed this. Garand asked about external machinery not being discernable to the neighbors. Morrill will clarify this. Garand asked if there was a rendering of the building. Carbone said it would be blue. Because of the changes, Garand thought the fire department should comment on the revisions. Morrill agreed, and said the department heads should also see the revisions. Kelley asked if the only time there are 92 spaces is when there is no seasonal tent. Morrill said there are never 92 spaces and showed the parking area when the tent is up and when it is not; things are moved around depending on the season. Hawkins asked what happens on the /fourth of July. Carbone said the tent is down and all the left-over plants are moved to the back. Hawkins asked if the seasonal tent would go up in the fall. Carbone said possibly if they bring in pumpkins, noting that the fireworks and flower seasons are short. There would be enough parking even if the tent stayed up but the sales seasons would be shut down, but they always take down the tent for the Fourth.

Hawkins asked if the only light related waivers were a request to waive the impact on the Community Center. Morrill showed where a few lights exceed the regulation, and said that at the TRC Foote noted that the Community Center area near those lights is fairly dark and the lighting would be good for events. Morrill said that there have been discussions with Carbone to allow some overflow parking for safety purposes. There had also been discussions about connecting the two sites but there was some concern about connecting a retail site to a community site. Hawkins asked if Board members had issues with the lighting waiver; there being none. Hawkins asked if a waiver was needed re the green strip. Morgan read from the regulations and said in the past the green strip was required when there was development or redevelopment, although the Board had decided a green strip wasn't needed for a recent convenience store case. The Board would have to decide. Moore also noted that sidewalks would be up to the green belt. Thibodeau asked about the appliance store. Carbone said that building would come down and the store would relocate in the building.

Hawkins thought many of the revisions should be taken up in the TRC. Morrill agreed. He asked for a picture of the building at the next meeting because he would feel more comfortable knowing the intention for what the building would look like. He wanted to avoid a barn-like building. Carbone said it would look like the [Cigarette City] building with high ceilings and would look nice.

Hawkins scheduled Case #2010-01 Carbone for TRC on October 4, 2010 at 10AM in Seabrook Town Hall, and continued Case #2010-01 Carbone to October 19, 2010 at 6:30PM in Seabrook Town Hall.



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Case #2010-18.07-06, a proposal by Raman Patel to establish a 1,713 square foot convenience store at 609 Lafayette Road, Tax Map 8, Lot 3, continued from July 6, 2010, July 20, 2010; August 17, 2010;

Attending: Steve Nichols,

Appearing for the Applicant: Henry Boyd, Jr, Millennium Engineering; Bruno Campea, Bay State Engineering;

Boyd said for the revised plans a dumpster and pad, and one parking space had been added. Boyd said the issues are with the traffic and that \$12,000 and a great deal of effort had been spent on a traffic analysis for 1700 square feet in an existing approved building. The applicant was nervous about his least contract. He noted that the space was 1/3 the size of the corner store used as the comparative traffic basis and hoped the Board had read the amendment to the traffic study. He said that Nichols would speak to the parking issues and that there finally was a solution.

Nichols said he had told each of his tenants that it is time to resolve the parking and vehicle issues. The businesses in the rear need 36 spaces of which about 30 will be allocated to and specified for them; 6 will be free spaces. If this policy is abused, the tenant will be terminated. Hawkins said the site is a mess; the allocations will be support for enforcement. The site has to have fewer cars and not be used as a junk yard. Nichols agreed. Hawkins asked for Garand's view. Garand had no problem with Nichols' proposal, but said today there were still 69 vehicles. Nichols should have written agreements to resolve the problem. Kelley asked about car sales and if there were a permit for 50 cars. Nichols said the tenants cannot use the front spaces so they can't have 50 cars; they were using the space until there is a new tenant. Garand asked about cars in the right-of-way for which there is no approval. Nichols said he does not own that area. Boyd said no cars are supposed to be there. Garand said the site is overburdened with cars and a junk yard is not allowed. He cautioned that if fines for violations were imposed, the citations would go to Nichols. Boyd said the building had been improved. Garand said the building is beautiful.

Hawkins asked for further comments re parking; there being none. The other issues were the dumpster and how the delivery trucks would be able to turn around on site without having the same problem as the other convenience stores have. There is no parking on Route 1. Boyd said there is no shoulder and loading is in the rear with 22-foot trucks. Garand asked how the trucks would exit. Kelley said that backing up a truck is dangerous. Boyd said there is no way for semis to turn in a loop. Hawkins asked for the traffic update.

Campea said that his trip generation figures were thought to be too low at the last hearing. The solution was suggested to be to do a specific count in the area. That data is found in Addendum # 1 to the Traffic Study. The ITE Trip Generation result was 68 trips at the evening peak and 96 trips at the Saturday peak. The new counts were done the first week in August on weekdays between 4 – 6 PM, and from 12 – 2 on Saturday. When made comparable pro rata to the 7700 square feet Cigarette City site, the ITE showed the weekday peak at 22 trips and the Saturday peak at 31. Hawkins asked what determines the ITE designations. Campea said the type of facility and the square-footage for a convenience market open from 15 -16 hours a day. Morgan agreed with Campea's methodology up to Campea's last step of dividing the count by 3. He said that product selection and price were the important criteria for customers. Hawkins wanted that criteria applied to this situation. Morgan believed that ITE looks nationwide, but the patrons from Massachusetts are different, although he thought the cigarette City was a good comparable. The issue was money toward the bridge. Moore felt Campea's figures were low but would be under the criteria even if doubled. Big trucks and traffic were the problem. He wasn't convinced that a convenience store is the highest and best use and wasn't comfortable. Boyd said other convenience stores have 2-3 cars and were not a destination. This store would have "impulse" buyers. He noted the space had been vacant for four years.



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Kelley said the money spent was not germane to the safety decision. Campea felt that the opposition was not based on fact, but on the “convenience” store purpose. Kelley said that was not so. Morgan said the important factor was money for the bridge. Thibodeau said this area is such a busy intersection that she goes down to I-95 to come back along route 107. The traffic is getting worse and worse and the Route 1 traffic had to get straightened out. It wouldn’t generate that much more than currently – it would not be a gas station. Kelley was concerned that trucks would park on Route 1. Fowler did not see that happening. Hawkins said which calculation should be used had to be resolved. The standard trip calculation puts them into an extraction; the august figures were less. He wanted the standard calculation to be used for every situation; it would be dangerous to turn away from the standard calculation, and the bridge would be about two years away. Moore asked how to group the results and create the allocations. Morgan said the qualifying factor was an additional 50 trips per hour, and that cars at convenience stores would go quickly in and out. Hawkins said to use the trip figures in the ITE to figure the extraction and it would be separate trips in and then out. Campea said that the ITE is above 50 and said he must do the figuring with Morgan to come up with the calculations. He believed no payment is due. Hawkins said one trip in and one trip out equals two trips. Morgan suggested he contact VHB for clarification of the how they worked the formula. Campea said he had to do an analysis.

Hawkins said that Campea and Morgan should resolve the extraction, but they must use the industry standard methodology. Campea asked if the Board would be giving a conditional approval except for the exaction agreement. Hawkins polled the board as to whether to use the ITE standard or the various one-day actual. Moore said the Board had to be consistent when covering siteplan issues; it would be a shame to require the actual instead of the standard. Thibodeau said to use the same methodology as DDR. Hawkins noted that Route 1 improvements would have to come from developers; Morgan and Campea would have to resolve this issue. Morgan asked if the ITE accounts for various scenarios for comparisons. Campea said the convenience store category is limited. Aboul Khan expressed concern about delivery trucks and pointed out that the deliveries for the store at 100 Lafayette Road all are made from the street. Vendors never use smaller trucks; they go by the route requirements. Khan said that he had been a Planning Board member during the building application process. At that time, he had asked if the remaining space would be a convenience store, to which Boyd had answered “no”. Khan’s concern is for the truck turn-around. He thought this space was good for retail, but not for a convenience store.

Hawkins recited the following conditions to approval:

- (i) written parking agreements with slots assigned for each tenant;
- (ii) notate no deliveries from Route 1 on the plan;
- (iii) a traffic extraction calculation be agreed between the town Planner and the applicant’s traffic expert; such calculation to be incorporated into this approval;
- (iv) notations.
- (v) signage compliance; and
- (vi) crosswalk striping across the driveway.

Hawkins thought that cars and trucks wouldn’t block the driveway. Nichols commented they would get killed. Thibodeau noted the waiver requests for landscaping installation and signage detail.

MOTION:	Hawkins	to waive the landscaping installation for Case #2010-18.07-06;
SECOND:	Moore	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Present: Kelley;



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MOTION:	Moore	to waive the depiction of signage details for Case \$2010-18.07.06
SECOND:	Hawkins	Approved: Unanimous

MOTION:	Hawkins	<p>to approve Case #2010-18.07-06 Raman Patel to establish a 1,713 square foot convenience store at 609 Lafayette Road, Tax Map 8, Lot 3, conditioned on</p> <ul style="list-style-type: none"> (i) written parking agreements with slots assigned for each tenant; (ii) notate no deliveries from Route 1 on the plan; (iii) a traffic extraction calculation be agreed between the Town Planner and the applicant's traffic expert; such calculation to be incorporated into this approval and notated on the plan; (iv) signage compliance; and (v) crosswalk striping across the driveway.
SECOND:	Thibodeau	Approved: In favor - Hawkins, Moore, Thibodeau, Fowler; Opposed - Kelley;

OTHER BUSINESS

Case #2005-42 Bagley - Dows Lane Culvert status update continued from July 6, 2010. Garand said that this work is satisfactory without need for more attention by the Board.

Hawkins adjourned the meeting at 9:40 PM.

Respectfully submitted

Barbara Kravitz, Secretary
Seabrook Planning Board