

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MINUTES OF AUGUST 25, 2010 MEETING**

Members Present: Robin Fales, Teresa Rowe, Henry Therriault, Dr. Lebold and Mike Lowry

Others Present: Paul Garand, Code Enforcement Officer and Jo-Anne Page, Secretary

H. Therriault opened the meeting at 7:05 PM and explained the procedure to all in attendance.

OLD BUSINESS:

Minutes of July 28, 2010 Meeting

Motion: Dr. Lebold Accept minutes of July 28, 2010 meeting as presented
Second: M. Lowry
Yes: Unanimous

Minutes of July 28, 2010 meeting accepted as presented.

Case #2010-012 John Abbiuso and Edward J Geskus, 67 Stard Road, Map 4, Lot 14, Sequence 118 for Equitable Waiver of Dimensional Requirements to Article XIV, Table E (Buffers & Setbacks) to Permit Construction Within 25 Feet of Wetlands Greater Than 5,000 Square Feet in Zone 1 (Continued from June 23, 2010 Meeting and July 28, 2010 Meeting)

Attorney Mary Ganz and Wayne Morrill from Jones and Beach appeared on behalf of this application.

Attorney Ganz explained that this was a lot attached to the Pineo Farms Subdivision. She handed the board members copies of a Planning Board meeting which never stated which of the lots would have single family homes and which were duplex lots. She stated that it only stated how many duplex and single family homes were on the project, not which lots were designated. She handed the board members a letter from the attorney general's office in reference to the duplex lots. She stated that this property had always been planned to be a duplex lot.

T. Rowe asked how many duplex lots were there now.
Attorney Ganz stated that there were 22 duplex lots.

P. Garand stated that he had the original Planning Board files with him tonight and he could produce them if the Board of Adjustment wanted to see them. He stated that the single family and duplex lots are designated on the subdivision plan.

Dr. Lebold asked what was shown on the plans.
P. Garand stated it showed this particular lot as a single family lot.

Attorney Ganz stated that the plan was a topographical map and not a subdivision plan that was recorded. She stated that the declaration of restrictions dated December 2004 talks about lots referring to a plan. The law for the ZBA is not to be looking at the restrictions of the deeds. She stated that they were before the board this evening because of a 2004 plan that was recorded.

T. Rowe asked about the number of duplexes in the subdivision now.
Attorney Ganz stated that the plan had shown 5 single family homes and 23 duplexes. She pointed out that only 22 duplexes had been built at this time.

T. Rowe stated that Mr. Pineo did not want to give up his right to have his duplex lot at this time. She said that the proposal would make Mr. Pineo's lot not a duplex lot. Attorney Ganz stated that the letter from the Attorney General's office approval shows map, lot and sequence approval. She pointed out these letters were dated July 29, 2005 with an amended letter dated November 3, 2005.

P. Garand stated that Tom Morgan, Town Planner, thinks that the ZBA should not vote on this request.

W. Morrill stated that the topographical plan showed the single family lots and duplex lots on it.

P. Garand stated that the Pineo lot is still a duplex lot even though there is only a single family home on it.

W. Morrill pointed out that when this plan was first approved there was enough land to build a duplex on this lot but the wetland restrictions had changed.

P. Garand stated that this lot was for a single family home when it was approved and his office would not issue a building permit for a duplex.

W. Morrill stated that the issue here tonight was setbacks and wetlands.

P. Garand stated that was true and it would also restrict the building envelope.

W. Morrill stated that the original plan allowed building within 25 feet of the wetlands and the request is to go within 10 feet of the wetlands are originally approved in 2004. He also pointed out that water and sewer are already on this lot.

H. Therriault stated that without speaking with legal counsel he believes the Planning Board approval would continue with the property.

Attorney Ganz stated that the approval was only good for four years after it was recorded and that is why they were here tonight.

H. Therriault asked if this was only for a wetlands setback and not the duplex.

P. Garand stated this request was to build within 10 feet of the wetlands. He said this is no changing anything on the approved plans, just allowing the original approval. He also stated that he would like any reference to a duplex structure on this lot stricken from the records.

T. Rowe asked if a single family home could go on this lot. She stated that she would like to see the box drawn out.

P. Garand stated that it would be a long narrow structure. He stated that this lot has a lot of contiguous uplands on this lot and the wetlands are on the backside.

John Abbiuso, 8 Red Fox Road, North Hampton, NH stated that he had purchased this property with a duplex in mind. He said that cost is an issue. He said that a single family structure could go there. He said that cost is an issue. He also stated that a single family home could go there but would be very small and would impact surrounding properties.

R. Fales stated that she might like to discuss with legal counsel also.

T. Rowe said she was not comfortable with this request.

M. Lowry pointed out that this request was for wetland setbacks only.

Dr. Lebold stated this was just for 10 foot wetland setbacks.

P. Garand said this would be to grant the same approval as in 2004.

H. Therriault stated that this request was for dimensional relief only. He also stated that if there were not more questions or comments it was time to vote on the application.

	T. Rowe	R. Fales	H. Therriault	Dr. Lebold	M. Lowry
1	Yes	Yes	Yes	Yes	Yes
2	No	No	Yes	Yes	Yes
3	No	No	Yes	Yes	Yes
4	Yes	Yes	Yes	Yes	Yes
5	No	No	Yes	Yes	Yes

Motion: Dr. Lebold Grant applicant's request for relief to the 10 feet from wetlands as the
Second: M. Lowry Planning Board originally granted. Further move to stricken any picture
or reference to a Duplex Structure on this lot from any notes. At this time
the Planning Board approval the wetland setback was 10 feet and has
since been changed to 25 feet.

Yes: Dr. Lebold, M. Lowry and H. Therriault
No: R. Fales and T. Rowe

Request for Variance at 67 Stard Road is granted.

NEW BUSINESS:

Case #2010-016 Jacqueline L Bagley, 60 Pine Street, 60 Pine Street, Map 8, Lot 15 for Variance to Article VI to Permit Two Dwellings on Less Than 45,000 Square Feet in Zone 2R

Jacqueline Bagley appeared on behalf of this request. She stated this request was to have a second family unit on 40,000 square feet. She said that nothing will change, it is already there and just larger than a family apartment.

P. Garand stated that this is in the garage which is 200 feet from the house.

J. Bagley stated there are already separate utilities at this location.

H. Therriault asked when the buildings were built.

J. Bagley said they were built 30 years ago. She said the building was originally built as a warehouse for the business they had.

P. Garand stated there was always a kitchen and bathroom there and somewhere along the line it evolved into a living unit.

J. Bagley stated that when the business was gone from that location it became a living unit.

H. Therriault asked about the sign out front for a business.

J. Bagley stated that was the neighbor's sign. She advised that she had owned the property since 1969 and it was all fenced in.

P. Garand stated this is a large lot and always be family occupied.

H. Therriault stated that this request was for dimensional relief only. He also stated that if there were not more questions or comments it was time to vote on the application.

	T. Rowe	R. Fales	H. Therriault	Dr. Lebold	M. Lowry
1	Yes	Yes	Yes	Yes	Yes
2	Yes	Yes	Yes	Yes	Yes
3	Yes	Yes	Yes	Yes	Yes
4	Yes	Yes	Yes	Yes	Yes
5	Yes	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant variance for a second dwelling building on a 40,000 square
 Second: M. Lowry foot lot which would require 45,000 square feet.
 Yes: Unanimous

Request for Variance at 60 Pine Street is granted.

Case #2010-017 Ralph Welch, 43 New Zealand Road, Map 7, Lot 79 for Special Exception to Article VII, Paragraph B to Allow Family Apartment in Zone 2

Ralph Welch appeared on behalf of this application. He stated his request was to put a family apartment over the garage behind the house.

H. Therriault asked if he knew the Special Exception requirements.
 R. Welch stated he did and the size of the living space could not be more than 750 square feet.

P. Garand stated that due to the stairway and the garage area having a high ceiling that head room was lost.

Paula Chilson, 41 New Zealand Road, stated that she has no problems with this request as long as the ordinances are observed.

H. Therriault stated that this request was for dimensional relief only. He also stated that if there were not more questions or comments it was time to vote on the application.

	T. Rowe	R. Fales	H. Therriault	Dr. Lebold	M. Lowry
A	Yes	Yes	Yes	Yes	Yes
B	Yes	Yes	Yes	Yes	Yes
C	Yes	Yes	Yes	Yes	Yes
D	Yes	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant Special Exception for family apartment above the law complying
 Second: M. Lowry with Family Apartment Requirements existing at present in the Town of
 Yes: Unanimous Seabrook.

Request for Special Exception at 43 New Zealand Road is granted.

Motion: Dr. Lebold Adjourn
 Second: M. Lowry
 Yes: Unanimous

Meeting adjourned at 7:55PM

 Henry Therriault, Chairman

 Date