

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MINUTES OF AUGUST 28, 2013**

Members Present: Teresa Thurlow, Robin Fales, Henry Therriault, Dr. Robert Lebold, Mike Lowry and John Kelley

Others Present: Paul Garand, Building Inspector, and Jo-Anne Page, Secretary

H. Therriault explained the procedure for the meeting. He stated the meeting had been posted at the Seabrook Town Hall and Seabrook Post Office and in the Newburyport Daily News. He further explained that this meeting is being recorded and available on DVD at the Town Hall.

OLD BUSINESS:

Minutes of July 24, 2013 Meeting

Motion: Dr. Lebold Accept minutes with the following changes:
Page 2 – “Henry Boyd, Millennium Engineering, appeared on behalf of this application.” Add **“Applicant accepted only three (3) ZBA members and all would have to vote yes.”**
Page 2 – “H. Boyd sad that it is the same and they would need an industrial variance to allow traffic.” Change “sad” to **“said”**
Page 2 – “J. Kelley stated this could be sole the same as Hanna Food property was.” Change “sole” to **“sold”**
Page 3 – “H. Therriault stated that he cans see the problems of houses with complaints.” Change “cans” to **“can”**

Second: M. Lowry

Yes: Dr. Lebold, M. Lowry, H. Therriault, J. Kelley and T. Thurlow

Abstain: R. Fales

Minutes of July 24, 2013 Meeting accepted with changes noted above.

REQUEST FOR REHEARING for Case #2013-008 Shawn and Laurel McKenna, 27 Foggs Corner Road, Map 7, Lot 4 for Variance to Section 7, Sub-section Dimensional Requirements to permit Two Dwelling Units on less than 30,000 square foot lot in Zone 2R.

H. Therriault asked if S. McKenna would be able to speak to the issues in RSA 674. S. McKenna stated that he could answer the questions in support of this application.

Motion: H. Therriault Accept rehearing to clarify RSA's in this case

Second: NO SECOND

Motion fails.

Dr. Lebold stated that this case would set a precedent for other properties.

M. Lowry said that the applicant had implied that the ZBA would be displacing his tenant if the variance was denied, however the property is up for sale now and that will displace the tenant.

J. Kelley stated that he was offended with the reasonable person comment.

Motion: Dr. Lebold Having reviewed the applicant's request for rehearing, the revised court
Second: M. Lowry findings, our zoning laws and our original decision in his variance request
there is no new evidence that has been presented to grant a rehearing.
Move to deny the request for rehearing.
Yes: Dr. Lebold, M. Lowry, R. Fales, T. Thurlow and J. Kelley
No: H. Therriault

Case #2013-008 27 Foggs Corner Request for rehearing is denied.

NEW BUSINESS:

Case #2013-11 David Eaton, 9 Autumn Way, Map 8, Lot 41, Sequence 4 for Special Exception to Section 8, Sub-section 8.200 to Allow Family Apartment in Zone 2R

David Eaton appeared on behalf of this application. He stated that he was looking to have a family apartment.

H. Therriault asked if he was familiar with the codes.
D. Eaton stated he was.

Dr. Lebold asked if this was all set.
P. Garand stated it was an after the fact request but did meet with all the requirements.

M. Lowry asked who would be there.
P. Garand said it was the applicant's mother.

H. Therriault stated that if there were no more questions or comments it was time to vote on the application.

	T. Thurlow	R. Fales	Dr. Lebold	M. Lowry	J. Kelley
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 the Special Exception for a Family Apartment adhering to the
Second: M. Lowry definition of family apartment (blood or marriage) and adhering to the
Yes: Unanimous requirements of Section 8.200 of Zoning Laws as of August 2013

Case #2013-11 9 Autumn Way request for Special Exception for Family Apartment is granted

Case #2013-12 James & Janice Michienzi, 163 Walton Road, Map 13, Lot 31 for Special Exception to Section 8, Subsection 8.200 to Allow Family Apartment in Zone 2R

Jim and Janice Michienzi, Kensington, NH appeared on behalf of this application. They stated that they wanted to purchase this property and keep the family apartment there.

P. Garand stated that this was former Curley homestead. He said that it met all the criteria for a family apartment.

M. Lowry questioned the request coming before the board at this time.

P. Garand stated that this was part of the purchase and sales agreement to get the family apartment approved.

H. Therriault stated that if there were no more questions or comments it was time to vote on the application.

	T. Thurlow	R. Fales	Dr. Lebold	M. Lowry	J. Kelley
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 the Special Exception for a Family Apartment adhering to the
Second: M. Lowry definition of family apartment (blood or marriage) and adhering to the
Yes: Unanimous requirements of Section 8.200 of Zoning Laws as of August 2013

Case #2013-12 163 Walton Road request for Special Exception for Family Apartment is granted.

Case #2013-13 Fredrick & Pauline Bowdren, 104 Railroad Avenue, Map 9, Lot 23 for Special Exception to Section 8, Subsection 8.200 to Allow Family Apartment in Zone 2R

Dale Sprague appeared on behalf of this application. He was representing the applicants. He said that reaffirming this family apartment is part of the purchase and sales agreement that is on the property

H. Therriault asked if they were familiar with the requirements of the family apartment.
F. Bowdren stated they were.

H. Therriault stated that if there were no more questions or comments it was time to vote on the application.

	T. Thurlow	R. Fales	Dr. Lebold	M. Lowry	J. Kelley
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 the Special Exception for a Family Apartment adhering to the
Second: M. Lowry definition of family apartment (blood or marriage) and adhering to the
Yes: Unanimous requirements of Section 8.200 of Zoning Laws as of August 2013

Case #2013-13 104 Railroad Avenue request for Special Exception for Family Apartment is granted.

REQUEST FOR REHEARING for Case #2013-010 Heirs of Charlotte K. Marshall, 49 Rocks Road, Map 7, Lot 104 for Variance to Section 6 Permitted Land Uses Table and Section 7 Dimension Regs to permit Residential Use per Zone 2R Regulations in Zone 3

M. Lowry and T. Thurlow recused themselves from this request as they are abutters to the property.

M. Lowry asked what the new evidence to rehear the case was.
Dr. Lebold stated a letter from NextEra and that some procedures were not covered in the last meeting.

Henry Boyd, Millennium Engineering, stated that he had provided a letter from NextEra denying the property in question access to the power plant road. He said that he is familiar with the property.

H. Therriault talked about Section 3, specifically 3.200 about lots divided by zoning districts. He said the Planning Board could get involved with this request. He wanted to know why ask for a variance if the Planning Board could take care of this issue.

H. Boyd stated he felt the Planning Board would send this back to the ZBA for jurisdiction. He said there are traffic issues and the zoning line bisects each parcel.

P. Garand pointed out there is no legal road frontage for this property. He said that this is before the ZBA for clarification. He stated that a small wedge of this property is residential.

Motion: Dr. Lebold Grant request for rehearing for some housekeeping issues and the new
Second: H. Therriault evidence from the NextEra letter.
Yes: Dr. Lebold, H. Therriault and J Kelley
Abstain: R. Fales

Case #2013-10 49 Rocks Road Request for Rehearing is granted. Case will be heard on September 25, 2013.

Motion: Dr. Lebold Adjourn Meeting
Second: R. Fales
Yes: Unanimous

Meeting adjourned at 7:50 PM.


Henry Therriault, Chairman


Date