

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MARCH 25, 2009**

Members Present: Teresa Rowe, Lucille Moulton and Mike Lowry

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

OLD BUSINESS:

Minutes of February 25, 2009 Meeting

Motion: M. Lowry Accept minutes of February 25, 2009 meeting as presented
Second: L. Moulton
Yes: Unanimous

Minutes of February 25, 2009 accepted as presented.

T. Rowe explained the procedure for the meeting and also stated that there were only three Board of Adjustment Members present so the applicant would have the option to continue their request until the next meeting for a full board.

Case #2009-03 NH Academy of Performing Arts, 875 Lafayette Road, Map 7, Lot 20 for Variance to Article XII to Permit Non-Conforming Outdoor Sign in Zone 2 (Continued from February 25, 2009)

T. Rowe asked the applicant if they wished to go forward with a three member board of continue until the April meeting for a five member board.

Robin Lundgren, Operations Manager, appeared on behalf of this application. She advised that she wished to go forward with the application.

R. Lundgren explained that the sign has been damaged over the years and is in need of repair. She stated that the proposal is more esthetically pleasing. She pointed out that the request was for a Variance to the six foot height requirement. She stated that she had spoken to one of the abutters who were in agreement with this proposal. She said that the sign would be in the same location, the 30 foot setback could not be met and that it would look better.

T. Rowe asked how far from the roadway the sign was now.

P. Garand stated it was 14 feet from the pavement.

L. Moulton stated that the new sign was narrower and nicer looking.

R. Lundgren agreed.

T. Rowe stated that if there were not more questions or comments, it was time to vote on the application.

	M. Lowry	T. Rowe	L. Moulton
1	Yes	Yes	Yes
2 A/B	Yes	Yes	Yes
3	Yes	Yes	Yes
4	Yes	Yes	Yes
5	Yes	Yes	Yes

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Motion: T. Rowe Grant request for Variance at 875 Lafayette Road as requested
Second: M. Lowry
Yes: Unanimous

Request for Variance at 875 Lafayette Road is granted as requested.

Case #2009-05 Holiday Inn Express/JD Hospitality LLC, 11 Rocks Road, Map 7, Lot 99 for Variance to Article XII, Table 3 to Permit Second Freestanding Sign in Zone 2(Continued from February 25, 2009)

T. Rowe asked the applicant if they wished to go forward with a three member board of continue until the April meeting for a five member board.

Heather Dudko, Hazel Wood Hopkins, appeared on behalf of this application. She stated that Mr. Patel, the owner of the property, was also in attendance.

H. Dudko stated that there had been a lot of discussion last month about reducing the size of the sign in this request. She further advised that after a lot of discussion during the past month a plan for a new sign had been made and she passed it out to the board members. She stated that this sign will be at the same spot as determined by the Planning Board and that only the side facing Route 1 will be lit.

P. Garand explained that all votes would have to be unanimous on this application or the applicant could request to continue to the April Meeting. He pointed out that if the application is denied at this meeting it could not be brought up again.

Mr. Patel stated that he wished to continue this until the April Meeting when there would be a five person board.

Motion: M. Lowry Continue this application to April 22, 2009 at the request of the applicant
Second: T. Rowe
Yes: Unanimous

Request for Variance at 11 Rocks Road is continued to the next scheduled meeting of the ZBA on April 22, 2009.

NEW BUSINESS:

Case #2009-06 Christopher J Richard, 19 Fowlers Court, Map 15, Lot 68, Sequence 1 for Variance to Article VI to Permit Minimum Setbacks in Zone 2

T. Rowe asked the applicant if they wished to go forward with a three member board of continue until the April meeting for a five member board.

Cam Richard, 42 Riverside Drive, Greenland, NH, appeared on behalf of this application as authorized by letter from the applicant. He stated that he wished to go forward with the application at this time.

He explained that the request was to add a third floor master suite on this house and try to square it up a bit.

P. Garand stated that there was mixed zoning in this area when the house was built and at one point it was conforming.

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H. Boyd, resident, stated that he was familiar with this property and feels that the proposal is good.

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

	M. Lowry	T. Rowe	L. Moulton
1	Yes	Yes	Yes
2 A/B	Yes	Yes	Yes
3	Yes	Yes	Yes
4	Yes	Yes	Yes
5	Yes	Yes	Yes

Motion:	M. Lowry	Grant request for Variance at 19 Fowlers Court to permit third floor
Second:	L. Moulton	addition with the back side being squared off and an overhang of
Yes:	Unanimous	approximately 1 foot

Request for Variance at 19 Fowlers Court is granted.

Case #2009-07 Robert Sproul, 2 Greystone Lane, Map 14, Lot 15, Sequence 2 for Variance to Article VI, Table 2, Paragraph 4 to permit Widening of Existing Deck to 10 feet Requiring an 11 foot setback in Zone 2

T. Rowe asked the applicant if they wished to go forward with a three member board of continue until the April meeting for a five member board

P. Garand advised the applicant that the property had been before the Board on another occasion for the same variance request and that prior to the Board hearing the new request it would be required that the Board decide if the request was substantially different from the prior request. P. Garand stated that the applicant had the opportunity to continue the hearing to next month, when the applicant's request could be heard by the full Board and that if the Board determined that the new request was the same as the last, the Board would not hear the new application.

H. Boyd and R. Sproul agreed to go forward.

Henry Boyd, Millennium Engineering, stated that October 2008 meeting the applicant did not realize what he should have done. He said that the no vote on the application was due to the fact that the R. Sproul did not have a plot plan at that time. He believed that made this application different.

P. Garand stated that there was correspondence from Town Counsel which stated the facts of this application must have changed substantially. He covered the questions submitted by counsel. The questions were:

“a – there has been material change of circumstances affecting the merits of the application, or;
b – the second application is for a use that materially differs in nature and degree from the previously applied for and denied.”

H. Boyd stated that there is change in the application because now there is a plan showing the lot line.

H. Boyd covered the letter he submitted with the application stating why this case should be heard. He advised that the radius points were not a continuous arc as per the original plan. He stated that this might have been why the house was placed where it was because they had been unsure where to place things. He said that at the original hearing a 10 foot deck was mentioned. He pointed out that the current deck is in need of replacement and the applicant wants a 12 foot deck. He said that it was a second floor deck and would be about 16 to 19 feet into the setbacks.

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P. Garand asked what the current decks setback was to the property line at the closest point to the radius.

H. Boyd stated he had not put that dimension on the plan and that it was approximately 17 feet to radius and meets most of the setbacks.

P. Garand stated to the board that the two issues pointed out by town counsel needed to be met and voted on if the application was to be heard.

H. Boyd stated that this was an expansion of the use.

P. Garand said that both of the applications on this property asked for relief from setbacks. He stated that the board members would have to take a roll call vote to see if they wished to go forward on this application.

H. Boyd stated that this would ridiculous to have to take this matter to court and that the owner should not have to go to court in order to repair an existing deck.

P. Garand stated that the existing deck would be a non-conforming structure and that it would not require a variance for setback, but a variance to change a non-conforming structure.

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

Secretary J. Page asked each member individually if they were voting yes or no to whether or not there was new evidence in the application.

M. Lowry	No
T. Rowe	Yes
L. Moulton	No

Motion:	M. Lowry	Deny hearing application as this is similar to Case #2008-14 heard on
Second:	T. Rowe	October 22, 2008 as per standards in Fisher v. City of Dover, 120 N.H.
Yes:	Unanimous	187 (1980)

Request for Variance at 2 Greystone is denied as per standards in Fisher v. City of Dover, 120 N.H. 187 (1980)

Motion:	T. Rowe	Adjourn
Second:	L. Moulton	
Yes:	Unanimous	

Meeting adjourned at 7:54 PM

Teresa Rowe, Vice-Chairman
Board of Adjustment

DATED: _____