

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

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

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

OLD BUSINESS:

Minutes of March 25, 2009 Meeting

Motion: M. Lowry Accept minutes as presented
Second: T. Rowe
Yes: Unanimous

Minutes of March 25, 2009 accepted as presented.

Minutes of April 22, 2009 Meeting

Motion: Dr. Lebold Accept minutes as presented
Second: R. Fales
Yes: Unanimous

Minutes of April 22, 2009 accepted as presented.

H. Therriault explained the procedure for the meeting to all in attendance.

T. Rowe read each of the legal notices for the cases.

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 March 25, 2009)

Heather Dudko, Philadelphia Signs and Eric Patel, Holiday Inn Express appeared on behalf of this application.

H. Dudko stated that this request was to move a sign and replace it with a more appropriate sign. She stated that the 19 square foot sign would be considered a second sign. She pointed out that customers have complained to the hotel about the entrance not be marked well. She also said that when the hotel was originally constructed the proposal for the front lot was a restaurant but had been changed to a store. She said that the sign would not cause any safety issues and would help with visibility. She pointed out that the proposal in January/February 2009 was for a larger sign but the Board of Adjustment clearly wanted a smaller sign. She said that they had met with corporate and finally come to a mutual agreement on a sign. She stated that this proposal would be lit only on the side facing Route 1.

H. Therriault asked if E. Patel was involved when the site was first developed. He said that the Planning Board has worked hard on the sign ordinance. He questioned what the big change was with a store at that location versus a restaurant.

E. Patel said he was partially involved. He replied that there is a problem with the visibility of where to go to get into the hotel.

H. Dudko said the change was the location of the building/

T. Rowe asked if the sign was 8 feet tall and only 4 feet from the bottom.

H. Dudko said that was correct.

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

T. Rowe asked if they would go with a smaller sign.

E. Patel stated that corporate has specific requirements that have the logo on it.

M. Lowry stated a directional sign might work.

R. Fales asked why they did not speak up at the planning board meeting when the store was proposed.

T. Rowe said that the size of the sign is an issue. She said that it is hard to see around this area and was hoping for something smaller.

H. Dudko stated that there were a limited number of options from corporate. She said that customers coming in to the hotel say there should be better signage.

T. Rowe pointed out that there is a huge sign already out front.

M. Lowry stated that they were asking for 10 times more that what is allowed.

E. Patel stated that there are too many traffic issues with the sign and a new one would help stop traffic from going down the road.

M. Lowry stated that in February when this request was first heard the issue was snow.

H. Dudko stated that was the trouble then.

T. Rowe was concerned because this request for a sign was so much larger. She said she felt the sign should be no higher than the fence that is there.

H. Dudko said she thought the recommendation at the last meeting was 8 feet.

P. Garand stated that the sign could be moved farther back on the hotel property but the proposal would have to go back before the planning board.

Henry Boyd stated that he did the original site plan with this property went before the planning board. He said that there is a problem with the traffic and something different is needed. He felt it was sad that corporate would not allow a different sign.

T. Rowe stated that she understands the issues but is uncomfortable with going from a three foot sign to an eight foot sign.

P. Garand stated that maybe the applicant should go before the planning board informally to see about moving the sign and then back to the board of adjustment. He pointed out that the applicant could have this case continued until they speak to the planning board.

H. Dudko stated that they would like to withdraw the application without prejudice at this time.

Motion: T. Rowe Grant request of applicant to withdraw application without prejudice

Second: M. Lowry

Yes: Unanimous

Request for Variance at 11 Rocks Road is withdrawn without prejudice.

Case #2009-08 Steven J Peterson, 15 Cross Beach Road, Map 25, Lot 14 for Variance to Article VI to Permit Reduced Front Setback in Zone 1

Stephen Peterson sent a letter requesting to continue this case to the June 2009 meeting.

Motion: T. Rowe Continue this case to June 24, 2009 at the request of the applicant

Second: M. Lowry

Yes: Unanimous

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

Request for Variance at 15 Cross Beach Road is continued to June 24, 2009 at the request of the applicant.

Case #2009-09 GWF, LLC, 31 Folly Mill Road, Map 10, Lot 10 for Special Exception to Article VII, Paragraph B to Allow Family Apartment in Zone 2R

Tim Hosmer, GWF, LLC appeared on behalf of this application.

H. Therriault asked what the family relationship to this apartment would be.

T. Hosmer stated that this would not be determined until a sale.

P. Garand explained the requirements for a family apartment. He said that the special exception would have to be requested by the new owner. He said that only one living structure is allowed and a business venture does not meet the requirements for a special exception.

T. Rowe asked if he was going to sell the property.

T. Hosmer said that he hoped to sell the property with an apartment.

M. Lowry stated that the special exception would have to be requested by the new owners.

T. Hosmer stated that he would request to withdraw the application without prejudice.

Motion:	H. Therriault	Grant the applicant's request to withdraw the application without
Second:	M. Lowry	prejudice
Yes:	Unanimous	

Request for Special Exception at 31 Folly Mill Road is withdrawn without prejudice at the request of the applicant.

NEW BUSINESS:

Case #2009-10 Robert Sacco/Ledge Road Classic Auto LLC, 95B Ledge Road, Map 5, Lot 8, Sequence 102 for Variance to Article V, to Permit Wholesale in Zone 3

Robert Sacco appeared on behalf of this application.

P. Garand stated that wholesale is an allowed use in this area but retail is not. He said that sales on the property are not allowed. He said he had spoken with the applicant and this request was for

T. Rowe asked if this would be for storage only.

R. Sacco stated it would be. He stated that he needed to storage to be an auto wholesalers license from the State of NH. He explained that the license is to be allowed to store the vehicles and wholesale them at other locations.

M. Lowry asked if there would be any outside storage.

R. Sacco stated all storage would be inside.

P. Garand stated that if the applicant did not do what he was supposed to that a call to the State of NH and they would revoke his license.

H. Therriault asked if this was to store vehicles to and from auctions and places to sell them.

R. Sacco stated it was.

T. Rowe asked how this could be proven or monitored.

R. Sacco said that the State of NH would monitor him.

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

Ron Fudge, 99 Ledge Road, advised that he had been told by the board of adjustment that he could not do automotive sales in that area. He said the he did not see that it could be good for one and not another.

H. Therriault pointed out that his application had been to allow truck repair in that location.

R. Fudge said that was correct. He pointed out that he had been told that he could not do an auto venture at his location.

T. Rowe asked if this was storage without repair.

R. Sacco said that it would be.

M. Lowry asked if he would have wholesale plates only.

R. Sacco said that he would.

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

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

Motion: Dr. Lebold Grant the variance for wholesale auto dealer in zone 3 with the following conditions: 1) All vehicles to be stored inside; 2) Restricted to wholesale use only; 3) No retail sales; 4) Strict adherence to Article 261:140-b I State of NH, Department of Safety, Division of Motor Vehicles; 5) Signage in compliance with this zone; 6) No repair/servicing of vehicles on site; and 7) Wholesaler plates only.

Yes: Dr. Lebold, M. Lowry, H. Therriault and R. Fales

No: T. Rowe

Request for Variance at 95B Ledge Road is granted.

Case #2009-11 Todd A Perkins, 41 River Street, Map 23, Lot 41 for Variance to Article VI, Paragraph B to Permit Reduced Side Setback in Zone 1

Todd Perkins appeared on behalf of this application. He stated that this request was for a 10' X 16' storage shed to be placed three feet from the property line between his property and 46 River Street, 23/46/10. He stated that he had approval from the property owner Mike Macera.

H. Therriault pointed out that the application stated placing the shed to keep a view of the marsh.

T. Perkins stated this was a small piece of property and he would like to put the shed off to the corner.

H. Therriault asked about at DES application. He also asked if he could use a smaller shed.

T. Perkins stated it was attached to the application. He said he was a part time commercial fisherman and needed this size for storage.

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

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

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

Motion: Dr. Lebold Grant request on the condition that the shed is no less than three feet
 Second: M. Lowry from the easterly property line
 Yes: Dr. Lebold, M. Lowry, H. Therriault and R. Fales
 No: T. Rowe

Request for Variance at 41 River Street is granted.

Motion: T. Rowe Move order of the cases to the following:
 Second: Dr. Lebold 2009-15, 2006-16, 2006-17 & 2009-12/13/14
 Yes: Unanimous

Case order for the remainder of this meeting is moved.

Case #2009-15 John N Samonas, 36 & 38 Pine Street, Map 8, Lot 17 for Variance to Article VI, Table 2, Paragraph 3 to Permit Two Lots Without Road Frontage in Zone 2R

Henry Boyd, Millenium Engineering, appeared on behalf of this application. He showed the approved condo plan. He stated that the lot was over 45,000 square feet in size and had no road frontage. He said the lot gets access from the lot referenced as Map 8, Lot 19 on Pine Street. He pointed out that two houses are allowed to be constructed on this lot. He said the request is to dissolve the condominium and change it to 2 lots instead of one. He spoke to the letter from Reginald Small, Smalls Ave that had been submitted requesting that no more than two units be allowed at these locations. He then covered the criteria to grant this request which were on the application into the record.

P. Garand stated that when the property was purchased the owner knew of the need for a right of way from the front lot for access. He pointed out that the owner had purchased the front lot and given himself and easement to the back lot. He said this request goes against zoning. He also stated that there has to be a proven hardship on the land for this request.

H. Boyd stated that each case that comes before the board of adjustment is individual. He said that no more houses were being requests; they were just trying to be able to market the property.

T. Rowe asked about getting to the lot through the front property now.

H. Boyd stated that is being done and there is no frontage. He said it needs road frontage. He said the access is a deeded right of way.

R. Fales asked why the applicant bought the property knowing there was no frontage.

H. Boyd stated he was not sure. He pointed out that this request was just to change form of ownership.

H. Therriault asked if this was an approved condo plan. He stated it was not the board of adjustment's job to create revenue. He pointed out that the applicant could have gone for a subdivision when he first purchased all the property involved.

H. Boyd said it was but they wished to dissolve it to be able to sell it.

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

Sue Foote, Planning Board member, stated that this request would need to go before the planning board for a subdivision request. She suggested seeking legal advice on this. She pointed out that the applicant could have applied for a subdivision when he owned all the property.

H. Boyd stated that the board of adjustment could not create a lot but could give a frontage waiver and then send the applicant to the planning board. He stated that due to the economy people are losing property now. He said the lots are not selling because they are condos and the request is just to make them more marketable not profitable.

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

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

Motion: Dr. Lebold Deny request for variance – The applicant has already received an
 Second: M. Lowry approved condominium plan for this identical project by the Planning
 Yes: Unanimous Board

Request for Variance at 36/38 Pine Street is denied.

Case #2009-16 M & K Complex, 920 Lafayette Road, Map 7, Lot 91 for Variance to Article VIII to Permit Parking Spaces as Required in Zone 2

H. Therriault stated that there was a request from Robert Bialobrzkeski of 920 Lafayette Road One Two Realty Trust stated that he had interest in the parking spaces that were requested on this application. The letter stated that he did not authorize the application or elimination of parking spaces.

Motion: H. Therriault Continue this case to the June 24, 2009 meeting
 Second: M. Lowry
 Yes: Unanimous

Request for Variance at 920 Lafayette Road is continued.

Case #2009-17 Anjni Realty Trust, 134 Lafayette Road, Map 10, Lot 6 for Special Exception to Article V, Table 1 to Allow An Apartment In A Retail Building in Zone 2

Henry Boyd, Millenium Engineering, appeared on behalf of this application. He stated this request was for a new building with the same type of use as before.

H. Therriault pointed out that there was a 40% increase in the size of the building that what was currently there. He said this was an expansion of a non-conforming use for retail and living accommodations with two parking spots. He said that mixed use is allowed and questioned what type of retail.

H. Boyd said that there were 9 parking spots for the retail use and 2 for the living accommodations. He stated this would be a convenience store. He said that the living accommodations would be on the second floor.

Paul Rubinias, Northway Builders, stated that there would be an outside stairway to the second floor living accommodations.

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

P. Garand questioned the number of bedrooms
P. Rubinias said there would be 2 bedrooms.

M. Lowry asked if there would be a full basement.
P. Rubinias said that there would be.

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

	M. Lowry	T. Rowe	H. Therriault	Dr. Lebold	R. Fales
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 request to allow an apartment in commercial building in the
Second: M. Lowry commercial zone and apartment can be no larger than 800 square feet
Yes: Unanimous

Request for Variance at 134 Lafayette Road is granted.

Case #2009-12 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article XIII, Paragraph A to Permit Expansion of Existing retail Use in Zone 3

Case #2009-13 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article XIV, Paragraph C & E to Permit Filling of 9,680 square feet of jurisdictional Wetland in Zone 2 & 3

Case #2009-14 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article VI to Permit Three Buildings on One Lot in Zone 2 & 3

H. Therriault stated that since these three cases are related the applicant would be allowed to present all the information and each application would be voted on individually.

Attorney Don Gartrell appeared on behalf of this application. He stated that the property is in the commercial and industrial zone and currently there are two stores and a gas station at that location. He said the proposal is to reconfigure the lots and widen Route 1 to include a traffic signal.

Earl Blatchford, Hanyner, Swanson, Inc, stated the following about this property:

- This location consisted of approximately 16 acres of land on three lots
- They are split zones with the front third in commercial zone and the back two-thirds in industrial
- The building is on map 7, lot 94 and the center area of the property is parking for all three lots
- There are 4 full access driveways there now
- There are 460 parking spaces now – will increase to 640 spaces
- There are wetlands in the area
- Will improve storm water discharge
- Proposing a traffic signal at Dearborn Avenue
- Will have one main entrance and reconfigure the other three
- New building proposal is 121,000 square feet and will be moved further back into the industrial zone
- Gas station will be relocated to north end of lot with a canopy and convenience store
- Third retail building will be added
- More interior landscaping

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

Kurt Young, Wetlands Preservation, Inc, stated the following:

There are wetlands on the property
Have met with Conservation Commission
Have met with Frank Richardson, NH DES
They will improve the storm water system

H. Therriault asked if the lot lines would change. He pointed out that multiple buildings on one lot is an issue.

E. Blatchford stated that there would be a voluntary merger. This thought was to have a single lot with three buildings on it.

Jim Lamp, Bedford NH stated that the site needs to be consolidated to meet open space requirements. He also stated that they were meeting with the power company about the easements.

M. Lowry stated that the regulations require one building per lot. He also stated that they were proposing a larger size building.

Attorney Gartrell stated that there are two facilities on one lot now. He pointed out that as a whole this property would be better with the traffic and drainage issues.

H. Therriault stated that this was an attractive plan, however it was hard to think about violating the one building per lot regulations.

Attorney Gartrell questioned the reasoning for the regulation of one building per lot. He stated that the improvements will work better on the site and it creates one taxable parcel only.

H. Therriault pointed out that there are already three lots of record there that are taxable.

Dr. Lebold stated that one lot with three buildings would probably be turned down. He said maybe reconfiguring the lots to do one on each. He said that there would be no problem with making this all commercial.

Attorney Gartrell covered all the criteria that needed to be met to grant each application.

H. Therriault stated that if the application concerning wetlands was to be granted a DES permit would also be required.

Dr. Lebold pointed out that there was certainly enough road frontage.

P. Garand stated that there were already two buildings on one lot now and suggested a different lot configuration. He said that three buildings on one lot could create problems.

H. Therriault said that this property was already grandfathered to have two buildings on one lot.

E. Blatchford suggested combining Lot 94/0 with Lot 94/4.

J. Lamp asked about two buildings on one lot and one on the other two.

Dr. Lebold stated it was already grandfathered for that.

Attorney Gartrell said that this might be okay with the planning board also.

Case #2009-12 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article XIII, Paragraph A to Permit Expansion of Existing retail Use in Zone 3

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

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

	M. Lowry	T. Rowe	H. Therriault	Dr. Lebold	R. Fales
1	Yes	Yes	Yes	Yes	Yes
2 A/B/C	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 all three parcels (94/0, 94/2 & 94/4) – Zone 2
 Second: H. Therriault Commercial to adjust all the properties uses for over thirty (30) years of
 Yes: Unanimous existence

Request for Variance at 836/838/843 Lafayette Road is granted.

Case #2009-13 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article XIV, Paragraph C & E to Permit Filling of 9,680 square feet of jurisdictional Wetland in Zone 2 & 3

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

	M. Lowry	T. Rowe	H. Therriault	Dr. Lebold	R. Fales
1	Yes	Yes	Yes	Yes	Yes
2 A/B	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 the variance to fill 9,680 square feet of jurisdictional wetlands on
 Second: M. Lowry properties 94/0, 94/2 & 94/4 conforming to state and local conservation
 Yes: Unanimous requirements.

Request for Variance at 836/838/843 Lafayette Road is granted.

Case #2009-14 Demoulas Supermarkets, Inc, 836, 838 & 843 Lafayette Road, Map 7, Lot 94, Sequence 0, 2 & 4 for Variance to Article VI to Permit Three Buildings on One Lot in Zone 2 & 3

Lots 94/0 & 94/4 – two buildings
 Lot 94/2 – one building
 Continue non-conforming use that is existing now
 Amend application to two buildings on one lot

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

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

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MAY 27, 2009**

Motion: Dr. Lebold Grant variance for two buildings on combined lots 94/0 and 94/4 as this
Second: M. Lowry is continuing the non-conforming use of two buildings on one lot that
Yes: Unanimous presently exists as grandfathered and one building on lot 94/2

Request for Variance at 836/838/843 Lafayette Road is granted

Election of Officers

Motion: T. Rowe
Second: M. Lowry
Yes: Unanimous

Elections of Officers will be done at the June 24, 2009 meeting.

Motion: Dr. Lebold Increase price of Board of Adjustment Application to \$140 and Abutter
Second: T. Rowe Notification to \$9 per abutter
Yes: Unanimous

Effective June 1, 2009 Board of Adjustment Application will cost \$140 and Abutter Notifications will be \$9 per abutter.

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

Meeting adjourned at 10:05 PM.

Henry Therriault, Chairman
Board of Adjustment

DATED: _____