

**SEABROOK PLANNING BOARD  
MAY 15, 2001 – 7:00 P.M.  
SELECTMEN'S MEETING ROOM**

**MEMBERS PRESENT:** Chairman Robert Brown, Vice Chair Susan Foote, Paul Garand, William Cox, Mark Preston and Asa Knowles, Jr. Selectmen's Rep. Others Present: CEO Robert Moore, Town Planner Thomas Morgan, Engineer Michael Fowler, and Secretary Emily Sanborn.

**MEETING OPENED:** Chairman Brown opened the meeting at 7:00 P.M.

S. Foote made a motion to have the chairman sign the corrected plans (per rejection from the registry) of the previously approved plans for Eugene Dean, Stard Road, and Poland Springs, Ledge Road. P. Garand 2<sup>nd</sup>. Vote: unanimous. Chairman Brown signed the plans.

**MINUTES:** P. Garand made a motion to approve the minutes of May 1, 2001. S. Foote 2<sup>nd</sup>. Vote: Minutes were approved with W. Cox abstaining because he was not present at the 5/1/01 meeting.

**CASE 01-08 – DUPERE CORP & ANTONIO MORGADO – 57 & 59 LEDGE ROAD  
CONDO CONVERSION, TAX MAP 9 LOTS 94-29 & 94-30 – FORMAL**

Henry Boyd of Millennium Engineering presented the plans for two condo conversions at 57 and 59 Ledge Road for the board's review and approval. Mr. Boyd addressed T. Morgan's question as to why, if the regulations say that the plan shall indicate the locations where the shutoff valves will be located for each unit, they are not depicted on the plan. Mr. Boyd said that the builder did what he was asked to do by Warner Knowles. He said that Mr. Dupere was willing to put in the required shutoff valves, but W. Knowles said it was all right the way it was.

Chairman Brown stated that Warner Knowles should be sent a note saying that he should go by the rules and regulation and the request of the board not just do what he wants to do. S. Foote asked what if one owner doesn't pay his water bill. H. Boyd said that they are all responsible as the condo association. He said that the Chairman had a good idea and if a letter was sent to Warner, future problems might be avoided.

W. Cox and S. Foote said that they did not like the idea of not having separate water shutoffs and Sue said that the wetlands should be flagged. H. Boyd said that he would speak to Mr. Dupere and sway him to do this. M. Fowler said that this plan has a lot of crossing of sewer, gas and water lines and it might cause problems to put in more shutoffs now. S. Foote voiced her dismay with the owners building a duplex, which needs only one shutoff because there is only one owner, and converting it into a condo. She said that they must know that this is what they are going to do. T. Morgan said that if he was reading Mr. Boyd right that Mr. Boyd was adhering to the regulation. Mr. Boyd said that he did believe that each unit should have a shutoff but that the board had allowed this in other instances. W. Cox asked that the applicant put in the shutoffs as the cost wouldn't be that much. He said he would like to see it done over. S. Foote agreed.

Asa Knowles made a motion to approve the condo conversion with the wording of the Seabrook Condo declaration. This motion received no second. William Cox made a motion to continue this case to June 15, 2001 at 7:00 P.M. Chairman Brown suggested that a note could be put on the plan showing the two shutoffs with an easement to allow the town access to the shutoffs. W. Cox withdrew his motion to continue the case.

Mark Preston made a motion with the condition that the split for the two shutoffs be shown on the plan with the language that allows the town access to the shutoffs and the Chairman will sign the corrected plan. W. Cox 2<sup>nd</sup>. Vote: unanimous.

**CASE #0—09 – WILLIAM SIMMONS 11 RAILROAD AVENUE SITE PLAN TAX MAP 8 LOT 107 – FORMAL**

William Simmons presented a site plan for a 150'x 40' commercial building to be placed on his lot at 11 Railroad Avenue for the board's review and approval.

Mr. Simmons went over the following concerns in T. Morgan's letter of review: a locus map has been included; boundary districts depicted; recycled asphalt to be considered open space; retail office space described for office

help only, not retail area; adjoining pavement is right of way; using existing gas, water & sewer; easterly/westerly corner markers to be set; no signage; no landscaping; parcel has 3 existing buildings proposes to clean up parcel; no wetlands exist; contour lines on plan darkened; elevation plan of building viewed by board; building has 16' wall on outside edge with 22' peak; W. Cox would be comfortable with Mr. Simmons lighting and a waiver; Dumpster screening acceptable and truck delivery hours 7 A.M. to 5 P.M.

Mr. Simmons was told to add the sidewalk to the plan; calculate the runoff; add dumpster hours to plan, 8AM to 5PM; add signature block; and show hooded light. The board said that the curbing could be waived. No abutters were present.

W. Cox made a motion to continue the site plan to June 5, 2001 at 7:00 P.M. P. Garand 2<sup>nd</sup>. Vote: unanimous

**CASE #01-10 – BRN REALTY CORP – VIOLA CIRCLE – LOT LINE CHANGE TAX MAP 14 LOTS 29-33, 34, 35, 39 & 40 – FORMAL**

Chairman Brown stepped down as Chairman for this presentation. S. Foote took over as Chairman.

Henry Boyd, of Millennium Engineering, told the board that this was a simple series of lot line adjustments in the subdivision at Viola Circle. H. Boyd explained to the board how the lots will be more evenly spaced. H. Boyd said that he would need a waiver for the 100'x 100' box requirement for lots 33 and 34.

There were no abutters present.

W. Cox made a motion to waive the 100'x 100' box requirement. M. Preston 2<sup>nd</sup>. Vote: unanimous

W. Cox made a motion to approve the lot line adjustment with the waiver. M. Preston 2<sup>nd</sup>. Vote: unanimous

Chairman Brown resumed the position of Chairman.

**CASE #01-11 – PJD PROPERTIES – 173 & 179 RTE. 107 – LOT LINE REMOVAL – TAX MAP 5 LOTS 9-1 & 10 FORMAL**

Anne (Tocky) Bialobrzewski of Stockton Services present a lot line elimination and site plan for Pat Duggan on Rte. 107 for the board's review and approval.

Tocky said that she had taken over the project after Mr. Duggan went to the Board of Adjustment for a variance, which he received. She said that the variance was granted and the conditions are noted on the plan. Conditions being; Fence on abutting property; entrance and exit to be one way system; no retail sales or more than one unregistered vehicle on property; and the lots be combined as one.

Tocky addressed Tom Morgan's letter of recommendations as follows: engineer's stamp on plan; variance noted on plan; proposed five foot tall 130' of stockade fencing on plan; lighting is pre-existing and no new lighting will be added; and a one page storm water run-off calculation done by Peter Blaisdell has been submitted as asked.

Abutter Ednah Drown was present to make sure the applicant would fence the property as they had discussed prior to this meeting. Tocky told Mrs. Drown that the chain link fence would be 4' off of her property line with shrubs. W. Cox asked about the dumpster and the hours of pick up. Mr. Duggan said that the dumpster would be where it is now and that nobody had ever complained about it.

Tocky explained that during her survey she had uncovered a culvert outfall and a catch basin and that the un-vegetated area will off set paving. Chairman Brown questioned the runoff at the back of the property. S. Foote said that there should be no more outdoor storage of tires. Robert Moore explained that these tires accumulate water and the breeding of mosquitoes. He went over the threat of the West Nile Virus and the potential danger.

W. Cox made a motion to approve the lot line elimination.  
M. Preston 2<sup>nd</sup>. Vote: unanimous

W. Cox made a motion to approve the site plan with dumpster pick-up limited to between 7:00 A.M. to 11:00 P.M.; no lighting changes without up-grading to town specifications; no parking of cars in State Right-Of-Way; compliance with all ZBA conditions set forth on 12/29/00 variance and a \$5,000 performance bond to cover fencing and undercover storage for tires. M. Preston 2<sup>nd</sup>. Vote: unanimous

#### **OLD BUSINESS: WAL-MART EXPANSION/PARKING**

Attorney David W. Rayment of Cleveland, Waters and Bass, and current Store Manager Robert McCullen, representing Wal-Mart, met with the board to try to work out a mutually beneficial solution regarding the outside sales area.

D. Rayment went over the concerns of the members of the board and said that they are reviewing the detention pond maintenance agreement and said they are in the process of cleaning up some debris that had found its way to the pond from the fire at the auto parts store on Boynton Lane. Mr. Rayment informed the board that the expansion is 99.9% completed; the neighboring screening in the area along Boynton Lane has been planted with 6' to 9' tall trees; storage containers have been removed, remaining construction containers to be removed before June 20, for grand opening; lighting at gate area in rear appears to be in the non-leased area, will approach landlord about their removal; pallets will be removed from behind the store and the driveway will be kept clear; and the noise issue in the truck loading area was due to the door not working. Mr. Rayment said that it has been fixed and that all employees have been told to close the doors.

Mr. Rayment agreed that the notes on the plan stated that there would be no more parking lot sales in the future but he noted that in the past they had used 75 parking spaces and are presently only using 30 spaces for fertilizer and seed. He asked the board if they would consider these spaces being used until June 20<sup>th</sup>. Mr. Rayment said that according to his calculation there were 608 parking spaces in Wal-Mart's leased area and this allows enough spaces with 33 extra spaces. T. Morgan said that the board had calculated for the whole retail area and that if Wal-Mart calculated for their area only, then CBL is in non-compliance.

S. Foote said that she was at the bank at the front of the plaza and said that the outside sale creates a safety hazard. She said she was almost hit because racks were so high she couldn't see by them. W. Cox pointed out that the previous applicants said that all sale of products would be out of the parking lot and brought inside. W. Cox said that the outside sales impede the traffic flow because it blocks the passage lanes.

Mr. Rayment said that if they added parking spaces at the rear for employees this would free up around 15 spaces. S. Foote asked if the sales could be moved to the rear of the building. Manager McCullen voiced his concern with the lighting and security. M. Preston asked why we were here to talk about this at all, because the outside sales are suppose to be eliminate. Mr. McCullen said that there is no place to put the merchandise in the new building and the previous representative did not understand the needs. T. Morgan said that Sain & Associates did the calculation for parking spaces and gave up the outside sales to accommodate the expansion. Attorney Rayment said that they were of the position that they are not in violation of the requirements for parking spaces. Chairman Brown said that it was in black and white about the outside sales and they are definitely in violation of the approved plan. W. Cox said that it is a slap in the face. We came up with what was safe for this town and this is the plan.

Attorney Rayment said that every Wal-Mart in NH has outside sales. T. Morgan said that Newington doesn't have it. They attempted to have it but the Planning Board said no. Rayment said that they were at our mercy and could they put the sales off to the side for a short time. S. Foote said that the previous managers short time was from March to September and are they going to keep sending a lawyer to apologize for the previous year. Asa Knowles said that he would be in favor of finishing out the year if you say you will not do it again and put it in writing. Mr. McCullen said that he guarantees that the sidewalk will be clear for pedestrian safety and that there will be lawn mowers along the front only. He said that sales were down 37% and ask the board to give them time to reduce the stock this time and they will not put it out again. Attorney Rayment said that the board could accept it as a sign of good faith of what they had done already about the other concerns.

W. Cox noticed that an area on the northwest corner of the building had been expanded and that this had not been accounted for in the calculation. W. Cox said that he wanted Wal-Mart to come in compliance with the approve

plan. S. Foote said that if she would consider it at all it would be out back or on the side storage with one pallet at a time in the parking lot. P. Garand suggested that they pursue acquiring the auto parts property for added parking spaces. Attorney Rayment asked if this could be something they pursued and in the mean time be allowed to use the parking lot. T. Morgan said that the board has two options, #1 is to make it an enforcement issue, and #2 amendments to be made to the site plan. Morgan suggested that the board let R. Moore take care of the situation and send the letter that was motioned at the previous meeting to Wal-Mart. W. Cox stated that the board did not have the power to give a waiver for parking spaces. Attorney Rayment said that they will come up with a pliable solution and meet with the CEO. R. Moore told the applicants that they are still short on parking spaces and that this would call for a variance. Mr. Morgan gave the letter to Mr. McCullen. Attorney Rayment thanked the board for their time.

**CORRESPONDENCE:** T. Morgan distributed the correspondence.

**Re: Spherex – Walton Road -** T. Morgan distributed copies of a letter from Attorney Peter Saari, of Casassa & Ryan, in regards to whether a site plan was needed for a parts warehousing to be located in a space at the Spherex property, on Walton Road. The members went over the letter. S. Foote said that she sees no need for site plan review just as long as the truck travel proposed does not exceed as per plan and is as presented in the letter.

W. Cox made a motion to accept the use proposed to be consistent with the legal non-conforming grandfathered use that has been previously at this site as long as they stick to what is represented in this letter. S. Foote 2<sup>nd</sup>. Vote: unanimous

Member Mark Preston left the meeting at 9:50 P.M.

**DRIVEWAY PERMITS:** Chairman Brown presented 3 driveway permits for the board's approval. S. Foote said that the driveway at 61 Ledge Road was in violation of the Wetlands.

W. Cox made a motion to approve the permits for 70 and 73 Viola Circle. S. Foote 2<sup>nd</sup>. Vote: unanimous

**MEETING ADJOURNED:** Chairman Brown adjourned the meeting at 10:07 P.M.

Secretary's Notations: Mylars were recorded for Fullerton Condominium on 4/5/01 D-28831 Docs 10:25 A.M. 22166; Buepre Condo on 4/19/01 D-28863 Docs 8:46 A.M. 25568; Poland Springs on 5/16/01 D-28935; BRN Realty Trust on 5/16/01 D-28936 and Margaret Stard/Eugene Dean on 5/16/01 D-28937. Trinity Church on 5/10/01 D-28908.