



## Town of Seabrook Planning Board Minutes

November 7, 2006

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Aboul Khan; Mike Lowry; Robert Moore, Ex-Officio; Paul Garand, CEO, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;  
Members Absent: Mark Preston, Vice Chair; Paul Himmer; Peter Evans;

Chairman Foote opened the meeting at 6 PM.

### MINUTES OF October 17, 2006

<b>Motion:</b>	<b>Moore</b>	<b>To approve the Minutes of October 17, 2006 as written.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### CORRESPONDENCE

Foote read a letter from **Elizabeth (Betty) Thibodeau** expressing interest in serving on the **Planning Board**. Foote said Lowry has filled the member vacancy, and recommended Thibodeau be appointed as an alternate. Khan has heard of another resident's interest. Foote said this person's interest should be provided in writing. Moore asked about the procedure. Foote said a motion would be needed. Thibodeau has indicated willingness to serve until the March elections and Foote suggested the term be until April 1, 2007. Morgan researched the regulations and said the term would be for three years. Moore asked if there is a common termination date or if the appointments can be staggered, Morgan said appointments are limited to no more than three in a year.

<b>Motion:</b>	<b>Moore</b>	<b>To appoint Elizabeth Thibodeau for a three year term as an alternate member of the Seabrook Planning Board.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Foote referenced the **proposal from Altus Engineering regarding a review of the Border Winds** material. The case will not be coming up until the second meeting in January 2007 so a signing could wait for the Board's next meeting. The review estimate is \$3000-\$5000. A \$1000 retainer is requested; preliminary findings in three weeks from receipt of the signed contract. Garand said it might be wise to sign now before the weather makes on-site review difficult. Morgan suggested the report will be more credible and efficient if the on-site review is coordinated with one or more persons familiar with the project. Foote said coordination could be among Garand, Foote or Moore.



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<b>Motion:</b>	<b>Moore</b>	<b>To have the Chair sign the Altus Engineering contract and return it with a \$1000. retainer.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Moore noted this is the fourth and should be the last engineering on this project. Khan asked if this is the first time the Town is paying for the work. Foote said yes, in the past the developer has paid but because this is the fourth time engineering review has been required, the developer should not be asked to pay yet again for an alternative review. Moore said if a decision can't be reached, the legal fees will continue to increase. Foote said it is time for a consensus among all parties and to finish the project.

Foote referenced two **notices of decision** returned from finance noting that because of a backlog about a year ago the Board passed a regulation that if conditions had not been met within ninety days a plan would be automatically revoked. In the past the Board has been extremely generous and lenient with extensions. **ARCSource/Steven Nichols, at 609 Lafayette Road**, was for a retail store for bottled gases and to bring the site into zoning compliance with cross connects and loading platform. Approval was granted on April 4, 2006 with a \$5000 site security condition for landscape and drainage infrastructure. The applicant has not produced the security. Technically this site plan should have been revoked as the conditions were not followed. Currently, applicants or their representatives are now required to sign the NODs prior to the Chair signing and as may be appropriate receive a "Blue Folder" with detailed information including site security procedures. One of the problems in the past is once approval was granted, applicants don't return to complete the paperwork and acknowledge the NODs. Foote noted site plans are not recorded at the Registry. Moore asked if the work is going to happen. Garand said they are trying to get things in order after a recent fire and are working with the insurance company. Garand suggested having an applicant or their agent sign an acknowledgement of approval at the meeting when approval is given, that they have to come in for the NOD and other paperwork. Moore said to tighten up the procedure by sending out a reminder after two weeks, which would also back-up the Board's position if further action is required.

Foote said the other overdue NOD is for **Harley Real Estate/85 Ledge Road** approved on January 17, 2006 with site plan security of \$60,000 for 2 years. Charley Bagley said the shell is up and he thought this had been taken care of and would follow-up. Moore said a concrete procedure is needed. Bagley signed the NOD. Continued to November 21, 2006 at 6pm at Town Hall.

Another unfinished case is **#06-02 for a lot line adjustment approval for Sandra Randall for property off the back side of River Street**. Attorney Mary Ganz has requested the recording be help up until further notice from her as Tina Hartley may want a different lot line adjustment involving the purchase of more land. Foote commented this case also is technically beyond the ninety-day period. Foote asked how long the Board has to do a recording. Moore asked if this is the applicant's request. Foote said it is by one of the applicants.



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<b>Motion:</b>	<b>Moore</b>	<b>To grant a ninety-day extension for Case #06-02.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Foote referenced certain actions by the Zoning Board of Adjustment. Of interest is **Griffey Seabrook requesting a special exception to Article III Section D to allow the entire lot to be zoned commercial in Zone 2R**. Foote said two weeks ago the Planning Board posted a public hearing on the November 7, 2006 Agenda in re that zoning ordinance. The Zoning Board of Adjustment received the application on October 30, 2006 for the property generally referred to as **Lowe's Phase 2**. This is after the Planning Board had posted the public notice re this ordinance. Foote asked if once it's posted isn't it considered enacted until it goes to a vote. Moore said if the ordinance passes a variance would be the route. Morgan said the criteria are quite different. Another Zoning Board of Adjustment item is the appeal from the CEO's administrative decision by **Steve Carbone, 287 Lafayette Road**. Garand said this is an ongoing case concerning storage containers.

Khan asked about the five Zoning Board of Adjustment conditions mentioned in the October 26, 2006 meeting concerning DDR. Foote said the DDR application should have contained any variances. Foote said to check the folder for a variance. Moore said there may have been confusion between the questions DDR has to answer for a variance and the conditions for a special exception.

Foote read a letter from Jones & Beach Engineering regarding the **Jean Drive developer's request to finish the final top-coat paving early next year** after more of the heavy construction has taken place. All but two of the duplex buildings are completed. The developer requests conditional acceptance of the construction triggering the start of the two-year maintenance period. The contractor will finish the paving prior to June 30, 2007 if the maintenance period could begin in 2006. Garand said it sounds like they want the Town to provide services like plowing, rubbish etc. Garand questioned whether this could be done without the road being complete. Foote said this could become a nasty precedent. Previous special exceptions have been for a little bit of planting and the like, but the road has been complete. Garand said Border Winds has been the only exception.

Moore asked if "substantial completion" is defined. Previously he thought it meant that as long as the utilities were in and the gravel bed was in, a house could be occupied. The building permit can be given after the bond is posted, but it can't be occupied until the road is substantially complete. Garand said he does not issue an occupancy permit unless the bond is in place and the binder is down. Moore said previously an occupancy permit wasn't required for residential building only commercial and industrial. With the new code something more substantial is needed. Foote said the definition should be rewritten specifically to utilities in place and binder down. Garand said new definitions of "substantially complete" are needed for both site plan and subdivision regulations. The Town Planner was asked to create the definitions. Foote asked for the response to the



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maintenance phase request. Garand said that had never been allowed - at least the top-coat needs to be in place. The developer had been advised that plowing without a top-coat could damage the curbing. The Town can't take that responsibility even with a bond in place. Moore referenced the regulations that confirm the Town's current procedure. Foote said since the asphalt plants don't close until December there maybe time enough to get the top-coat in, in which case the request could be reconsidered. Foote said the Town would be in a tenuous position to approve the maintenance phase at this time. Moore said the Town can accept the road anytime it's done. Garand said the equipment is at the end of the road and the development is almost complete. Every road in Town has to bring in lumber and concrete trucks. during construction.

Foote referenced the letter from the **Department of Public Works to Tomlinson and Urbani re the site plan on 49 New Zealand Road, Case #05-48**, now a commercial office site, expressing displeasure at the in-sight inspection. A number of items are unsatisfactory and must be corrected. If not done there could be major problems with snow plowing. Foote asked if the Board wants to follow-up with a letter in light of the approved site plan. Garand said the floor plans are clear and the DPW manager is covering the inspections very well.

Foote read a memo from the Code Enforcement Officer concerning the **intent to cut wood on the DDR project site**. The recommendation is for no such activity to take place without Planning Board approval, considering the wetlands area. Foote said Unutil has been exceptionally good at realizing when and where they need dredge and fill applications and getting them well in advance. Foote said generally the Conservation Commission responds. The Town's regulation re cutting in wetlands should be limited to 50 percent of the trees. Foote asked if this is a zoning or site plan matter. Garand said that is his question because the whole site is one parcel under site plan review and this area should have been part of the wetland permit because it increases the area. DDR is the owner of the site and the whole package should have been presented to the State. Also, the easement hasn't yet been written, so how could Unutil present an application. Foote asked if the cutting could be started before the intent to cut is approved. Garand believes if no answer is given, they can continue. Moore noted there is a lot of wetlands. Garand said this is the area near Dows Lane. Foote said about seventy-five percent of the relocation easement is wetlands, and is not part of DDR's original application of .97 acres. Above 1.0 percent would involve the Army Corps as well as the State. The Unutil easement would probably bring it to 1.75 acres which would change their offsite mitigation package. Garand said Unutil says its poles are not in the wetlands but clearing part of the wetlands is for stringing the lines. Foote noted the practice is to continue cutting-back over time. Garand expects a copy of the easement as soon as it's available. Foote suggested Garand ask if DDR is planning to file an amendment to the dredge and fill application.

### **PUBLIC HEARINGS**

Foote opened the Public Hearings at 6:55 PM

### **Proposal to delete Article III Section D of Zoning Ordinance.**

Foote read the regulation concerning Zoning Board of Adjustments special exceptions when boundaries between two districts divide a lot. Morgan said the most important effect of this proposal would be to shift the rezoning powers from the Board of Adjustment to the Town Meeting.



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Foote asked if this would take it out of the special exception in zoning so an application would be for a variance. Morgan said any party can apply for a variance to any section of the zoning. In this instance it would be for a use variance which has fairly stringent criteria.

Moore said knowledge of the history of Seabrook Zoning is needed. In 1964 zoning was voted in; in 1968 it was voted out. In 1974 concessions in certain zones were made including the ability to choose which zone would apply in overlapping zone situations. Generally, this worked ok, but now a small parcel can control the zoning for a large parcel as in the DDR situation. Foote said it appears now that consortiums are buying up three or four parcels and combining by merger into one parcel with a small frontage. Moore said before the wording was changed, the least restrictive zoning could be used which protected industrial and commercial property. Now, the Board of Adjustment can make the choice. And this is quite a burden for the volunteer board members. Foote said the proposal is to delete it from the zoning regulations completely; then combining lots or changing use would require a variance. Moore asked if the language could be amended to say the zoning for the larger of the two lots could be used. Foote suggested it would be the zoning for the larger percentage of a combined parcel and apply to lots existing as of a certain day. Moore said this would only apply if the zone line split the parcel. The problem is that the Master Plan always protected industrial use because that's the basis of good jobs and the tax base. The question is how many more minimum wage jobs does Seabrook need and how much more traffic can the Town stand. The improvements to Route 1 were minor and it took twelve years to get intersection work done. But the Route 95 bridge, and the one-lane areas on Route 1 were not addressed. There are more ways to get in to Town, but not out.

Morgan said the suggested language would be opening up a loophole. Mergers cannot be prevented. Foote asked if there could be a base date for the assessors' legal lots of records, for example on November 7, 2006. Morgan said this would be complicated to administer and recommended [deleting Article III Section D] of the ordinance, and letting the Zoning Board of Adjustment deal with hardships. Garand said perhaps decisions for an official zoning change on a large parcel should go to the voters, rather than be made by five people. Moore said that was done on Stard Way and is probably the way to go. Moore said changing one word in a zoning book can make a huge difference. Foote said subsequent interpretation is also key. Foote asked Garand if he is recommending omitting Article III Section D and having another public hearing addressing zone changes for parcels above a certain acreage going to Town vote. Moore said why not any zone change. Morgan said denying someone the right to apply for a variance would become a legal problem. Garand asked if it could apply to a five-acre parcel. Morgan said to confer with town counsel first about a potential ordinance that would in effect prohibit variances. It would be better to emphasize that variances need to be taken very seriously. Deleting the section in the entirety would go a long way toward closing loopholes and recognize that land along Lafayette Road is increasingly valuable and attractive to developers.

Chairman Foote polled the Board for comments. There being none, Foote opened the floor for comments from the public. Wayne Morrill of Jones and Beach, said there always been a split zone and there was no way to get a reasonable return for retail business in the 500 foot zone. Four small boxes would probably have brought more congestion. Jones & Beach is trying to be proactive going



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for a special exception because there is a zone line right through the middle of the [Lowe's 2] lot. If there is only 500 foot of depth a large retail project won't fit. Flexibility is desirable. Foote said this wouldn't exclude the flexibility, but would change the application to a zoning variance. Maybe the Zoning Board of Adjustment needs to apply the criteria for a special exception more stringently. There needs to be a reasonableness for open space and industrial with respect to tax revenues/costs. Residential is the highest with two dollars in services required for every dollar in tax revenue. Commercial and industrial would need either a variance or a special exception. Garand said Route 1 needs drastic changes before allowing more big boxes. This is a way to tighten the reigns a little bit. Moore said the people already here need to move without navigating three lanes of traffic. He is not opposed to DDR if there is a good location to put them. There being no further comments:

<b>Motion:</b>	<b>Moore</b>	<b>To delete Article III Section D of the Zoning Ordinance from the Town Zoning Regulations.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

### **CAPTAL IMPROVEMENTS PROGRAM 2007-2012 (CIP)**

Foote asked if Board Members had reviewed the CIP, and noted other CIP plans have a rolling sheet that shows whether a project has been carried over from the previous year(s). The fiscal impacts for 2007-2012 appear on pages 66-68, but don't indicate whether an item has been carried for several years or did not pass through the town warrant, or is proposed new equipment. Highlighting leftover items would help the Board and the Budget Committee. Garand suggested indicating when an item was first proposed. Garand said the Board Member page needs updating. Moore said this plan should have been in place twenty years ago. Foote said last year the State guidelines for impact fees were adopted, and having a CIP allows adoption of an impact fee ordinance. More and more residents inquire why there are not more stringent impact fees as in other towns. Perhaps this is the time to rethink this as one Seabrook school with an addition is already past capacity. Road infrastructure needs widening, expansion, rebuilding. The Town has three dump trucks, four days a week, when only one was needed before. Considerable study and a formula for calculating such fees would be needed, and the funds need to be spent within six years which could be a real headache. Morgan said it could also push a not terribly wanted project forward. Commercial and industrial development is well covered.

The cost of new residential development could be addressed if enough houses are in the Town's near future. Foote said if only partial funds are raised for a project, the Town could have to come up with the balance in relatively short time. Moore cited rising costs that could double within a ten-year period. Foote said it would be very irritating to have enough money escrowed only to have to give it back because a project wasn't yet approved. Moore said the department heads did a good job in presenting their needs. If only the actual funds could get into the respective accounts. Foote said the difficulty is in actually setting up the capital reserve funds in anticipation of avoiding future bills. Moore said maintenance is key; more money was spent on maintenance of police



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cruisers than a new one would have cost. The same is true of the expense for resurfacing roads. Foote asked if the Board is ready to approve this CIP and next year include the column that tracks when items are first proposed. Copies of the approved CIP would be distributed to the board of Selectmen, Budget Committee, and Department Heads.

<b>Motion:</b>	Foote	<b>To adopt the 2007-2012 Capital Improvements Program as presented on November 7, 2006.</b>
<b>Second:</b>	Lowry	<b>Approved: Unanimous</b>

**Foote closed the Public Hearings for zoning and capital improvement matters at 7:29PM.  
Public Hearings for cases opened 7:30PM**

**Case #1999-11: Proposal from Charles Bagley for a subdivision at Austin Way. continued from October 17.** Foote read a letter from Charles Bagley indicating work on Austin Way is completed and the Security reduction checklist has been submitted. Bagley requests the Planning Board to approve the reduction in security to the maintenance level and recommend to the Board of Selectmen that Austin Way be accepted as a public road. Foote said although Starkey feels a lot of work is before his time, he feels secure it is ok. Foote asked about the as-builts in paper copy and digital, and the Warranty Deed to the Town for the road. Bagley said he will work with Henry Boyd to get them in. Foote said when those items are received the maintenance phase can commence. The Secretary reminded there is a need for a comparable letter from Bagley to the Board of Selectmen. Foote noted that a previous road submission had been returned to the Planning Board because it could not go on the Board of Selectmen agenda without the as-builts, and the deed in hand. After discussion:

<b>Motion:</b>	Foote	<b>That once the as-builts and form of deed for Case #1999-11 are received, the Chair is to initiate the paperwork for the security reduction to the maintenance level, and pass the applicant's request for road acceptance on to the Board of Selectmen</b>
<b>Second:</b>	Lowry	<b>Approved: Unanimous</b>

**Case # 2002-03 proposal from Paul Lepere that Belgian Drive/Lloyd Perkins & Irving and Anita Brown asking for release of maintenance security and acceptance as a town road, continued from October 17.** Foote said according to the Department of Public Works the only outstanding issue is minor having to do with grass not yet growing in the swale, but it has been seeded. Lepere is requesting acceptance as a town road and that the maintenance bond be released



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in June 2007 as the original road binder was in place in 2003 and has gone through three winters. The two lots left to be built are at the entrance and there is no intention to build these out in the near future. Foote recalled the two lots come off of Belgian Drive and the top-coat was put on recently. Garand said this also applies to the curbing and recommended the maintenance bond be held for the full time. Foote said the construction bond can be released. Maintenance bonds have not been less than eighteen months. Lepere has been informed that as-built plans, digitals and the deed for the road are still needed. Moore said to come back for release of the construction amount and retention of the maintenance amount. Foote continued to December 5, 2006 at 6 PM at Town Hall.

**Case # 2002-05 Bieder/Hamilton Trust /1 & 3 Elephant Road: request from Dr Francis Hamilton for a 60 day extension to complete the Elephant Road project, continued from October 17.** Foote said the applicant submits that this project was approved before as-builts, digitals, and deed to the Town were required and is grandfathered. Morgan said the need for deeds and perhaps the digitals goes way back. Foote said the case designation needs to be checked. Moore asked if there is still a construction bond. Morgan asked who owns the roadway. Foote said according to the plans for 2000-14, the subdivision was done in April 28, 2000 therefore the digital requirements etc are required. Foote continued to December 5 at 6PM at Town Hall.

**Case #2000-24 [and #2000-23] proposal by Eugene Dean and Scott Mitchell for site plan approval for 22 Stard Road, continued from October 17.** Foote reported Mitchell brought in a check for the site security which has been sent to the Treasurer. The Secretary said the Treasurer has inquired whether the escrow should be split between the two cases or accounted for as one case, and if there is to be a security agreement or some other writing so that when it comes time for money to be returned it is clear who it goes to. Foote said Mitchell didn't wait for any response when he brought in the check, and said a site security needs to be signed covering both cases. Morgan asked what remains to be done. Foote said there are detention ponds, paving and curbing that need straightening out. Morrill expects to look at the design and pave in the Spring and asks for a continuance to April 2007. Foote asked Merrill to have his clients see the Treasurer for the paperwork. Foote continued to May 1, 2007 at 6PM at Town Hall.

**Case # 2001-34 Honor & Mason for site approval at 15 Whitaker Way, Tax Map 4, Lot 19-50, continued from September 19.** Morrill said the developer is speaking with Garand. The screened dumpster is done; the bottom of the pond is done, taken care of the landscaping and installed the signs. They asked the CEO if they can put up granite posts instead of guardrails and were told this would be a change to come before the Planning Board, so the guardrails will be installed. The CEO inspection is next. Garand said when complete to schedule a site review with his office. Continued to December 5, 2006 at 6PM at Town Hall.

**Case #2004-50 proposal from Paul & Lisa Cabral for a subdivision off Ledge Road, continued from September 19.** Garand said the courts have not yet ruled. The Secretary said the signed waiver is to December 14. Morgan asked if the courts have heard the arguments. Garand said yes and a decision is expected within thirty days. Foote continued to December 5, 2006 at 6 PM at



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Town Hall. Cabral needs to sign another extension or the Board would have to deny without having heard the case.

**Case #2006-28 Scott Sheen proposal for a Condominium Conversion at 14 Katelyn Way, continued from October 17.** Foote reminded the issue is the spelling of the Roadway including fixing the condo docs. Garand said the granite marker has been removed. Foote said the subdivision that created Katelyn Way is still not completed because the garbage receptacle et al is still needed. Garand suggested going forward with a conditional approval and he will do the site inspection

<b>Motion:</b>	<b>Moore</b>	<b>To grant conditional approval to Katelyn Way Condominiums -14 Katelyn Way, pending the CEO's inspection approval.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Foote declared a break at 8:00PM and resumed at 8:15PM

**Case #2006-42 Wildwood Real Estate Holdings, LLC proposal for a condominium conversion at 6-8 Carroll Lane, Tax Map 4 Lot 14-119.** Wayne Morrill of Jones and Beach appearing for the applicant said he received comments today from the Technical Review Committee and, after conferring with the Sewer Superintendent, requested a continuance because the easement doesn't follow the actual gravel drive. One of the other problems is the wetland line wasn't turned on. A new letter for the Town water easement needs to be provided. Foote continued to December 5, 2006 at 6 PM at Town Hall.

**Case # 2006-47, Seabrook Camp Meeting Development, LLC for a condominium conversion at 19 Dows Lane and 107 Railroad Avenue, Tax Map 12, Lot 14-10.** Wayne Morrill of Jones & Beach appearing for the applicant entered new plans after receiving comments from the Tech Review today. Foote said the Board would make an exception for the plans delivered at this meeting but asked for assistance in enforcing the Friday noon submission date in the future. The Board needs full, fair time to review if there are changes involved. Merrill asked to receive comments from Tech Review sooner to avoid last minute changes. Foote apologized, commenting that the past two months have comprised eight sets of minutes of which many are for four-hour meetings. Morrill said this was unforeseen and appreciates the Board allowing this case to go forward. The Sewer Superintendent has indicated to Morrill that a "Y" on the sewer pipe can be used so the convertible land can use it too. Bagley will have to install a new line for Unit B going from Railroad Ave and abandon the "y" for Unit B when that is done. Foote asked for a definition of "convertible land". Morrill said in a letter Attorneys Casassa & Ryan explained this is a two-unit condominium; one is the existing house with the associated limited common area, and the other unit will be constructed on the convertible land which will require a new set of plans and Planning Board approval. Morgan asked why doesn't the applicant wait until everything is together. Morrill said there is a buyer for



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the existing house, but the applicant does not have the means to put up the second unit until he has the proceeds from the first house. Moore said the applicant wants to be able to write a deed. Garand said this means the applicant will have to return to the Planning Board and pay additional condominium conversion fees at that time. Foote asked if it will be an amended condominium conversion at that time. Garand said it will be a new submission and in the meantime hopes the process will start up for the one unit. Moore said he doesn't know what will be built on the second unit. Morrill agreed, saying there is not a floor plan for that unit. The Secretary asked if the assessor has designated the addresses. Morrill said that has been done.

Morgan asked where the terminology for "convertible land" came from. Morrill thought it came from the land use regulations. Morrill said the abutter's names and a floor plan have been added. Morgan said the water shut-offs should be labeled in the legend. Morrill said black squares have been added in the legend and wetland delineations identified. Morgan asked how the "dog-leg" shape of the lot came about. Moore asked if that is how they got 45,000 square feet. Foote said it is the result of how the original lots were located for the subdivision. Morgan asked if there were plans for the leg; Bagley said there is some conversation with abutters on a possible land swap. Foote said it's possible to do a lot line adjustment but the parcels have to have a combined 45,000 square feet and to avoid a non-conforming lot. Foote said it appears that Casassa & Ryan has done this in other towns and has provided a statement as to the legality. It appears the Tech Review comments have been addressed.

Don Bagley asked if the optional water line could go through to Railroad Avenue. He wants to make sure everyone is satisfied as to where the boundaries are. Moore asked if the land had been surveyed. Bagley said yes; there is a pin in the road. Foote asked if Don Bagley acknowledges it does go out to Railroad Avenue. Don Bagley said he always thought it was a right-of-way. The aerial overviews look a little different. Morrill said the boundaries would be clarified. Foote said aerial photos that have GIS mapping overlaid can be off if the precise coordinates aren't punched in. Moore said to look for an old right-of-way.

John Evans, 26 Dows Lane, said his family purchased the property in 1976 from Joe Perkins who told him ownership would go to the other side of Dows Lane which is a private way. Henry Boyd's survey shows that they still own the street and a couple of feet on the other side of the road. Evans said he is paying the taxes. Moore said there is a subdivision road that Perking did. Evans said his deed states he owns up to the property line. There was some confusion when the Town sewer went in and the tar was laid in a sloppy way so the road got wider. Foote said this was pertinent to the subdivision of this parcel. Evans said he was told the B & M railroad would be the frontage and Dows Lane wouldn't be touched. Foote said no one had the right to say the B&M Railroad would ever be a road. Foote said when the subdivision was created he should have received notice as an abutter. Evans said he does not remember receiving that but there is a note that the letter was sent. There are several "John Evans" in Seabrook. Moore said Dows Lane is a town maintained road. Evans said Boyd suggests turning over the road to the Town; the concern is potential title issues. Moore asked what the Perkins subdivision shows and said the records must be in Town Hall. Evans said he is looking for clarification, as previous owners, who knew where the lines were, have passed on. Evans said he has no problem with the development but there is some land to get straightened



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out. Morrill said he conferred with Boyd several times. Foote said Audrey and Pete Eaton were involved. Morrill said Eatons still own some land, but Boyd had confirmed to Jones and Beach that their lines were correct. Evans said Boyd doesn't represent him on this.

Garand said there were many discussions about the subdivision. Morgan suggested Morrill and Boyd get together again and asked if that would be ok with Evans. Evans said he wants to know what's going on and has already spent \$4000 on surveys. His property is shrinking. He needs to speak with Boyd again. Garand said he would look through old town files and see if he can find pertinent records. Moore said the Town doesn't own the land under that road. Morgan asked Evans how much time he needs to sort this out. Evans said he needs help. If there is a small land issue a deal can be made with Bagley to buy it; the road can be turned over to the Town if that's best. This can be worked through. Morgan said the best solution is for the parties to figure out the situation so all the plans agree with each other. Evans said he wants to be there in discussions so he doesn't get second-hand information. Morrill said months were spent with Boyd coming up with one line and the frontage was known. Everyone has rights to their property but they've actually given the Town a deed to land Evans says he owns. Bagley said the sewer rights were on his land. Foote said the subdivision is done and asked how Evans' land is positioned and if this condo conversion addresses the area. Evans said a dirt road shows where Evans lot line is. Garand said he will arrange a site visit with Evans. Morrill said they will do whatever it takes to get this resolved; Bagley doesn't want to be on someone else's property. Foote asked if Boyd would be at the meeting. Evans said he thought so. Foote continued until December 5, 2006 at 6 PM at Town Hall.

Foote closed the Public hearing at 8:55PMfOOTE

### **OTHER**

Foote said the "Night Out" arrangements at the Old Salt worked well last year and asked if that is the Board's consensus for 2006. Members agreed.

Foote adjourned the meeting at 8:57PM.

Minutes Respectfully Submitted by  
Barbara K. Kravitz, Secretary  
Seabrook Planning Board

MYLARS RECORDED		