

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
MINUTES OF OCTOBER 23, 2013**

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

Others Present: Paul Garand, Coed Enforcement Officer 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 September 25, 2013 Meeting

Motion: Dr. Lebold Accept minutes as presented
Second: J. Kelley
Yes: Unanimous

Minutes of September 25, 2013 accepted as presented.

Case #2013-14 Dennis Testagrossa, 72 New Zealand Road, Map 7, Lot 55 for Variance to Section 6 To Sales Wholesale-Resale-Auction of Automobiles in Zone 2R (Continued from 9/25/2013)

No one appeared on behalf of this case continued from September 25, 2013.

Motion: T. Thurlow Deny request without prejudice because no one appeared on
Second: Dr. Lebold behalf of this application.
Yes: Unanimous

Case #2013-14 is denied without prejudice.

NEW BUSINESS:

Case #2013-15 William Walsh, 33 Gove Road, Map 7, Lot 50 for Variance to Section 2 to permit Accessory Building Larger Than 1,080 Square Feet in Zone 2R

William Walsh appeared on behalf of this application. He stated that this request was for a larger garage. He wants a three car garage which is a little over 300 square feet that what is allowed. He currently has vehicles in storage and wants to have them on his property.

Dr. Lebold asked how many buildings were there and which piece of property this was. He also questioned ownership of the property. W. Walsh stated there was one house, the grey one on the property. He also pointed out that he is the trustee of the trust for the land.

P. Garand stated that the lot had been subdivided.

Dr. Lebold asked where the proposed garage would go.

W. Walsh stated near the grey house with a side towards the white house. The garage would face the new road.

T. Thurlow asked if it would be a garage only.

W. Walsh stated it was for storage only and not for living area.

H. Therriault asked if this was one lot.

W. Walsh said that this property has been subdivided.

P. Garand stated this was an approved subdivision and each building was on a separate lot with legal frontage on Jean Drive. He said this garage would be for three cars and some storage.

T. Thurlow asked if there was an additional garage there.

W. Walsh said that there was a two car garage attached to the house. He said he needed more space.

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

R. Fales stated that she was going to recuse herself from this discussion and vote on this application.

Motion:	H. Therriault	Continue this case to the November 27, 2013 meeting so the applicant
Second:	Dr. Lebold	can provide drawings of the proposal and show ownership of the land
Yes:	Unanimous	

Request for Variance at 33 Gove Road is continued to November 27, 2013 meeting.

Case #2013-16 Sidney & Gretchen Anthony, 88 Folly Mill Road, Map 9, Lot 207 for Variance to Section 7 to permit Two Units On A Lot With Less Than 30,000 Square Feet in Zone 2R

Sid Anthony appeared on behalf of this application. He said that he is co-owner of this property. He said that there is a second structure there that had been a family apartment but was never finished. He would like to finish it and rent it out.

P. Garand said that there is 28,000 square feet of land at this location where 30,000 square feet is needed for two units.

Dr. Lebold asked if this would be attached.

S. Anthony said it would be attached to enclose the stairway area.

Dr. Lebold asked about the vehicles and boats in the yard.

S. Anthony said that the boats were going and the vehicles were all registered.

P. Garand said that he is working on cleaning up the property.

Arthur & Debra Gerrish, 24 Folly Mill Road, stated that they trust S. Anthony will do what he says. They support the request.

H. Therriault stated that there had been a letter submitted From Alfred Howes, Sr. that would be put into the original case file.

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

	T. Rowe	R. Fales	H. Therriault	Dr. Lebold	J. Kelley
1	Yes	Yes	Yes	Yes	Yes
2	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 request for Variance with the property being 7% shy of legal
 Second: J. Kelley size for duplex. The condition acceptable to applicant is to clean up
 Yes: Unanimous the property by removing all unregistered vehicles, boats and partial
 vehicles – a general clean-up of the area and maintain unregistered not
 to be kept.

Request for Variance at 88 Folly Mill Road is granted.

Case #2013-17 US Foods, Inc., c/o Jeffrey Barnes, Sr Director of Real Estate, 100 Ledge Road, Map 6, Lot 1 for Variance to Section 16, Sub-section 16.307 to permit Truck Maintenance w/Wash and Diesel Fueling in Aquifer Protection Overlay District

H. Therriault stated that Water Superintendent Curtis Slayton was in attendance. He asked him if he was familiar with the property and any influence to the wells.

C. Slayton said that this was in the well head protection area, but DES puts a 400 foot radius around the wells and this property is over 1000 feet from the nearest well.

H. Therriault said that this ordinance was put into effect a number of years ago.

C. Slayton said he did know exactly how long ago this was put into effect. He stated the project had raised some questions. He pointed out that DES rules are that landfill or junkyards are banned from this area. He said the town governs the protection overlay area.

H. Therriault said the ordinance set boundaries for all land within properties west of I95.

C. Slayton said that the wellhead protection area includes most of the land on the west side of I95 and into other town. He said there is industrial zoning there and it is over 1000 feet from the wells. He pointed out that he had been on the property earlier in the day.

Jeffrey Barnes, applicant for this case appeared and stated that the following were also in attendance with him from US Foods:

John Glynn
 Kevin Connors
 Tim Gibbons
 Dan Frigge

T. Thurlow asked if food would be prepared at this location.

J. Barnes said that it would not be prepared here.

J. Kelley asked about the volume of waste.

J. Glynn said that it is less than 1% and they donate to local food pantries.

J. Barnes presented the following information:

This is a big company
 There will be approximately 35 million dollars spent to improve the property, equipment & personnel

75 to 100 new associates hired in the first year
Light vehicle maintenance only will be done on this property in an area of approximately 13,000 square feet
Fluids, tires & wipers will be taken care of in three bays
Proposing a drive thru truck wash
Fuel would be just for their fleet of trucks
Fueling would be for their trucks only
They had workers that would fuel the trucks
Trucks are loaded at night

H. Therriault asked about the fueling.

J. Barnes said fuel would be for US Food trucks only and they had staff to fuel the trucks.

T. Thurlow stated that there is a noise ordinance in town from 10PM to 7AM. She also pointed out that there is a large apartment complex in that area.

J. Glynn said that there would be an average of 77 trucks per day.

T. Gibbons presented the following information:

They plan to contain and mitigate possible dangers
Fueling bays and truck maintenance area will be in an area that is already paved
Tank and fueling bays will have canopies
Spill kits will be at fueling bays
20,000 gallon above ground diesel fuel tank with containment
Tank will be enclosed in a "concrete bathtub"
This will be a double walled fuel tank
Truck washing bay will be a 2 or 4 brush system
They will have 85% water reclamation

Dr. Lebold asked if money would change hands for the fuel.

T. Gibbons said there would be no exchange of money. Fuel is for their trucks only.

T. Thurlow asked if they were already doing all of this at the Peabody, MA location.

J. Glynn said they did everything except the car wash and they are located in Centennial Park.

D. Frigge stated the following information for the application:

There will be sanitary sewer
A three compartment tank for the wash
Storm water management will be taken care of and they are adding storm water inlets
There will be a media in the system to contain spills
The system they want to put in place should only allow water to go through if there is a problem

Dr. Lebold asked if the drainage could be closed off in an emergency.

D. Frigge said the media would contain any spills.

T. Gibbons stated that they had met with C. Slayton and will make any modifications necessary for the best interest of the town.

J. Barnes said they want to make sure that all safeguards are in place.

K. Connors stated they have a spill prevention control plan.

H. Therriault asked if the other facilities were in a water protection area.

K. Connors said he was unsure because he was only a couple of months with the company.

T. Gibbons said that one is near wetlands and all protection is in place. They want to make sure to protect the environment.

J. Barnes spoke to the questions for granting of the variance request. He said they would protect the water and aquifer, they will improve the property and they will bring new jobs to the area.

T. Thurlow asked if the refrigerated trucks would be running 24/7.

J. Glynn said they would.

H. Therriault asked about the move to Seabrook.

J. Barnes said it was a much larger facility.

Mike Bergeron, NH DRED, said that the State of NH was impressed with the project. He pointed out that jobs and would add value to Seabrook and the State of NH.

Bill Manzi, Town Manager, stated that Selectmen Aboul Kahn and Ed Hess along with Town Planner Tom Morgan were in attendance with him tonight. He said that they support the project. He said it was a great opportunity for the town and that it would be bringing 300 jobs into the town in the next few years. He said it would help with the tax base. He said it would be a positive effect on the town. He pointed out that US Foods is making steps to make protections needed.

Arleigh Greene, Atlantic Avenue, stated that he was in support of the project. He said the jobs would be good, decent wages for the town. He asked what type of fuel would be there.

J. Barnes said it would be diesel fuel only.

Attorney Mary Ganz appeared on behalf of Sandra & Kenneth Thurlow, one of the abutters to this property. She stated that they had owned the property since the 1970's and this is one of the two properties in Seabrook without town water and sewer. They are worried about the well they use becoming contaminated by this project. They need an easement to get these connections and wondered if maybe US Foods could help with this.

Dr. Lebold asked if this could be a condition on the variance for the Thurlows.

Attorney Ganz said an easement or maybe money.

B. Manzi stated that the community is willing to explore options to help the Thurlows. He said he has tried to reach out to the Thurlows several times.

J. Kelley asked if the property was for sale.

Attorney Ganz stated it was not.

H. Therriault asked where the Thurlow property was.

Attorney Ganz stated the home was in Seabrook with a long driveway. It needs an easement and some of the property is in Salisbury, MA.

H. Therriault stated that the fueling station for this request is on the side of the property away from the Thurlow property.

Ken Thurlow stated that overflow from the drainage does already come onto their property.

J. Kelley asked why this was an issue now.

H. Therriault stated that the ZBA can't mandate this be taken care of.

Dr. Lebold said that the town should take care of it.

B. Manzi stated that the town is working on this.

Carmel O'Brien, 21 Deer Crossing, stated that this was a good presentation by the applicant. She said that millions of dollars have been spent to straighten out the water system in Seabrook. She felt that this project could open up Pandora's box for others. The wells are in this area. She suggested using a truck stop somewhere for fueling the trucks or going down to Route 1 and supporting local businesses.

Ed Hess, Vice-Chairman Board of Selectmen, stated that anyone else coming into town would have would have requirements. He said US Foods is doing the right thing. This is a great facility and would be beneficial to the town. He said they are going to recycle the water and he does not think they would leave the town in a mess.

T. Thurlow stated again that the town has a noise ordinance from 10PM to 7AM. She said that this request is talking about 77 trucks traveling near apartment buildings and 1400 feet from houses. This will create noise.

J. Kelley asked how many refrigerated trucks there would be.

J. Glynn said all the trucks are refrigerated but would not all be there at the same time. He stated the trucks are running around the clock.

P. Garand stated that this facility is already approved as a trucking facility. He said that the fueling and car wash are the issues before the board tonight.

H. Therriault stated that he agreed. He said they needed to deal with the aquifer issues which prohibit fueling and car washes in this area. He pointed out that accidents can happen. He said that this property is in the aquifer protection area and the board has denied other requests in this area.

Jeff Brown, Centennial Street, said that the proposed fueling station is the same as the one the town has. He said the ordinance is to limit commercial gas sales in the area. He pointed out that they are asking to do what the property is already zoned for. He said there is no commercial gas sales proposed here.

E. Hess said that he agreed with J. Brown.

Dr. Lebold asked about a condition of the variance have only an attendant fueling the vehicles and doing the maintenance.

J. Glynn agreed.

P. Garand said that the Planning Board would be dealing with noise issues and traffic. He pointed out that the fueling and car wash were the issues before the board at this time.

C. Slayton stated that he was concerned about what would happen to the property if this project didn't go forward. He said dividing the property up would not be a good idea.

P. Garand said that this property already has an approval for a small garage from the previous owner. He said that trucks would be in a well-protected area.

J. Glynn said that the trucks would only be washed once a week.

H. Therriault stated that US Food had given an excellent presentation.

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

	T. Thurlow	R. Fales	H. Therriault	Dr. Lebold	J. Kelley
1.	Yes	Yes	Yes	Yes	Yes
2.	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 request for Variance for maintenance shop, fueling, and washing facilities at 100 Ledge Road with the following conditions: 1) Only your trained attendant can dispense fuel; 2) All maintenance will be done inside a building with controlled drainage. All maintenance will be conducted on your own trucks only; 3) Only US Food trucks maintenance and washing on site and 4) Only diesel fuel is available and delivered only to US Food's truck and no money changes hands.

Second: H. Therriault

Yes: Unanimous

Request for Variance at 100 Ledge Road is granted.

Motion: Dr. Lebold Adjourn Meeting

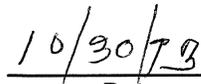
Second: J. Kelley

Yes: Unanimous

Meeting adjourned at 9:00 PM.



 Henry Therriault, Chairman



 Date