

Town of Seabrook  
Board of Adjustment  
August 26, 2015

Members Present: Henry Therriault Teresa Rowe-Thurlow Michael Lowry  
Dr. Robert Lebold Robin Fales Brandon Adams  
Others: Building Inspector Steve Zalewski Secretary Jamie McDonald  
Not Present: Mark Preston, Joanne Page

**Meeting opens at 7:00 PM**

H Therriault opens the meeting explaining procedure of the meeting and where the meeting has been posted. He further explains that the meeting is being recorded and a copy is available at the Town Hall.

**Old Business:**

Minutes of July 22, 2015 meeting

Questions on votes of T Thurlow and M Preston. Vote held until later on in the meeting.

**New Business:**

**Case # 2015-008 Re-hearing for The Kane Company, 319 Route 107, Map 2, Lot 41, for Variance to Section 16, Sub-Section 401,402,403 to permit Storage & Use Handling of Regulated Substances in Zone 3- Industrial.**

\*M Lowry steps down from this case.\*

Dr. Lebold speaks on this case He addresses the applicant as written: The original application for relief from the 5 gallon limit of regulated substances was denied by this board, which expressed its decision based on objections and reasons as seen and heard on the available disc. A rehearing was granted based on the applicant disclosing a tenant with a full description of his plans for a cardboard box fabrication facility. Without that new information there was no other reason to grant a rehearing. Having that tenant withdraw, you are left with the original denial with no new information. You were then, and you are now asking the BOA to legislate an addendum among other objections to a town voted zoning ordinance.

Therefore:

|         |            |   |
|---------|------------|---|
| Motion: | Dr. Lebold | To deny the applicants request to continue  |
| Second  | R Fales    | with a rehearing based on "NH Board of Adjustment Handbook" under "subsequent applications" which states, and I quote, "when a material change of circumstances affecting the merits of the application has <u>not</u> occurred or the application is <u>not</u> for a use that materially differs in nature and degree from its predecessor, The Board of adjustment may not lawfully reach the merits of the petition. If it were otherwise, there would be no finality to proceedings before the Board of Adjustment. The integrity of the Zoning Plan would be threatened, and the undue burden would be placed on the property owners seeking to uphold the zoning plan" [Fisher V. Dover, 120 N.H 187 (1980)] |

**DISCUSSION**

H Therriault says that the applicant has done exactly what was asked of them and explains why he feels that way.

T Thurlow says that she still has concerns because they now have no idea what will be going there.

H Therriault goes into detail about the difference between the applications.

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B Adams clarifies that granting a variance will make it so whomever purchase the property will have to go in front of the planning board.

Discussion on what and/or where the application applies to.

**\*\*Dr. Lebold withdraws his motion.\*\***

Steven Grill of Devine Milmet represents Yankee Greyhound.

He says that this particular process is unusual and elaborates on the variance request. He notes that for the record he would like to make prior tapes and statements/minutes available and admissible for this case. He describes the history of the property and the seriousness of the outcome if a variance is not granted. He says that they need help from the town as it cannot currently be used as anything else if a variance is not granted. He says that the deal with the Kane Co fell through partially because of zoning issues. He presents a list of other industrial companies in the area and a letter of support from TM Bill Manzi.

T Thurlow questions the validity of the application as it still says the Kane Co. Atty Grill explains that Yankee Greyhound was the co-applicant and can continue the application under NH state law without The Kane Co.

Discussion on the process and why a variance is needed.

T Thurlow says that she doesn't understand how a variance can be granted when a use for the property has not been brought forward. Atty Grill explains what they are trying to do and future proceedings.

T Thurlow says that she is very protective of the aquaphor. Atty Grill feels that that falls under the jurisdiction of the planning board. He says that he is not questioning the need to protect the aquaphor, but this is not typically looked at by the zoning board.

Public hearing closed.

|   | Dr. Lebold | H Therriault | R Fales | T Rowe-Thurlow | B Adams |
|---|------------|--------------|---------|----------------|---------|
| 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: H Therriault

Second: Dr. Lebold

Yes: Unanimous

No:

Motion to grant the variance to permit conditional use of regulated substances by businesses and industries who propose to locate onto the property so long as the regulated substances are approved by the Planning Board through site plan review under Section 15 of the Site Plan Regulations. Any business not obtaining Planning Board approval for the specific regulated substance is uses would not meet the condition of the variance and would be excluded from locating on the site

**CASE # 2015-012, Ying C Chuang, 131 Lafayette Rd, Map 9 Lot 155, for Variance to Section 6, Sub-section Table 1 and asks that said terms be waived to permit a storage building in zone 6M**

Ying C Chuang gives an overview of this application.

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Dr. Lebold asks if this is the first time that a variance was asked for. Mr. Chuang says that he has not been in front of the board before. Dr. Lebold says that he remembers this request. Minutes and decisions are presented from previous requests from Mr. Chuang for this property. Discussion on whether or not new rules apply now that there are new zoning ordinances.

H Therriault questions whether a denial is grandfathered in with the re-zoning. Discussion on mixed use definition.

Mr. Chuang says that he does not remember coming before the board previously and says that is asking for 2 different things

|   | Dr. Lebold | H Therriault | R Fales | T Rowe-Thurlow | M Lowry |
|---|------------|--------------|---------|----------------|---------|
| 1 | NO         | NO           | NO      | NO             | NO      |
| 2 | NO         | NO           | NO      | NO             | NO      |
| 3 | NO         | NO           | NO      | NO             | NO      |
| 4 | NO         | NO           | NO      | NO             | NO      |
| 5 | NO         | NO           | NO      | NO             | NO      |

Motion: Dr. Lebold To deny request as storage is not permitted in this zone- second time this has been denied on this property.  
Second M Lowry

Yes: Unanimous

**DENIED**

**Minutes continued:** Vote on case # 2015-011 to be amended to show T Rowe-Thurlow as voting yes

Motion: H Therriault

Motion to accept minutes with amendment to the vote for case 2015-011

Second: Dr. Lebold

Yes: Unanimous

Accepted with changes

**Correspondence:** Request from Case # 2015-011, Northvision, LLC for rehearing Dr Lebold motions to hold on vote for rehearing with a second from R Fales. H Therriault questions if the request was received in time. It was received within the time frame. R Fales rescinds second and Dr. Lebold rescinds motion.

Motion: M Lowry

Motion to grant rehearing for Case # 2015-011

Second H Therriault

Yes: ML, TRT, HT

NO Dr.L,RF

**REHEARING GRANTED**

Motion: Dr. Lebold

Motion to have both approvals and denials kept in property files.

Second R Fales

Yes: Unanimous

Motion Passes

Motion: M Lowry

To Adjourn 8:30PM

Second R Fales

Yes: Unanimous

Adjourned

Signed: \_\_\_\_\_  
Henry Therriault  
Chairman