



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

Members Present: Sue Foote, Chair; Peter Evans, Vice Chair; Mike Lowry, Clerk; Aboul Khan; Paul Himmer; Robert Moore, Ex-Officio; Elizabeth Thibodeau, Alternate; Tom Morgan, Town Planner; Barbara Kravitz, Secretary;

Members Absent: Mark Preston

Attending: Jeff Brown, Chief, Seabrook Fire Department;

Chair Foote called the meeting to order at 6:10 PM.

### **MINUTES of April 3, 2007**

The Secretary noted the change "siteplan" to "zoning" on page 6, and the addition of Lowry's recusal for Cases 06-31 & 32.

<b>Motion:</b>	<b>Moore</b>	<b>to approve the Minutes of April 3, 2007 as amended.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### **REQUESTS FOR SECURITY REDUCTIONS OR EXTENSIONS**

Foote read a letter from Carl Bergeron, Jr requesting that the security held for Case #2004-19/ Collins Street be used to fix the unfinished road. Michael Bergeron built the subdivision and approximately \$21,000 is held as security. Foote said Michael is the appropriate person to ask for a security reduction. A 2005 extension and security reduction were granted and the case was continued to May 18, 2007, so it would be inappropriate to take action at this meeting. Evans said it looks like the project was abandoned without completion; there's no evidence of a contractor. Moore said it would be premature to reduce the security further. Morgan suggested having the Bergerons discuss the situation with the Board.

<b>Motion:</b>	<b>Himmer</b>	<b>To invite Carl and Mike Bergeron to speak with the Planning Board on May 15, 2007, or to provide explanatory correspondence.</b>
<b>Second:</b>	<b>Evans</b>	<b>Approved: Unanimous</b>

### **CORRESPONDANCE**

Foote referenced a call from Attorney Mary Ganz concerning **The Timber Court Warrant Article approving the transfer of a certain portion of Town land to a resident.** Ganz asked if the deed and cross-back easements could be submitted directly to the Town attorney. In a similar situation the Board of Selectmen signed the plan and the mylar as agent for the Town of Seabrook, before the application was submitted to the Planning Board. Henry Boyd of Millennium Engineering said since the Board of Selectmen actually is the owner of the parcel, the Selectmen should endorse the plan first. Boyd has told the prospective applicant to ask for placement on a Board of Selectman agenda and bring the plan and the Planning Board Application for endorsement. Foote noted Ganz



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

has asked if the Planning Board could waive the application fee, but not the recording or notice fees. Boyd said that is understood by the prospective owner.

<b>Motion:</b>	<b>Himmer</b>	<b>To waive the application fee (but not the recording or notice fees) in connection with the Town's proposed transfer of a Timber Court parcel.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

Footo noted the **cost estimate requested from Altus Engineering in connection with its recommendations concerning Border Winds/Cases #2006-46, 1999-24, & 1997-42** has been provided to Boyd. A copy was given to Jason Page for the Homeowners Association.

Footo read a memo from the Code Enforcement Officer concerning resident Richard Burns's request for information on an underground tank he believed existed on the DDR property: Cases 06-31&32. Burns has told Moore he worked at the property and some underground system caused an odor and pollution in the 1970s. Moore suggested Burns contact the Department of Environmental Services. Footo wondered how far into the ground such a tank might be. Evans noted it could be under the parking lot and/or might never be found. The Secretary was asked to send the memo to DDR for any information they might have.

Footo noted the letter from Bruno Campea of Bayside Engineering agreeing to provide the peer review for the Kohls traffic study in connection with Cases #06-60 & 61. Campea intends to appear at the May 1 Planning Board meeting when the traffic study is to be addressed, and to provide copies to the Board in advance.

Footo referenced a letter from **Henry Boyd of Millennium Engineering concerning Cases #2002-11&12/Appliance Warehouse asking for an extension, and providing drawings for the proposed corrective solutions for the streambed and bank, and failures of the original parking construction.** The wetlands application has been submitted and the design incorporates suggestions from Frank Richardson of DES and the Seabrook Conservation Commission. Footo said the current concern is the horrendous flooding off that site and is concerned whether the plans go far enough to contend with the stream flow if it is all to be paved. Evans asked if it would handle a fifty-year storm. Boyd said Joe Jutras inherited the problem from his father; the vegetation was destroyed; some work was never approved, and the water flows directly in the direction of the Town Hall. Footo said the plan doesn't show where the southside pavement will be taken up. Jutras is ready to do what is necessary to fix the situation.

Footo noted this is not the first time for heavy rainstorms referenced the proposed plan changes, noting this doesn't show where the water comes up. Footo said the site won't be what it was. Boyd said remedial work is needed. Footo asked if that would go back to the original approval, noting the pavement is in Salisbury with the water flow into Seabrook, and asked what was approved in Salisbury and if some parking can be cut back. Morgan asked how much has changed. Moore said more water in the culvert came over the road than ever before. It looks like they might be planning to build where they are filling in land. Boyd said the wetlands fills and floods, and comes through



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

the culvert; some say it has never been that bad. Jutras didn't want to plant it feeling they will die. Morgan said to send the new drawings to the town Engineer to compare to the approved plans and make recommendations. Evans asked how far off the drainage is from pre-development. Boyd said it wasn't built right; the water was meant to go to a grass area but the flow is unmitigated. Moore said the back in Salisbury looks to be more than thirty percent impervious.

<b>Motion:</b>	<b>Himmer</b>	<b>to send the Appliance Warehouse drawings to the Town Engineer for recommendations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Himmer said to have Mike Fowler call Boyd.

Foote read a March 26, 2007 letter from Eban Lewis of the Department of Environmental Services indicating the wetlands permit concerning Map 8 Lot 20 (Case #2006-27) has been denied because additional information concerning the wetlands crossing was not submitted within 120 days. Foote noted that the wetlands permit was expected in connection with the subsequent Case #2007-03 subdivision approved by the Board, which technically should have been subject to receipt of the wetlands permit.

Additionally, Foote reported that an amendment to the condominium documents concerning the "removable land" was recorded but the Planning Board was not apprised. Khan asked for the location. Foote said it is known as the Grasso parcel, 103 Ledge Road, Map 8 Lot 120, across from Poland Springs. Himmer asked if the denial negated the approval of that case. Morgan said during Tech Review it was noted a condition of the dredge and fill permit was for no further alteration of wetlands, and a copy of the permit was to be filed with the deed for each lot. Foote said this was not done. Scott Mitchell said when the condominium documents were submitted the Planning Board wanted the reference about "withdrawable land" out, but the Planning Board was fully aware of the intention to subdivide the back part. Foote said the Board had asked for a legal definition of "withdrawable" land. Mitchell said he will provide the language next time; not letting the Planning Board know about the amendment was unintended and not deliberate, but that the Board knew his intentions from the start.

Mitchell said there was no response to Lewis because the whole site is being redesigned. Also, he has been advised by wetlands scientists that the DES has no power to say "no further impact" on a parcel. The subdivision is valid. They got all the owners to acknowledge the intent to subdivide in writing. They will reapply to the Conservation Commission for 570 feet of impact, and then file for the wetlands permit. Foote said the Planning Board did not get a copy of the change in the condominium documents from Mitchell; the amendment came amendment from the Register. Mitchell said he is happy to provide it and is not hiding anything. The building is almost redesigned. Having a wetlands approval is not part of subdividing the land. Morgan said it is in the subdivision regulations and asked if the restrictions will be in the deeds. Mitchell said the setbacks have been met; he could go back to the DES and get the wetlands permit first.

Evans said it is not up to the Planning Board to second-guess the DES, and asked what the Planning Board restrictions were. Foote said it would be necessary to go back to the original Chase parcel



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

minutes. Foote said the plan is needed. Mitchell said conceptual drawings showing the subdivision intent were shown at the outset. Foote asked for Morgan's advice. Foote noted there should have been a response memo back to Lewis. Mitchell agreed. There was no communication. Mitchell added he has never seen a memo like the one from DES.

Himmer asked for recommendations. Foote questioned the vote on the subdivision because the Board was not in possession of all of the information including additional documents and changes in the condominium documents, and asked if the Board wanted to reconsider or let the subdivision stand. Morgan asked for the status. Foote said the mylar has not been recorded and asked if the board can appeal its own decision. Tom said according to RSA676-4A the deciding date is when the Board made its approval. Mitchell said the documents for the subdivision and the condominium are separate, but he didn't know the revised condo documents weren't sent to the Board. They will confer with the Conservation Commission.

Morgan asked if the application is going to the Conservation Commission and they are applying for another permit. Foote noted the Conservation Commission is advisory only. Moore said it is up to Mitchell to reapply to get wetlands approval. Morgan said not too much would be happening in the interim and the Board could consult council in the meantime. Mitchell said a conceptual drawing was sent to DES because the site wasn't yet fully engineered, but they could have responded to Lewis' note. Evans asked if the Board's decision will stand-up to an appeal. Foote said Paul Garand wants to initiate a revocation. Morgan said legal counsel has not been consulted but the RSA is specific as to the date. Mitchell said the minimum lot size met all criteria, and asked why Garand is digging in. Moore said to use the Town attorney. Foote thought using the Town attorney could be a conflict at some point. Foote said the condominium documents are State controlled. Morgan said he is bothered by the restrictions not making it into the deed; the Board should confer with a local attorney.

Foote noted memos from the Code Enforcement Officer asking that action be taken to initiate to revocation of Case #2007-03 because of the wetlands denial and the Assessor memo, and that Morgan consult with legal counsel. Foote thought this was discussed in Tech Review. Morgan said a specific RSA paragraph specifies reasons for revocation and you can't wander from those reasons. Mitchell said his attorney's opinion is if the minimum lot size is met, as well as all the criteria for the subdivision, it has nothing to do with a wetlands permit. Mitchell said the Code Enforcement Officer is going out of his way on this particular issue. He's done a lot of business in Seabrook for many years. Morgan asked for Garand's memo to be reread. Foote read: wetlands denial, assessor's memo concerning condominium documents, and code enforcement memos; the assessor. Morgan recalled the Board's discussion about retaining a local attorney on certain items, and said this might be a good instance to confer. Moore noted the Town has two local attorneys doing a good job. Foote said although the Seabrook Planning Board has not been in conflict with the Board of Selectman, this has occurred in other towns. Page noted there are regulations written into his neighborhood deeds. Foote said that comes from the Homeowners Association, a private entity. Condominium documentation is controlled by State law. Foote explained the approved condominium plan showed limited common area and the subdivision impacted this. Morgan suggested the whole Board confer with a local lawyer about the regulations and recording provisions, and to sort through the issues.



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

Khan asked if something was overlooked at the late meeting, and said from now on care should be taken not to make decisions late at night.

Foote referenced a memo from the code Enforcement Officer, Paul Garand, concerning Case # 2000-22/ 32 Stard Road citing truck damage and an expansion of the site use requiring site plan approval. Also the DES permit has not been followed. The owners have been given fifteen days to remove trucks and come into compliance with the approved siteplan.

Foote referenced a letter from Sharon's Sea Grille asking for an application waiver for a 24'x12' outdoor deck at the end of the building, with a door leading to the dining area. Moore asked if there is any feedback from the Beach Building Inspector. Foote said there has been no contact and it has been difficult to get feedback on enforcement issues. Moore said if there is commercial development it has to come to the Planning Board for siteplan review. Himmer said he has discussed this with the Beach Building Inspector who sent Sharon to the Planning Board. The Beach has no deck or outdoor area regulations. Foote questioned if there will be enough space.

<b>Motion:</b>	<b>Evans</b>	<b>to not waive jurisdiction for the proposed deck for the Sharon's Sea Grille.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

. Evans said the extra deck may be extra floor space and affect the parking calculation. Foote said this must comply with the Town's parking regulations Boyd noted there is no parking requirement in the Beach code. Moore noted also with the setback requirements.

Foote noted an intent to cut timber at 135 Folly Mill Road. Boyd said this is already underway.

Foote read a letter from Larry Imke of Seacoast Mini-Storage concerning the prospect of a mini-storage facility off Ledge Road in an industrial zone, and offering the benefit of his experience. Most of his customers are individuals or retail businesses as opposed to contractors or small companies. Some of his customers access weekly; others a few times a day greatly increasing the traffic flow. He said many communities locate this type of business in commercial zones? Imke believes mini-storage would not be appropriate for Ledge Road. Moore disagreed, saying the physical use of the property is storage, not retail, and this is a mixed-use zone. Morgan asked if there is an application before the Planning Board. Wayne Morrill of Jones and Beach said he had posed a question to the Board about mini-storage but there is no application to present. Morgan thanked the writer for his letter.

Foote read the letter from Jack Reed of JBR Associates, the general contractor, asking the Planning Board to waive a siteplan application to enclose a 7'4"x6'9" area for an ATM at the Granite State Credit Union, 68 Lafayette Road. Evans asked if there is an existing ATM. Reed said there is not. Moore asked if there will be a roof. Reed said it will be fully enclosed for 24-hour access and security. Khan asked if this is a drive through. Reed said it is a walk-in and is no closer to the lot-line. Evans asked about parking. Reed said he has never seen the lot full.



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

<b>Motion:</b>	<b>Moore</b>	<b>to waive jurisdiction for the ATM enclosure for the Granite Credit Union at 68 Lafayette Road.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

Foote has written a memo to the Code Enforcement Officer concerning the motel on Route 126 which, according to a sign, is offering executive condominium suites. Court action gave permission for a condominium hotel, but the applicant never provided the condominium papers or fee. The memo indicates the condominium papers were never signed or recorded, unless this occurred without Planning Board Review. Possibly, there are new owners. Moore asked if there were restrictions on visitors. Evans suggested submitting the question to Mark Preston. Jason Page suggested the Code Enforcement Officer call the realtor. E vans said to avoid misrepresentation by realtors. Morgan suggested the phone number on the sign be called. Moore said a new owner needs to be brought up to speed.

### **PUBLIC HEARINGS**

Foote opened the Public Hearing at 7:40 PM

### **ONGOING CASES**

**Case #2006-13 Harley Real Estate/85 Ledge Road re NOD/site security, continued from January 16, 2007.**

Foote noted a cease and desist order by the Code Enforcement Officer, and said the security required has not been given. Wayne Morrill of Jones and Beach said the security must be posted before any work can be done.

<b>Motion:</b>	<b>Foote</b>	<b>To continued Case #2006-13 to October 16, 2007 at 6PM in Seabrook Town Hall.</b>
<b>Second:</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

**Case #2006-60 Proposal by Edwin F. Adams, Griffey Seabrook LLC, and SOFIST (USA) for a lot line adjustment and lot consolidation off Lafayette Road, between Lowe's and the Seabrook Recreation Center, Tax Map 9, Lots 62, 238-1, 238-10 and 240.**

Attending: Scott Mitchell;

Appearing for the Applicant: Wayne Morrill, Jones and Beach engineers;

[Morrill referred to the drawings.] Morrill said the Planning Board has accepted the application and granted the waiver to modify the title block and revision placement; the Lowe's cross-easement and declaration book and page allowing cross-access language has been inserted; and the open space note removed. Morgan asked about the attorney for a party of interest saying that no cross-easements was a condition of the Lowe's Department of Transportation permit. Morrill said that is not correct, and future cross-access points were on the Lowe's DOT permit and Pernaw's Traffic Study addresses this. Mitchell said it was clear in the scoping meeting with DOT they would have to return for specific cross-easements. Morgan asked about the Irving access. Morrill said the Irving property has its own access and there is none from the rear of the property. Mitchell referred to a



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

"sliver" piece is being untouched if Irving wants it in the future for gas station expansion. Morrill said there is no agreement to sell this piece to Irving.

Khan asked about an entrance for the Recreation Center which would make a lot of people happy. Mitchell said they are studying the possibilities and will ask Pernaw to walk through. Foote said there is no way for an entrance from the rear of the Rec Center. Discussion at the last Rec Committee meeting suggested even a bermed barrier entrance for ease of exiting northbound vehicles, perhaps at the restaurant, would help. Morrill noted that leaving the Rec Center would have to cross to a dedicated turn lane; it would be tight and suggested staking it after the sitewalk with Pernaw. Evans asked if the easement restrictions harmonized with Seabrook codes. Morrill said they must meet Town regulations and referred to the Lowe's easements which specifically restrict retail uses, etc. Evans was concerned about restricting other businesses. Mitchell said this is common in such developments. Foote said several entities including Murray Seabrook, Lowe's, and Griffey Seabrook are referenced in the easement covenants, and there needs to be ownership continuity in the files. Morrill said this pertains to the original Phase I and Phase II documents. Kravitz suggested a certified writing showing the chain of title. Morrill said this will be done. Foote asked for further questions from the Board or abutters. There being none:

<b>Motion:</b>	<b>Evans</b>	<b>to approve the Case #2006-60 proposal by Edwin F. Adams, Griffey Seabrook LLC, and SOFIST (USA) for a lot line adjustment and lot consolidation off Lafayette Road, between Lowe's and the Seabrook Recreation Center, Tax Map 9, Lots62, 238-1, 238-10 and 240.</b>
<b>Second:</b>	<b>Khan</b>	<b>Approved: Unanimous</b>

### NEW CASES

**Case #2007-05 - Proposal by Seabrook Camp Meeting Development, LLC for a condominium conversion near Dows Lane, Tax Map 12, Lot 14-40.**

Attending: Wayne Morrill, Jones and Beach Engineers;

Morrill said this is # 4 of the Dows Lane subdivision, Unit A. Following the Tech Review, the plans have been revised to show the driveway easement utilities - water lines, sewer, power.

Foote recessed the hearing at 8:15PM to locate the latest revisions, and resumed at 8:24PM.

Morrill noted the floor plan drawings have not been modified. The wetlands marker Note is added, and they have asked for a waiver for the title block. The water lines are shown. The back piece of the property is "convertible land". Foote asked about a variance for the deck overhang. Morrill referenced Note 11 for the Zoning Board of Adjustment setback waiver. Moore asked why Unit B is not shown, Morrill said it will be on the convertible land, and assured they will return to the Board for the second unit. Moore asked if Board is not requiring the second unit to be shown. Foote said



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

that is why the definition of "convertible land" etc, has been requested. Morgan said the regulations require a complete set of site plans and floorplans to be filed with the Planning Board. Foote said this is a housing structure and a vacant lot. Evans said when returning with the second unit, to make clear the relationship of the housing structure and vacant lot in this siteplan, and asked if the submissions for this plan are complete. Morgan indicated this plan has cleared Tech Review. Moore asked if there is enough uplands for Unit B. Morrill said "yes".

<b>Motion:</b>	<b>Evans</b>	<b>to accept Case #2007-05 as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Moore asked if there is power to the convertible land. Morrill said it runs above the sewer manhole. Foote asked for the "no cut" markers. Morrill said they will be attached to the jurisdictional markers on the trees. Evans said to clarify the wetlands markers in the legend and noted the typo in the name "Sanborn". Morrill said the incorrect Case # will be fixed. Foote asked for further questions. The being none:

<b>Motion:</b>	<b>Evans</b>	<b>to waive the title block position in the Case#2007-05 siteplan.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

Foote said Jones and Beach does enough business in Seabrook to make a special title block complying with the Town's requirements. Evans asked if a waiver was needed for the floor plans. Morgan said he is satisfied.

<b>Motion:</b>	<b>Evans</b>	<b>to approve the Case #2007-05 proposal by Seabrook Camp Meeting Development, LLC for a condominium conversion near Dows Lane, Tax Map 12, Lot 14-40, in so far as it meets the condominium requirements for the State of New Hampshire and the Town of Seabrook regulations, and provided a revised mylar is provided.</b>
<b>Second</b>	<b>Himmer</b>	<b>Approved: Unanimous</b>

### **Case #2007-07 Proposal by Katim, Inc. and ARC Source to construct an industrial gas facility at the end of London Lane, Tax Map 5, Lot 8-41.**

Attending: Stephen Nichols, Steve Webster, Dutton & Garfield, contractor; Norton Remmer, fire safety consultant;

Appearing for the Applicant: Henry Boyd, Millennium Engineering;

Boyd said the Tech Review did an exhaustive review and the requests have been addressed. Morgan asked for Chief Brown's views. Brown said the Fire Department has had discussions with the Applicant all along and made clear they do not want outside flammable storage yards. There will be an interface with the fire code; a fire protection consultant was hired and the report reviewed.



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

There is inside and outside storage; the Town requires that outside storage of more than 2000 gallons of flammable materials be enclosed. If the Fire Department had a vote on zoning districts, it wouldn't vote for "industrial" where it is. For the outside storage on the east side of the building, the building is the buffer to the residential area; the inside, mid-room flammable storage room is also a buffer. The department is in concurrence with the fire engineer's report, the hazardous classification of the building, and the type of sprinkler system. The outside storage for the most part is non-hazardous gases; hazardous gases are inside. After approval, the owner will do emergency planning. The Fire Department will inspect quarterly, as it does in about twelve Seabrook facilities. Brown said he has no vote as to where an industrial area interfaces with residential zones. A significant incident would be a problem and involve broad evacuation, depending on the winds, of the residential area, Ledge Road area, and Route 1. A guarantee of no incident cannot be given.

Brown has done the modeling for responding to significant incidents. The codes plus additional requests were followed. For example, propane can be twenty-five feet from the west property line, but the request to locate it on the other side was followed. The inside storage room is different and safer than outside storage; Department of Transportation evacuation tables apply to the outside tanks. The facility meets the fire code and the fire department has done simulation modeling. An incident would likely involve a leak, for example, when filling up. This project is of concern, but everything possible has been done to mitigate exposure. If requested, Brown could do more modeling or research, if necessary, or get help from the Fire Marshall. He suggested hearing from abutters. Morgan asked if there are stipulations Brown would like the Planning Board to place. Brown said not to going above the listed quantities, especially the hazardous gases, plus considering abutter concerns. Boyd said these are not on the plans.

Khan asked if there will be gates. Boyd showed how the two gates and the security fencing are placed, so only the parking lot is accessible when the gates are closed. Khan asked if there would be a security guard at night. Boyd did not think so. Khan asked how an incident call would get to the Fire Department. Remmer said the sprinkler heads trigger the alarm; the facility is covered by ventilation with emergency power adequate to dissipate a leak. Foote asked about a gas leak. Remmer said this is covered by the specialized ventilation requirements in the gas enclosure. Khan asked about security when the morning trucks are loading, and said if there is no human security how would they know if there were hijackers or terrorists. Nichols said the doors would be locked, and he is not aware of such an attempt at a similar facility in the US, and the quantities in this facility are small. Boyd said the trucks are inside at night and would be accessed only by employees. Remmer said there are no toxic gasses. Moore said there is an elaborate security system and no toxic gasses requiring monitoring. Remmer said in the last ten years there have been great improvements in building requirements and safeguards. Khan said that is not good enough.

Foote referenced the book submitted delineating the gasses and said almost all are in an acute health hazard category. Remmer said this is not so under the gas codes; no gases are defined as toxic by the DOT. Ingestion of abused toxic gases would be fatal. Foote said most are heavier than air odorless and colorless, and can float through fog in wetlands at the ground surface. She asked if there are any detectors. Nichols said the code of federal regulations lists gases, and none of these gases (except silane) have no known permanent hazards for humans, although there could be an



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

adverse effect in the short term. Carbon dioxide is used in fire extinguishers, and is the fizz in Coca Cola. Evans said silane is used at this semi-conductor plant and delivery requires evacuating the building. Nichols said after 911 small quantities were taken off the watch list; leaks mix with air. Reading from the [book on gases, Foote asked about propylene, noting rapid suffocation and a depressant on the central nervous system, extremely flammable liquefied gas may form explosive mixtures in air, vapors may spread, no visible detection, in high concentrations it may cause asphyxiation, including loss of mobility, rapid unconsciousness, and victim may not be aware of the effect. Foote said this is one of the tanks between propane and hydrogen. Nichols said propylene is quite similar to propane which is in a lot of tanks in the area.

Evans asked Brown about the fire modeling. Brown said nothing left the site; the fireball eats up the gas, although there can be concussion that breaks off-site windows. This facility has extinguishing systems like in a gas station. The worst-case scenario was an explosion when off-loading propane. That model had 10,000 gallons of propane off-loaded into a propane facility with an explosion of 500 feet in each direction, and occurred because the grounding wasn't proper and the extinguishing system wasn't in place. The truck was consumed. A concussion can't be modeled. Evans asked what a concussion would be like. Brown said with propane there would be a thud like someone blasting ledge. Evans asked how the department would warn people. Brown said a fireman would knock on the door, and there would be an automatic second alarm response with Amesbury's ladder truck.

Evans asked how long an evacuation process might take. Brown said phonecalls would go out to Amesbury, Seabrook, and Hampton departments; response time to knock on a door is about ten minutes. Brown noted such a plan is in place for a facility that is less than a quarter of a mile from this building. Boyd said this is like filling your gas tank every day. Brown said something that's "known" is a lot better than unknowns, like what could be in a mini-storage facility, and noted the sprinklers, fire alarms, and mutual aid available. After having the most significant hazardous materials fire in the State, Seabrook has learned sprinklers are important, fire alarms are important and mutual aid is very, very important. In an internal incident, the gases dissipate quickly and likely people would be told to stay put. A flammable liquid storage facility would be different. Foote thought some of these were compressed liquids, although technically a gas. Brown said they are gases, not flammable liquids. Evans asked if acetylene dissolved in a liquid. Nichols said they do not fill acetylene cylinders. Evans asked for precautions to keep acetone out of the aquifer. Nichols said no acetone is stored, only what is already in the cylinders, and this is all in the inside room. Webster said there is block all the way around and the room is rated for pressures.

Khan asked if there is monitoring for accidental release. Nichols said "no" as to the gases. Remmer said this is handled by the ventilation system. Khan said nobody would know.

Morgan asked for comments from abutters. Jason Page said he does not doubt the facility is unique, thoroughly researched, and up to date, but is worried about water quality in the wetlands if there is a leak, and the lack of monitoring. It's not a bad idea but it is close to residential areas, even though they were formerly industrial, it is the wrong location. The inside ventilation goes out into the air. Foote asked if there were scrubbers. Remmer said "no", the system is what is called out in the fire



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

codes. Foote said that system is for getting gases out of the building so they don't explode. Remmer said it really is to take care of leaks; and move gases outside where they dissipate in the atmosphere and never reach a critical concentration level. This is standard procedure. Page said propylene stored outside would contaminate adjacent areas; there's lots of risks and dangers that outweigh the benefits; it's the wrong location. Lenny Demaris agreed with Page; there are little kids who play outside - and it's tough to breathe without oxygen. He asked who would buy a house there.

Boyd asked if there is anything stored on that site that, if leaked, would blow a thousand feet and kill anyone. Morgan asked how far the facility would be from the nearest house. Boyd said the propane is nearly 1000 feet away, and noted the code says a propane tank can be twenty-five feet from the property line. Remmer said the amounts of hazardous gases are very small and dissipate beyond the building. Boyd said where should such a facility be if not in an industrial zone. It is a great use for this site. They have been researching this site for two years. They went to the zoning board first and was advised this is a permitted use for this site. They were encouraged to buy retail property on Route 1, and is bringing two businesses to Seabrook. Who's going to sell the fire department and the dentists and florists the gases they need.

Ralph Dumke said he is not a resident but owns Waterline Industries on Batchelder Road, which is also on the Planning Board's agenda. His firm builds water and wastewater treatment plants and has used ARC Source products for twenty-five years. The back of their Amesbury facility is near residential areas. The handling at that facility is very safe, employees are long-term, and the firm has a good history and management. All this is important to take into consideration. Nichols said ARC Source has been in Amesbury for 45 years without incident, close to Market Square. The industry is very conscious of safety and puts out information in the worst-case terminology. The industry has not had a great deal of problems. Most of the ARC Source gases are atmospheric and used in many businesses along Route 1. The silene is in very small quantity. Evans said air dilutes, but 500-foot fireballs and concussion are concerns, as is evacuation. Also he noted the area was zoned residential first and then was turned into industrial through a variance. He has additional concern about bat houses. Boyd said these are for dry ponds to eliminate mosquitoes. Demaris said bats don't like the bat houses.

Foote asked if there were more questions from abutters or members of the audience. There being none, the Board was asked for any further questions. Khan asked how satisfied the Fire Chief is with the automatic fire alarm system. Brown said he is very confident in the system it's Town maintained and a direct line to the department. Foote asked for the Board's view. Himmer asked if there are any other issues to address. Foote said many of the Town Engineer's comments were addressed in Tech Review, but asked if underground electric was proposed for this site. Boyd said this has been added. The total site security recommendation is \$55,000. Khan asked if the plan has to be approved at this meeting. Foote said it is up to the Board. Khan proposed the Board take a little more time to understand the materials and new information and think about the decision, and asked if Nichols could think about manned security. Moore asked if all of the gases are on the plan. Nichols said "yes". Lowry asked if the gases and quantities are on the plan. Nichols said all of the bulk storage is there. Foote said the gases book states poundage. Nichols said what's in the



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

cylinders is a relatively small percentage of what would be stored in bulk. Foote said it was a surprise to see how many gases are heavier than air and wondered about the mixing coefficient. As her husband worked with a lot of gases at as a designer at Cabot Corporation, he said that firm surrounds the area with a dry moat to contain a leak. The facility is very close to the detention area and possible with a little relocating of the bulk gases the detention pond would be around it which could appease people. The low point is into the wetlands behind the area and the gases that are heavier than air stay low. Boyd said the flow would be down into the pond and then have to mount the berm again; the berm could be extended around the side. Foote said, personally, she thinks this would be a very good safety measure, and it wouldn't take very much to do. Webster noted that area is fenced in.

Moore asked if there is any outdoor detection system for propylene leakage. Nichols said he did not know of o. Page asked if there is any mixing on site. Nichols said there is some mixing but not of the flammable gases. Himmer asked if there is enough of the hazardous material to warrant such a concern. Nichols said in his experience there isn't; he and employees work there and have no fear because the hazards are so minimal. Foote said perhaps public education is needed. Himmer asked if Brown is concerned about the quantities. Brown said "no". Foote said silene is in two small cylinders; propylene is 2000 gallons with hydrogen on one side. Nichols asked how much propylene would be comfortable. Foote she cannot know that. Dumke said you want to know how to treat someone in the worst-case scenario inside the plant with a certain chemical, and that is what the MSPS sheets are designed to do. It's like some elements in milk would not meet drinking water standards. Foote said she is asking about the dispersal rate of a heavier than air gas, especially in summer morning fog. You can smell sewer treatment gases. Remmer said dispersal depends on wind, temperature, humidity, etc. These flammable gases are not large quantities. A leak in one cylinder is miniscule, and most of the gases are in small cylinders. This installation of hydrogen, propylene, propane is typical and has been done in smaller areas because it dissipates so quickly. Evans asked how many cubic feet of pressure 2000 gallons of propylene would create. Remmer said a rough estimate would be six to eight cubic feet per gallon.

Foote referred to Khan's suggestion to take time to digest what has been heard and to be better educated, and noted Boyd said there can be a better dry moat area which could appease many concerns. Lowry asked if Brown has anything to add. Brown said public education is key especially by visiting the neighborhood. The vapor density of each gas could be looked at - the higher over 1 it is, the more dense (heavier than air); the closer to 1 the faster to dissipate, but it depends on other factors. Foote looked up the vapor density of propylene at 1.5. Himmer asked about a conditional approval and set up an ongoing educational program. Foote said an educational factor would first be to convince the Board and, if and when approved, to the neighborhood. Himmer asked if the board could set up a structured meeting. Foote said that's what this public hearing is. Himmer noted this is on Channel 22, and asked for some specific direction. Boyd asked what the topics would be other than the dissipation of the gases. Page said the well protection field. Foote said a gas wouldn't penetrate ground as liquid. Evans said heavier than air matter goes down; depending on how porous it is, but could just as likely breeze away. The potential has to be weighed. Foote said there is less concern about the water aquifer because the water flow is predominantly west to east.



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

Foote asked if the Board has reasons to continue the case, or if there is enough information to make a decision. Khan said a lot came out at this meeting that seemed bad to him; perhaps he will think differently after having a chance to review. Tonight he is not satisfied. If he learns more probably he will lean toward Nichols' project. Moore asked how the outside storage would be enclosed. Webster said it has a steel frame and roof, enclosed with a chain-link fence, and with six-foot masonry walls on the north and east sides to stop hunter-fire penetration. Moore said he is concerned about some way to monitor that area, for example, by checking the meters. Nichols said he is not sure if monitor equipment is available, but if the wind is blowing strongly in one direction away from where a monitor might be, nothing will be accomplished and it could be misleading. In new facilities built during the past ten years, these have not generally been required nor brought up as issues. Many installations are much closer to residential areas than this project.

Boyd asked about a leak sensor on the tanks. Nichols said he would do research for an effective unit. He does not think there will be a lot more information in thirty days, but if the Board wants that time it is acceptable. Evans asked if propylene has a smell-marker like propane. Nichols said he is not aware of one and ARC Source does not fill propylene cylinders at this time. Foote asked what propylene is used for. Nichols said it is a fuel gas used as a substitute for acetylene, which has become very costly; propylene is a lot safer than acetylene. Page asked if the trucks filling the cylinders aren't more than 2000 gallons. Nichols said probably not with propylene because it is usually sold in relatively small quantities; deliveries are frequently 500-1000 gallons. Nichols said trucks would probably not be more than 2500 gallons.

Foote asked if the Board wants to continue the case to May 15. Moore asked about the comfort level of containing the gas in with a berm. Boyd said the gas would have to mount the berm and come back up again. Moore said he did not know what more the Board can do. Boyd said Nichols has spent a lot of time and money, and really paid attention to what Brown has said. Nichols said he would like to feel a continuance would happen because of a concern by Brown or additional information needed. Brown said he would try to get any additional information the Board wanted, but this has been addressed by the Fire Department since the request for a variance. Foote asked what Brown would do if he were on the Board. Brown said he is not, and it is not an easy decision. If there is an incident, he will be criticized. He doesn't make policy but carries it out. Nichols said the Fire Department in Amesbury has been comfortable with ARC Source; the insurance company inspects annually and has made only incidental recommendations. The Seabrook facility will be far more advanced. Boyd said it meets all of the codes and noted the expert's report. Himmer asked if Morgan had questions. Morgan suggested the choices are: (i) to continue, (ii) motion to approve, or (iii) motion to disapprove.

Himmer asked if anyone else is still uncomfortable with the information, and said he is satisfied. Foote said she is satisfied. Moore said there's not much to make a case for denial if it complies with the regulations. Lowry said the berm is to be installed. Foote said redesigning the berm can be a condition for approval. Evans said a 500-foot fireball is troubling.

Himmer said he would move for approval conditioned on the berm/dry-moat system. Morgan said, additionally, the Fire Chief recommended quantities be limited to what is on the siteplan, and the



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

Town Engineer has recommended the site security. Page said he worries about spillage and could the outside tanks be monitored. Brown asked if odorized propylene is available. Nichols said he has not heard of that, but said the propylene amount could be cut in half. Lowry asked if that could be a condition. Nichols said if there is something that is state-of-the-art and effective, they would go with it. Moore noted someone could monitor the amounts in tanks each day. Nichols said production records are checked daily.

<b>Motion:</b>	<b>Himmer</b>	<b>To approve the Case #2007-07 proposal by Katim, Inc. and ARC Source to construct an industrial gas facility at the end of London Lane, Tax Map 5, Lot 8-41, conditioned on (i) creating a berm and dry-moat system, (ii) limiting gas volumes to those listed on the siteplan, (iii) posting site security in the amount of \$55,000, and (iv) installing industry- standard odor monitoring system(s), if available.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: In favor: Himmer, Lowry, Foote, Moore; Opposed: Evans, Khan</b>

**G**

**Case #2007-08 Proposal by Microvision Inc., and Northeast Concrete Pumping Corporation. For a 16,650 square foot industrial building at 20 London Lane, Tax map 5, lot 8-41.**

Attending: Leonard Kastrilevich, President, Microvision; Scott Mitchell;  
Appearing for the Applicant: Wayne Morrill, Jones and Beach Engineers;

Foote noted the late hour and asked if Microvision wanted to present a brief description. Microvision makes mechanical medical instruments for eye surgery. Morrill said a four-lot subdivision was before the Planning Board a couple of years ago. The back property was developed for Bulman, and this front lot was approved for an 80x180 square foot building. The proposal for the previously approved site with detention ponds and drainage in place, is for a 92x108 square foot building with 39 parking spaces in the front and an enclosed rear loading dock. [The drawings were displayed.] The impervious surface is reduced, and the Applicant asks for a waiver from the drainage analysis because the system is already established. In actuality, this is a modification of the previous site plan approval.

Following the Tech Review snow storage was moved from the pond, front landscaping is added, and a retaining wall along the side. A single driveway goes to an enclosed loading dock; all the noise is internal. The grading is the same; pavement in the back is reduced. The parking lot is for employees. There is a six-inch water line for sprinklers; a small pump station ties into the existing sewer stub with a sample manhole for the Sewer Department on the side, so the road is not touched. Twenty-foot poles and wall-mounted downcast lights meet the Town criteria; the cut sheet is on the plans. The domestic water line can be turned off at a gate outside the building and still keep the fire sprinklers running. The guard wall is extended around the headwall for greater protection. The



## Town of Seabrook Planning Board Minutes

Tuesday, April 17, 2007

NOT OFFICIAL UNTIL APPROVED

drainage system is already established and the detention pond will be expanded to create more storage for the entire development. All else was previously approved by the Planning Board.

Footo asked if the acronyms had been inserted into the legend as the DPW Manager asked, and a Note has been added designating the ADS pipe. Morrill said that and the wetland symbols are in place; there is no wetlands impact. The fifty employees park in front and there is enough parking for twice that number. All the loading and receiving is done in the back. Footo asked if the Board wanted to continue the case. Moore said this is basically a box with parking spaces, and asked if there are wetlands considerations. Morrill said there are not. Mitchell commented on the prior approvals. Evans asked if there are plating or similar operations. Morrill said there are not. Page asked what Northeast Concrete Pumping does. Mitchell said they own the land and found another building rather than build on this site. Himmer asked if the Fire Department had issues. Morrill said there are no hazardous materials on site.

<b>Motion:</b>	<b>Khan</b>	<b>to accept Case #2007-08 as administratively complete for deliberations.</b>
<b>Second:</b>	<b>Moore</b>	<b>Approved: Unanimous</b>

Morrill asked if there is anything to be modified as a result of this presentation. Evans said the hour is late and he wants to review the prior approval for this site.

<b>Motion:</b>	<b>Evans</b>	<b>To continue Case #2007-08 to May 15, 2007 at 6PM at Seabrook Town Hall.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Unanimous</b>

Footo apologized that Waterline Industries could not be heard at this meeting. Microvision and Waterline Industries cases would be continued to as close to the top of the May 15 Agenda as possible.

<b>Motion:</b>	<b>Footo</b>	<b>to adjourn the Planning Board Public Hearing and Public Meeting of April 17, 2007 at 10:35PM.</b>
<b>Second:</b>	<b>Evans</b>	<b>Approved: Unanimous</b>

Respectfully submitted,  
Barbara Kravitz, Secretary  
Seabrook Planning Board