



Town of Seabrook
Planning Board Minutes
Tuesday, May 5, 2015

NOT OFFICIAL UNTIL APPROVED

Members Present: Jason Janvrin, Chair, Donald Hawkins, Vice Chair; Francis Chase, John Kelley, Michael Lowry, Aboul Khan, Ex-Officio; David Baxter, Alternate; Tom Morgan, Town Planner; Steve Zalewski, Building Inspector; Rick Friberg, engineering peer reviewer, TEC;

Members Absent: Alternate; Paula Wood, Alternate, Ivan Eaton III Barbara Kravitz, Secretary;

Janvrin opened the meeting at 6:30 PM.

MINUTES OF APRIL 21, 2015

Janvrin asked for comments on the April 21, 2015 Minutes; there being none.

MOTION:	Hawkins	to accept the Minutes of April 21, 2015, as written.
SECOND:	Lowry	Approved: Unanimous

SECURITY/EXTENSIONS/ROADWAYS

Case # 2007-21 - Federated Construction – Dollar Store

Janvrin referenced a letter from Jonathan Cox of Federated Construction requesting the return of \$36,500 in security held for Case #2007-21, noting that \$13,000 escrowed for the signal that did not materialize had previously been returned. After speaking with the Treasurer and the Town Manager and department heads it appeared that the work had been done and the funds should be returned. Chase asked about the timing. Janvrin said the funds had been held until the Applicant requested their return. He noted that the Secretary would utilize the Cannel 22 video as the basis for the minutes of the meeting, and would notify the Treasurer.

MOTION:	Chase	to approve the return of Case #2007-21 security in the amount of \$36,500 plus accrued interest to Federated Construction.
SECOND:	Lowry	Approved: Unanimous

CORRESPONDENCE/ANNOUNCEMENTS

Janvrin said the only correspondence was several letters from Jean Drive people that were being dealt with.



PUBLIC HEARINGS
New Cases

Case #20115-06 Moore Family Trust Case #2015-06: Proposal by the Moore Family Trust for a condominium conversion at 6 & 8 Moore’s Lane, Tax Map 41, Lots 1 & 100.

Attending: Robert Moore
Appearing for the Applicant: Henry Boyd Jr, Millennium Engineering

Boyd said that Robert Moore had done a good job of managing the family land in a manner that enabled many of the family members to live together on various Moore’s Lane parcels. This proposal involved the remaining two lots which Moore would give to grandchildren in the form of 2 condominiums on each lot. Because the location of the houses was not yet decided they were asking for a box waiver; this would be taken care of through the building permit. They did not think a technical review was needed because the building application would require water, sewer and driveway permits from department heads. He hoped the Board would see this as a simple condominium conversion and approve the design as submitted. He would add the waiver to the planset and assist Moore with the department heads.

Morgan asked if Boyd had seen his memo; Boyd had not and asked that such memos be made available sooner. Morgan had no problem with this submission, as the Board was being asked to approve the condominium status for property it had reviewed before. Janvrin asked about paperwork in re waivers. Boyd said the requested waivers were for houses and contours and/or grading. Lowry asked if a vote was needed re TRC

MOTION:	Lowry	to accept Case #2015-06 as administratively complete for jurisdiction and deliberation.
SECOND:	Chase	Approved: Unanimous

MOTION:	Lowry	to not require Case #2015-06 to meet with the Technical Review Committee.
SECOND:	Chase	Approved: Unanimous

Hawkins asked Boyd to restate the approval request. Boyd said the two lots could have two dwellings each because by right they had more than 45,000 square feet; they just did not know where the houses would be sited except for the one existing house. Condominium status was chosen so that each owner could deal with their own bank for a loan. A subdivision with a road would be too expensive and unnecessary. Janvrin asked the size of the water main along the road. Boyd said 8 inches up to the hydrant. Hawkins summarized that there would be 2 condominium lots, each with 2 dwellings – one condominium association. Chase asked why they did not apply separately for each lot. Boyd said that would mean 2 applications and cost more money. Hawkins said because there would not be a TRC meeting, there should be a condition that the department heads be allowed to review the plans, make comments, and assure that they have whatever they need and are satisfied. Boyd said that would not be a problem. There was also a 30 day appeals process; he and Moore would visit the department heads and revise anything as necessary. Hawkins emphasized that at least the water department has said that it



wants to see the plans to assure the correct hook-ups for condominiums. Boyd said he would check with the departments

MOTION:	Khan	to approve Case #2015-06 Moore Family Trust for a condominium conversion at 6 & 8 Moores Lane, Tax Map 41, Lots 1 & 100, conditioned on the Applicant satisfying the Planning Board that the Department Heads are satisfied with the siteplan.
SECOND:	Lowry	Approved: Unanimous

Case #2015-07: Proposal by DDR and Tesla Motors Inc. to install 8 electric vehicle charging stations on 10 parking spaces at Seabrook Commons, 700 Lafayette Road, Tax Map 8, Lot 55-200.

Attending: Jesse Karp, Regional Manager, Raza Udin, Supercharger Project Manager, Max De Zegher, Tesla Motors;

Udin said that the proposed Seabrook commons installation was aimed to satisfy customers in the New England coming out of Boston and would be a part of Tesla's world-wide supercharger network. He met with Morgan about a year ago to see what would be required to open on the DDR site in Seabrook. Udin said that DDR had approved the plan and provided a letter of support. Janvrin asked Morgan to speak to his memoranda comments. Morgan asked about the signage alerting travelers along Route 1 as to how to access the supercharger area. Udin explained that Tesla cars had directional information so that drivers could query the supercharger locations and be guided into the site; eventually technology would allow some hands-free action. Baxter asked about the entrances. Udin said coming off I-95 drivers would be directed north onto Route 1 and into Seabrook Commons. Baxter asked if going straight through the intersection might be better; Baxter thought that was the original intention. Udin said GPS was a feature. Four of the charging stations would be geared for Tesla cars which have a larger battery pack and energy capacity, allowing about 150 miles in range in about 30 minutes; the other stations would be available for other automotive brands but at this time might take 10-20 hours to recharge.

Chase asked if this installation were part of the state's program for installations across New Hampshire. Udin said it was not, although they were in touch with the granite state people. Tesla took on the capital costs to move ahead and opened its first location in Hooksett several months ago; Seabrook will be the second. These installations were not part of the state program. Lowry asked about the charging costs. Udin said it was completely free, which is an incentive for the supercharger network. This is also a benefit to the host and the town as Tesla customers could shop at the mall stores while their cars were being charged. Hawkins noted a 50 percent charge appeared to take about 30 minutes and asked about a full charge. Udin said that would take a little over an hour. Kelley asked if there were any public safety issues. Udin said that was not really an issue although they provide public responder instructions to local fire departments. There have not been accidents in Tesla's 203 North American installations. Cars cannot drive away without disengaging from the charger.



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Janvrin asked if DC and not AC was being pumped into the cars. Udin confirmed this stating that there would be a transformer and 4 cabinets. The transformer takes the AC power and converts it into DC ultimately directing this into the cars. The power is not live until the charger is plugged into the car. Janvrin noted that Morgan had asked about lighting. He did not see a photometric grid, but the cut sheets had been provided. Normally the Board required the scope of illumination, but that did not seem necessary because they were in the middle of a parking lot in Zone 2 Commercial. He did not think they would be impacting abutters much, and asked if members felt differently, or if a waiver would be required. Udin noted that there already were other light poles near their location, but they added one pole to assure sufficient lighting late at night. They could provide more information if required. Morgan said the key would be that the lights were pointed down. Udin said they were.

Zalewski asked for existing locations. Udin said at the new Hooksett rest stop and in West Lebanon. Janvrin asked if there were Massachusetts installations. Udin said at the Sagamore Bridge and then in auburn. They try to locate at or on the way to destinations. Chase asked about any enclosures and bollards. Udin said these were in some locations; enclosures were wood fencing on 4 sides. Chase asked about a vehicle going into the fence. Udin said there was not a safety issue – with a breach everything would disconnect. Such an event had not happened. Chase asked what would happen if someone had a heart attack and drove into the installation. Udin said everything would shut down. Chase asked about the transformer. Udin said the utility company would have the safety specs for the transformer. Janvrin asked if the power lines would be underground. Udin said they would. Chase thought they traveled some distance. Udin said that was because they needed to hook up to adequate power source. Janvrin noted this seemed to be near the SUNOCO.

Hawkins asked if the lighting was the same style and height that was used by DDR. Udin said they were different than the lighting on the property at this time, and referred to the cut sheets. Hawkins asked if there was reason for the difference. Udin said they were using the standard Tesla lights which have a good spread and are energy efficient. Hawkins asked if they had read Seabrook's light pole regulations. Udin said that their lighting specialists would have done so. Janvrin said the cut sheet showed 22 feet. Chase's concern was the precautionary measures to protect the equipment. Udin said they had never had safety issues with the lighting. Lowry asked if the stations would operate 24 hours. Udin said they would. Khan wanted assurance that the fire chief was fully informed. Janvrin said the plans had been distributed to department heads a week ago, so they would be informed for a TRC meeting scheduled for May 11, 2015. Chase was concerned about whether the space for the transformer was adequate i.e. too close to the edge, and thought using an additional parking space might be a good idea. Udin said they were working closely with Unitil in re the transformers and electrical connections. They have reviewed and approved the plan. Chase asked how big the bollards were and what capacity vehicle it could stop.

Janvrin said that the plans had been distributed to department heads. The technical discussion would be addressed at the Technical Review Committee meeting with department heads, and the town planner and peer review civil engineer. The TRC will make recommendations to the Planning Board for changes, if any. Udin asked if that meant the Board was not comfortable in making a decision at this meeting. Tesla would provide any needed information to expedite the process. Janvrin said the Board would look for department head comments. Hawkins explained that after the TRC meeting the Applicant would get the changes or additional information to the Board as quickly as possible, which generally takes some time. The soonest the Board could have that discussion would be Tuesday, May 19. Udin had hoped they could get an approval at



this meeting and then make the TRC recommended changes. Baxter was concerned that there be a sufficient turning radius for trucks entering via a driveway that goes by the Tesla charging units, and proceeding to the back of the Walmart. As well as accounting for bollards. Chase said trucks are not supposed to use that access; he saw one go over the curb. Khan called attention to the approved Outback spill-over parking, noting that at their opening all the spots were filled. Hawkins said that DDR built parking sufficient for 450,000 square feet i.e. all of the shopping center stores. Baxter said this had to be looked at because trucks were cutting the corner. Chase asked if there had been assigned parking spaces for Outback. Udin said that DDR had provided the parking detail. Baxter said it probably depended on the tenant(s) needs. If there were a problem they would go back to the shopping center owner for a resolution. Udin said there would be some dedicated spaces for the Tesla operation.

Zalewski asked about the cable locations and if there was high voltage. Karp explained how the cables would be laid. Udin asked if they needed to prepare for the TRC meeting. Janvrin said the department heads would be asking similar questions in greater detail.

Janvrin scheduled the TRC for Monday, May 11, 2015 at 10 AM in Seabrook Town Hall. He continued Case #2015-07 to May 19, 2015 in Seabrook Town Hall.

MOTION:	Khan	to accept Case # 2015-07 as administratively complete for jurisdiction and deliberation.
SECOND:	Kelley	Approved: Chase, Hawkins, Khan, Lowry, Baxter, Kelley, Janvrin

Khan said that because of the safety and first responder elements in Case #2015-07, he asked for a letter from the Fire Chief confirming that he had reviewed and was ok with this plan. Hawkins said the Town Manager should be asked to assure that the Fire Chief would be at the TRC meeting. Janvrin will speak with the Town Manager. Udin said they had first responder materials and he would organize them with the Fire Department.

OTHER BUSINESS PLANNING BOARD PROCEDURES

Janvrin asked Hawkins to lead this discussion. Hawkins said the procedures had been under review. One of the changes was to distribute siteplans to department heads following the receipt of the application in the Planning Board Office, and to set the TRC date at the same time. It was also recommended that the proposed procedures be reviewed line by line with Wayne Morrill and Henry Boyd to get their feedback. This was done. One of the items discussed was that Hampton's process was different in that they have the technical review prior to the first Planning Board meeting. That way the Board would receive a "cleaner" planset for which some technical issues would reflect the TRC discussion. The public notice would be posted at the same time. There were differing opinions about this proposed change; it would be worth trying out on a case to see how it would work. The Planning Board meeting would be scheduled with enough time get the changes made on the plan and the TRC comments circulated. Hawkins thought this might reduce the case processing time. He asked if Board members saw problems.

Baxter thought that having the technical issues looked at in advance of the Board meeting would take some of the burden off the Planning Board. He favored this change, and thought it would



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save time. Hawkins thought that cases that weren't too big might be accepted and approved in the same meeting. He noted that currently there is a month between the first and second Planning Board meeting. Lowry also thought this would save time as applicants are always looking for faster approval. Janvrin said there would have to be a determination as to which cases needed TRC, or would all cases be sent to the TRC. He asked Morgan's view. Morgan said this would have to be clarified. Khan said if the TRC settled all the issues, and the Board had that report, there wouldn't be much for the Board to do. Hawkins pointed out the TRC did not handle traffic, landscaping or parking, so there were still things for the Board to attend to. There were no qualified board members who could evaluate technical details like whether the drainage was designed and installed properly. The engineering input is needed; that is the job of the engineer, the TRC, and the Town Planner. The board's job was to ask questions and make sure that the public heard the responses about what was going on. .

Khan was concerned about the Board not seeing the plan first; perhaps it could be tried out. Hawkins said he was not recommending the change until how it worked could be evaluated. They needed to look at the time it would take to review the changes before bringing a revision to the Board. Hawkins liked the idea and thought it might cut 3 weeks off the process, and wanted to take another look at the process to see if it could be made more efficient for smaller cases. He thought such a process could have applied to the Tesla project. Hawkins said that guidelines were needed as to what projects require technical review. Of course, if a DDR was submitted it would take many months to process. Zalewski cautioned that the people that would have to review plans were very busy. He suggested that setting one day a month for TRC could be a time that several plans could be reviewed. At least 10 days notice would be appreciated. A DDR might take longer. Hawkins said there were several TRC's for the DDR project. Hawkins thought a standing TRC date in the month might be a good idea. It could be cancelled if there were nothing to review. Zalewski said it was tough to get everyone together. Hawkins said there were about 30 days from the date the application comes in to the first Planning Board for department head review. Zalewski liked the idea of a monthly review. Khan thought that would result in a better product. It couldn't be the Monday before the Board meeting, but it could be the 3rd Monday of the month. Zalewski wanted at least 2 weeks' notice of the date.

Janvrin pointed out that when Cases #2015-06 and #2015-07 were submitted they were sent out with a notice that unless the Planning Board determined otherwise the TRC meeting would be on May 11. Department heads were asked to notify the secretary if there were immediate issues. Hawkins noted that Morgan might not be able to review the plans timely for an immediate decision as to whether a case needed TRC. He thought Zalewski could be helpful. Morgan said that if plans were submitted electronically, a decision would be made pretty quickly. Janvrin said it had been suggestion that that decision be made by Morgan, Friberg and Zalewski. Chase said the Board could always make a change. Janvrin thought that department heads could say if a tech review was needed. Janvrin wanted feedback from TRC. Hawkins liked TRC one day a month; applicants would know the expectation. They would have to have their plans in three weeks before the TRC or they would have to wait for the next month. Zalewski said that people have to plan for vacations and the like. Hawkins said the calendar would be published in advanced. Janvrin asked Morgan to pose the question to the TRC.

Hawkins said another idea was to have the paper plans submitted with the application, but all other changes would be provided electronically until the final plan which could be signed by the Chair. It would be up to Morgan, Zalewski, and Friberg to assure that the changes appeared on the pdf digital plans. This would cut down on a lot of paper; the applicant would also be required to send a letter to the Board detailing the changes that had been made. Janvrin said that the files today have the first, last and in between copies of plans, which can take up a lot of space. The



interim plans were not necessary. Khan wondered if having plan copies would assist the Board of Selectmen. Hawkins noted that the Building Department had every plan.

ZONING ISSUE

Janvrin recalled that the 2015 Section 16 zoning warrant language was approved by the voters. During the process, but prior to that vote, Gordon Leedy of VHB pointed out that [a certain exception] that had been discussed somehow had been omitted from the proposed language. There was insufficient time to correct this omission for the warrant. At the last Zoning Board of Adjustment meeting, Leedy submitted a variance on behalf of the Seabrook Racetrack which, in a contentious discussion, was denied. At the request of the Town Manager, Morgan, Hawkins, and Janvrin last week met with Mr Kane (representing the Racetrack), to understand what they were trying to do in light of the zoning revision which prohibits certain aspects of what they want to do. Janvrin asked Morgan to outline the request. Morgan explained that there were a lot of elements that were a part of the zoning warrant discussion, nearly all of which were a part of the warrant; a small piece was accidentally omitted.

Morgan said the resolution was not quite in place. The question was how to treat this potential applicant who would bring a fairly ambitious and extensive project to Seabrook. The zoning could not be changed until the fall, and only temporarily until the 2016 Town Meeting. He thought that Leedy had been present earlier in this meeting. Janvrin said that Leedy had been told that the Board could not consider anything without an application, but he provided certain drawings (without a formal application). They were asking the ZBA for a process to move forward for that particular site, and Morgan thought there was a substantial consensus for the concept. Janvrin said the idea was that the ZBA would be asked to allow the Planning Board to speak to what would be appropriate for that site based on what the Board had intended the zoning warrant to say. Janvrin said that the intent in the discussion at two Board Meetings was that the Planning Board would not allow storage or use of hazardous material or waste in containers of more than 5 gallons, unless there were a SWPP in place for that site specific that could be reviewed by the Planning Board. Essentially, on a site specific basis they were asking the Planning Board to send some form of representation to the ZBA to advocate this on their behalf

Janvrin understood that everyone attending the emotional ZBA meeting had concerns, and that the Applicant would be asking the ZBA for a rehearing. He thought it might be a good idea for the Planning Board to at least consider the Seabrook Racetrack request. However, this might leave a legal vacuum requiring the Planning Board to consult legal council to advise or represent the Planning Board in re the ZBA. It would take a vote of the Planning Board to decide if wanted to wait out the issue without taking action, or to authorize council to advise and represent the Planning Board before the ZBA. He asked for Hawkins' view. Hawkins said he had sat in on every discussion in re the aquifer protection zone ordinance, many of which were focused on container content and size. During the public hearing it was brought to the Board's attention that the proposed language was highly restrictive; the Board agreed. The person making that comment provided wording to make a change. At that public meeting the discussion was that if someone wanted to use containers greater than 5 gallons it would be as a conditional use permit.

Hawkins explained that the tough restrictions recognized that a 5 gallon spill would not be a problem, but there were lots of area where chemicals would not be moving. The Planning Board could review if they had a proper containment system. For example, US Foods made a very detailed presentation with respect to diesel fuel and the 4 levels of containment that they would introduce. The Board and the NHDES was considered this a very good system, provided the site specific proposal was reviewed. This could happen only if there would be a proper review of the



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system engineering at the Planning Board level. The Seabrook Raceway people want to go back to the ZBA and ask if they would allow for the Planning Board to go through the same type of systematic review as was done for US Foods. The Planning Board's consultant agreed that that was a legitimate approach. Hawkins felt that the restrictions were very strong, and no provision was made for exceptions in the ordinance language. There are ways to contain things being used in industrial processes; it would not be about allowing 30,000 gallon tanks. The Applicant would be asking the ZBA to allow the Planning Board to have jurisdictional review of how the protections would be engineered, with protection against spills. It would be inappropriate for the Planning Board to go to the ZBA to say it would be in favor of the ZBA making this change. The Planning Board could consult with its council about the way such a change could be made. The Planning Board would have responsibility for doing such a review during its own proceeding. Hawkins commented that he would rather have an industrial development use in an industrial zone, noting that a retail development would only make the traffic problems at the intersection of Routes 1 and 107 worse. He wanted to work with the Raceway people, but that would mean that the Planning Board would have to be willing to accept that responsibility if the ZBA were inclined to approve this.

Morgan liked the project and its lower level of challenge, at least initially. It would bring industry, jobs and taxpayer dollars. When Khan met with the Town Manager and a representative of the development group earlier this year, they were clear that the town's interest was to protect the water supply. The purpose of discussions earlier in the year about changing language in the Aquifer Protection Overlay District was to protect the town's water supply for the town's future and not to accommodate any developer. Perhaps some mistakes were made, but that did not mean that the Planning Board had to go beyond what it would do in the ordinary course. Khan felt strongly that it was the developer's responsibility to present their project for review, noting that there had been several discussions but to his knowledge there had been no formal written submission until now. People paying the taxes don't have issues, except that for three months they hear that something will be built, but they did not know what that would be because the developer had not submitted the plan for what they want to build. He had serious doubts about the intentions. The Board is there to do its job, not to accommodate a developer.

Hawkins said there had been multiple discussions about this property for about a year during the developer had laid out its ideas on paper in terms of the type of buildings they would propose for the property. There had been steady communications including three separate potential proposals, including a warehouse system, an athletic facility, and now manufacturing where they had drawings laid out to show their thinking. The first did not materialize, and they came back with another concept. The Town Manager participated in the talks. Khan liked the project concept because the town did not have to provide that many services. At the same time, it was not mistakes when the Board was doing its job. Hawkins said he was not alleging big mistakes, but the Board did not get it perfect because it was far too rigid in one aspect. There were ways to engineer solutions. The Board always had the option of saying "no" even if it chose to change the ordinance for a conditional use next year. If something was dangerous it would not be allowed. But if something was not particularly dangerous to the groundwater, the board had to ask itself if what it did made sense. Hawkins thought it did not.

Khan asked if the town could do a special [town meeting]. Morgan said it could be done. He thought that Janvrin's proposal was practical. Khan did not want to send an attorney as a representative to the ZBA. As an elected Selectman, the people should know what he thinks. A joint meeting with the opportunity to ask questions would be a different thing. Hawkins pointed out that the Planning Board takes many votes, and sometimes a member votes no; that is the nature of a Board. The attorney would not represent each member individually. If there is a specific issue



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that the member wants discussed, the attorney needs to know that. When a Board hires an attorney it is to represent the Board, not individuals. The Board would be asking the attorney for an opinion on how to go about effecting a solution. Morgan's understanding was that the Planning Board would take as long as it needed to scrutinize a [proposed system review].

Lowry commented that in the past there have been joint meetings of the Planning Board and the ZBA. Khan said that there were many discussions even late nights while the Planning Board was doing its job. He did not want to say it made a mistake. Hawkins had no problem citing a mistake, and he had been in every meeting. Morgan recalled that during the discussions most of the issues for the warrant language were addressed. The statutory time just ran out, and the Board chose to be more strict in protecting the aquifer, knowing that it could address the last items next year. His fear was that an Applicant was getting nowhere and the town could end up with a much less desirable development. Chase asked what would happen if there were a joint meeting. Morgan did not think that would solve the problem. Janvrin said there was also a timing issue in that the ZBA appeal period was 20 days. He understood that the Applicant had already filed for a rehearing. Given the need for notices, the ZBA would probably not have the rehearing until June. If the Planning Board were to vote to have representation before the ZBA, it should make that determination quickly in order to timely communicate its intent with that attorney. This would require a non-meeting(s) with the attorney under RSA 91A.

Chase asked how an attorney could have a resolution if the Boards could not meet, and what the differences were between the Planning Board and the ZBA. Khan asked how a special town meeting would be convened. Janvrin said a petition could be filed by a sufficient number of citizens. Morgan said they would run into timing problems for this situation. Chase thought there had to be a way to resolve the problem. Janvrin noted that when the ZBA asked what type of chemicals and the volume, the Applicant did not have an answer saying it was confidential to the ultimate tenant. Hawkins asked who would give a go ahead if there is to be no talk about the chemicals, the company, and the process. He understood that they would now agree to disclose that information. In response to Khan's question, Hawkins said when the ZBA says "no" they are done, unless something changes in the zoning which would not happen until next year. Khan commented that in 2008 there was a joint meeting in re DDR, and an issue was resolved; he thought it would be a fruitful step. Hawkins would be in favor of a special town meeting. Morgan said before thinking about a special meeting, the language for the change in the zoning ordinance had to be in place. Zalewski asked if the state allowed for a special meeting; Janvrin said by petition of the call of the Board of Selectmen.

Morgan thought that Janvrin's original proposal was doable in a reasonable timeframe. Janvrin commented that in the discussion with the developer last week, it was pointed out that knowing the chemicals and the SEPP plan, the process, and the company information was essential for the Planning Board to go forward. Baxter emphasized the need to know about the business and how it proposed to operate. Khan had talked with the Town Manager recommending that the developer disclose the essentials of the business to the Board of Selectmen and the Planning Board. Morgan said the company assembles cardboard boxes and had been doing this in the Rochester area for some time. They use glue and paint, which would be a lot easier than dealing with diesel fuel. Chase asked if they would want to go forward before the zoning issue could be changed. Morgan thought they would have some kind of deadline. Then the cardboard company might go away and be replaced by a less desirable proposal. Chase asked if there were a way to allow them to go forward. Janvrin said the ZBA held the key to that; he was not sure that the ZBA was poised to make the determination about the adequacy of the SWPP. Hawkins said the ZBA would be asked to turn jurisdiction re the SWPP over to the Planning Board where the town planner, engineer and the code enforcement officer would be involved in the technical evaluation.



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Angeljean Chiaramida of the Newburyport News thought that the ZBA and the Planning Board had different spheres of responsibility. It would be confusing if the ZBA were to transfer its responsibility to the Planning Board. She asked what kind of precedent that would set. Hawkins said that by September the zoning language could be changed. Morgan explained that if the Planning Board made that change in the fall, the new language would temporarily be in place, at least until the next Town Meeting. Chiaramida said it sounded like the Planning Board wanted to begin speaking with the developer while the language issue was being fixed. Hawkins said the developer had appealed the ZBA decision with the intent of providing the ZBA with essential information not originally presented. They would request that the ZBA defer the question of what chemicals and quantities would be allowed to be decided through the Planning Board's usual process. Chiaramida understood that one reason for the developer to appeal the ZBA decision was that they had new information to present. Morgan said that could be several grounds, now information was one of them. Chiaramida asked what would happen if the ZBA said it would not turn over any decision to the Planning Board. Hawkins said that would mean discussion would end. Chiaramida said it sounded like jurisdiction was being passed from one Board to another. Hawkins said the message was that the Planning Board would accept jurisdiction if the ZBA granted the requested variance. Hawkins said if the ZBA granted what the developer was asking, the Planning Board would accept jurisdiction [in re the SWPP]. Chiaramida thought the ZBA had very little jurisdiction and had to address 5 elements.

Hawkins said the reason for discussion at this meeting was because the Planning Board needed legal counsel as to what was appropriate to do. He thought this Board could acknowledge that the ordinance as written was too restrictive, and not entirely as intended. Also to explain that when the warrant language came back, it was too late to make the intended adjustment in time for the Town Meeting vote; there were a few things to be adjusted in the future. Chiaramida commented that this would be a legal precedent. Hawkins said not everything that the Board did was a legal precedent. There were reasons why the board might address something one way and a different way another time. Janvrin commented that subsequent to having the new zoning language approved, the Board did update related spill protection language in the site plan and subdivision regulations.

Janvrin did not think it appropriate to call the Board's legal counsel for an opinion based on his wanting to know. Rather such a request should come from the full Board. Baxter asked about the timing. Hawkins said the opinion would be needed in about a month. Janvrin said RSA 91-A was specific as to non-meetings. If the Board wanted to meet with counsel a time would be set, so that any or all members could attend. Morgan said the Chair could have a phone call with counsel and report back to the Board. Janvrin asked what would be the question for counsel. Baxter said it should be how to legally do what had been proposed. Janvrin said with the consensus of the Board, he would be comfortable calling the attorney and seeking a memorandum for the Board. Hawkins said a meeting with counsel could be convened if Janvrin thought that necessary. Chase was concerned that there might be several steps to take, and not enough time. Morgan said the ZBA would need 2 meetings – one to rule on the appeal for a rehearing, and if granted, another meeting to hear the testimony. Janvrin commented there were 3 Planning Board meetings in the interim. Also at some point it might seem appropriate for a Planning Board representative to go to the ZBA; he favored counsel in that event if only to have a Board member have to recuse themselves from hearing the Planning Board case.



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MOTION:	Baxter	to have the Planning Board Chair contact the Planning Board attorney for a memorandum as to an appropriate Planning Board response in re the Seabrook Raceway appeal of a Zoning Board of Adjustment denial and their request for a rehearing.
SECOND:	Chase	Approved: Janvrin, Chase, Hawkins, Khan, Lowry, Baxter, Abstained: Kelley

TECHNICAL REVIEW COMMITTEE PROCEDURES

Hawkins noted that the Board had discussed changing procedures to have TRC meetings held prior to the first Planning Board hearing. He wanted to test out this approach with drawings that the Seabrook Raceway had provided. Hawkins said probably they would have to submit an application first.

MOTION:	Hawkins	to schedule Technical Review Committee meetings prior to the first Planning Board meeting.
SECOND:	Kelley	Approved: Hawkins, Chase, Khan, Lowry, Baxter, Kelley, Janvrin

2015 ZONING MAP

Janvrin said that the Beach Precinct had not voted on the changes that had been made in the map, so Morgan adjusted the beach area of the map to show the current beach configuration. Copies would be available.

SB146

Chase reported that there was a lot of controversy about this bill re accessory apartments. It would be coming up again. Janvrin commented that this was a matter of the state enabling municipalities to take action, and then reversing course to set up zoning.

Janvrin adjourned the meeting at 8:45PM.

Respectfully Submitted
Barbara Kravitz, Secretary
Seabrook Planning Board