



# Town of Seabrook Planning Board Minutes

January 2, 2007

NOT OFFICIAL UNTIL APPROVED

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

Chairman Foote opened the meeting at 6PM

## MINUTES OF December 19, 2006

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| <b>Motion:</b> | <b>Lowry</b> | To approve the Minutes of December 19, 2006 as written. |
| <b>Second:</b> | <b>Moore</b> | Approved: Unanimous<br>Abstained: Preston               |

### REQUESTS FOR SECURITY REDUCTION OR EXTENSIONS

#### Cases 2002-43 & 44: Karpenko/Carbone site plan

Foote referenced a memo from the Code Enforcement Officer: the granite curbing is installed, the detention pond and swale have been reshaped but will need annual maintenance. The CEO recommends return of the site security and closing the cases.

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| <b>Motion:</b> | <b>Foote</b>   | To return the site security and close Cases 2002-43 & 2002-44. |
| <b>Second:</b> | <b>Preston</b> | Approved: Unanimous  |

#### Case #2006-55: Proposal by CBAN, LLC and Bulbman Holdings for a lot line adjustment at the corner of Ledge Road and London Lane, Tax Map 5, Lot 8-42 & 8-50

Jones & Beach requests a continuance without prejudice. Foote continued the case to February 20, 2007.

### CORRESPONDENCE/ ANNOUNCEMENTS

Cases #2006 31&32/DDR: Foote referenced the letter from the Department of Transportation concerning DDR's off-site mitigation. Evans asked if there was any further response from the Planning Board consultant. Morgan said communication among he, Foote and the consultant as well as the Board's attorney is progressing.



## Town of Seabrook Planning Board Minutes

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Foote read a letter from **Jones & Beach asking for a land use regulation clarification on whether self-storage units are allowed in Industrial Zone 3** and, if so, what the set-back requirements between buildings would be, as well as for the elevation, heights etc. Garand said storage is allowed in industrial zones, but storage of personal items is a retail service use that could generate traffic. Service businesses are not allowed in Zone 3 and storage of personal items is a service. Morgan said "storage" is not defined in the ordinance, and if the Board intends limitations it should be clarified in the ordinance. Preston said the Board should obtain a legal opinion to be on solid ground, to deny or approve and it's too late for a change in time for this year's warrant. Moore said storage and warehousing go together; not a lot of traffic is produced by self-storage. The Fire Department can answer the setback question. Chief Brown said probably about 16 feet depending on the materials and design, and noted all commercial/industrial buildings now must be sprinklered. Henry Boyd said these might be considered accessory buildings. Foote asked if the Board wants to clarify the definition. Foote asked Morgan to seek an opinion from the Board's attorney.

**Case 06-52 Felch 2-lot subdivision.** Foote said this case was approved pending receipt of the DES permit and the Town Engineer's review of security issues. According to the engineer's report, the driveway should not be considered as public; the drainage profile would depend on the grading of the driveway and not be required to meet grading standards for a subdivision road; water and sewer services are available from Farm Lane. If the Board wants security it should be a limited escrow for road cuts and water and sewer. Foote said a \$5000 bond had been required for road cuts, and there is no jurisdiction to require site security.

**PUBLIC HEARINGS: Chairman Foote opened the Public Hearings at 6:25PM.**

**Proposal to consider the adoption of an impact fee ordinance under NH RSA 674:21V,** continued from December 12.

Attending: Jeff Brown, Fire Chief, Paula Wood, Budget Committee; Cora Stockbridge, Board of Selectmen.

Foote read the public notice and said the Town Planner's draft has been sent to the Board's attorney, who will have comments. Foote said the draft is similar to the Model Ordinance and the examples from neighboring communities provided by Chief Brown, and asked for comments from the Board. Evans asked if the fee calculations would be in the hands of the Planning Board. Foote said this is according to the RSAs. Moore said the administrative burden is on the Treasurer. Evans said the burden is also on the department heads to provide justification. Preston noted if funds remain unspent for six years, or if not enough money is raised for a designated purpose, (or if the Town does not provide matching funds, if required), the balance, plus interest would be returned. Foote said matching funds would not be needed if sufficient funds were collected. Moore said there needs to be a project goal. Preston was concerned that if, for example, a school building project is planned and insufficient funds are raised, not only would the balance have to be returned but the Town would have expenses to accommodate the increased school population. Foote noted projects would have to be in the CIP, and schools do not participate in that process. Morgan said the CIP is designed for a variety of projects.



## Town of Seabrook Planning Board Minutes

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Moore said a commercial/industrial application should be first. Preston said a developer would be asked to contribute a percentage. Morgan said commercial assessments can be based on the number of square feet. Preston asked if fees can be collected from developers of different projects so taxpayers have no cost. Morgan confirmed this. Foote said calculating fees for developers is separate from the list of Town projects. Once fees are collected, the Board of Selectmen decides how the funds are allocated to CIP projects. Evans asked if the development has to create a new need because impact fees cannot be used for replacement purposes. Moore said department heads would have to do the calculations. Foote said Brown previously met with the Board after having researched impact fees and discussed how, where and when they can be used. Moore said impact fees have to be paid prior to the occupancy permit. Foote said projects on the Planning Board agenda and under review would not be exempt should the Town adopt an impact fee ordinance in March. Foote said the State has made the Planning Board responsible for the fee schedule. Once posted, the ordinance is considered enacted unless and until it is voted in the negative. Evans said the fee calculation should reflect the impact at that time. Preston commented the Board of Selectmen allocates the funds once raised. Impact fees would give another avenue to acquire equipment the Town needs without impacting the taxpayer. Evans commented there can be an equipment need not created by a new development. Preston said in that case the need may be for additional fire or police services, or heavier equipment.

Wood asked if impact fees can be designated for only certain purposes, such as schools or roads, and whether an existing need qualifies. Foote said it covers anything that shows up in the CIP, which is why the CIP needs to be accurate and up dated. Preston said, for example, accommodating an increase in equipment usage could be placed in the following year's CIP, and the money is available to be spent within six years of receipt. The Treasurer and the Finance Department will have to create independent accounts for each development even though the funds can be co-mingled when spent for capital improvements. Angel Chiramida of the Newburyport News asked if temporary classrooms for additional students, as used at Winnacunnet, would qualify. Foote said they would if in the CIP. Preston said the schools could participate in the CIP next year. Evans said a proportional share of regional school facilities is allowed. Chiramida asked about studies. Morgan said studies are not cited in the statute. Foote said engineering or architectural design, bonding, financing, legal can be included.

Stockbridge asked if the draft ordinance includes more than commercial property. Evans said it covers residential, industrial and commercial. Currently the Planning Board can assess fees for improvement of roads, water treatment, sewer, and stormwater, drainage, and the like. An impact fee ordinance, could add items like municipal offices, town and regional public schools, public safety facilities, solid waste collection, transfer, recycling, public library and recreation space. Foote said it includes anything that the Planning Board and the Board of Selectmen deem as a necessary expansion of services or capacity. For example, it could include an expansion of municipal building space, or additional police cruiser listed in the CIP, but not a replacement vehicle. Evans noted the CIP is an outgrowth of the Master Plan in which department heads project how the Town is going to grow.



## Town of Seabrook Planning Board Minutes

January 2, 2007

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Foote said the Planning Board is considering concentrating on new commercial/industrial aspects initially. Further, in the draft development of residential lots of one acre or less that were legally recorded as of January 1, 2007 would not be construed as new development. Stockbridge asked if the entire proposal has to be considered on the warrant and what fees can currently be assessed. Morgan said the warrant would have the entire proposed ordinance. Without an impact fee ordinance, the off-site improvements the Planning Board can assess include roads, stormwater drainage, water, and sewer. Foote noted to date the larger developments have willingly complied with the off-site impacts deemed necessary. Impact fees are one more tool to help prove the need, and the monetary value can be figured on a square foot basis. Preston said with the limited amount of commercial/industrial lots remaining, the land and location are very valuable. Developers rather than residents should pay for the impact. Foote said secondary build-out is already happening. Angel Chiramida asked if a warrant article is approved on the March ballot allows would that give the Planning Board the ability to determine the fees. Foote said in the interim, the Planning Board will begin working with department heads on setting category fee rates to give an idea of the potential "ballpark impact" amounts. The Planning Board would hold a public hearing to discuss the proposed fees, but this would not go back for a town vote. Chiramida asked if fees could be phased. Foote said this has been done successfully elsewhere.

Foote asked for further comments from the Board. There being none, the audience was asked for comments. Francis Chase said other towns have calculated residential impact fees according to a number of bedrooms. Preston noted the proposed ordinance would allow granting waivers for senior citizens. Foote commented waivers could be allowed by the Planning Board for good justification. Evans asked Morgan if a capital need could arise without there being new development. Moore said these are questions for counsel. Wood said this sounds very good as well as feasible, but asked for the downside. Preston said the administration and accounting for the fees. Foote said escalating costs for projects is a risk. The Board of Selectmen would need to find and implement worthy projects. Preston noted interest would accrue on unspent monies for the six-year period, during which there would also be time to address any shortfall. Foote noted implementation of projects might also be phased in, so expiration dates could roll forward. Additionally, once a project is physically begun, fees can be encumbered until completion. If the ordinance is in effect, Evans thinks payment of impact fees can be a condition of site approval. The major burden is on department heads to determine whether there is insufficient or excess performance capacity, and justify growth needs over time in the CIP. Another question is what the Town is willing to pay for. Evans commended Morgan for providing the beginning framework. Moore said any additional funds would help with the tax rate, so long as it doesn't create a big, costly bureaucracy that costs more than is collected. Foote asked for further comments. There being none, the Impact Fee Ordinance hearing was continued to January 16, 2007 at 6PM at Seabrook Town Hall. Chairman Foote thanked those offering the helpful comments, and declared a recess at 7:45Pm.

Chair Foote reopened the Public Hearing at 7:55PM.



## Town of Seabrook Planning Board Minutes

January 2, 2007

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### ONGOING CASES

**Case #2006-27 Ray Grasso for a condominium conversion at 103 Ledge Road, Tax Map 5 Lot 8-120, continued from December 5.**

Attending: Scott Mitchell representing Grasso and himself; Mark West of Jones & Beach.

Foote said the department heads sign-off on the **Case #2004-61** site security checklist for the original site plan is in, and recommended releasing the construction site security of \$24,500.

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| <b>Motion:</b> | <b>Foote</b>   | <b>To release the Case #2004-61 site security of \$24,500.</b> |
| <b>Second:</b> | <b>Preston</b> | <b>Approved: Unanimous</b>                                     |

Mitchell said his interest now is in the condominium conversion. Preston asked if documents are in place. Foote said the condominium documents and revised plans have been submitted. Preston asked if there are potential tenants. Mitchell said two units are under agreement. Garand said this plan shows the back area as wetlands parking which wasn't approved on the site plan. Preston asked if the original approval said that is not to be developed. Mitchell disagreed. Foote referenced the dotted line at the back designating "withdrawable land" area, and asked how potential units in that area would impact condominiums now being sold with two or three parking spots per unit. Mitchell said each of the twelve units has five parking spaces per unit in perpetuity represented in an easement. Foote asked if the dotted line could be moved outside of the parking spaces so there is no question. Mitchell agreed to look at this.

Morgan asked for a definition of "withdrawable area" and whether a setback is being designated. Preston said if this is all one lot now, why would a potential future change even be on the plan. Mitchell said this is to show the Town the full potential of a deal. Preston said to deal with one thing at a time, and would remove the demarcation line. Mitchell agreed. Moore asked if ownership would be controlled through deeds. Mitchell said there would be an agreement in place with the Condominium Association. Foote said there is no reference to the "withdrawable area" in the condominium documentation. Mitchell said this would be in the purchase and sale agreements and deeds. Morgan said the custom is to see "common area" and "limited common area" labeled on the plan. Mitchell said the common area would be the roadways in-between. Morgan said the condominium documents and the site plan should match. Preston said usually the outside of a condominium is owned by the Association, and asked if there is deeded parking. Mitchell said five spaces are assigned for each unit, but are not deeded. Moore asked for clarity on the site plan. Mitchell said he would remove "withdrawable area" and the dotted line. Preston asked if the drives are listed as common area in the deeds. Mitchell said the deeds are not yet closed. Morgan asked for the five spaces which are assigned to each unit to be so designated on the plan to avoid potential conflicts. Mitchell said if the Board requests this, it will be done. Foote said the site plan and condominium conversion are on the same plan.

Morgan said the common areas should be specified on the plan, and the reference to 11-15-06 revisions should be removed from the condominium conversion plan to avoid confusion. Garand said the designated five parking spaces per unit should be referenced on the plan, and that any change



## Town of Seabrook Planning Board Minutes

January 2, 2007

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from the total of seventy-four approved spaces would require coming back to the Planning Board. Mitchell noted there is not a parking calculation for the industrial zones. Foote said to note the total spaces as provided in the approved site plan, so that someone can't come along and build something like a shed in the parking area. Moore asked for the square footage. Mitchell said units have 2000 square feet with one having a 600 square foot [mezzanine]. Garand said he has issued a general occupancy permit for the building but each unit will require a final inspection and its own occupancy permit. Garand confirmed a business license would also be needed. Mitchell said he will do what the Board requests and asked for conditional approval pending removal of the dotted line, assigning parking to each unit, and references to the withdrawable area. Preston said "total lot area" should be the referenced. The Planning Board has the flexibility to consider the property usage when deciding on the number of spaces. Foote noted the condominium documents allow for reallocation of spaces by the Association annually.

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| <b>Motion:</b> | <b>Preston</b> | <b>To approve Case #2006-27/Ray Grasso for a condominium conversion at 103 Ledge Road, Tax Map 5 Lot 8-120 in so far as it meets the Condominium rules of the State of New Hampshire and the Town of Seabrook regulations, conditional upon resubmission of the plan showing (i) the total of seventy-four parking spaces as per approval of the Planning Board, with five spaces per unit specifically designated; (ii) removal of the "withdrawable area" and related dotted line, (iii) the total lot area clarified, (iv) the driveway area designated as a common area, and (v) removal of the 11-15-06 revision reference.</b> |
| <b>Second:</b> | <b>Moore</b>   | <b>Approved: Unanimous</b>   |

**Case #06-51 - Proposal by Matthew D'Agati for a condominium conversion at 243 & 245 South Main Street, Tax Map 16, Lot 5-10 & 5-100, continued from December 5.**

Foote noted the revised plans show the sewer properly placed, the overhead electric redrawn, two water shut-offs, and the gas highlighted.

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| <b>Motion:</b> | <b>Preston</b> | <b>To accept Case #2006-51 as complete for deliberations.</b> |
| <b>Second:</b> | <b>Himmer</b>  | <b>Approved: Unanimous</b>                                    |

There being no further comments from the Board or the audience:

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| <b>Motion:</b> | <b>Preston</b> | <b>To approve Case #2006-51/Matthew D'Agati for a condominium conversion at 243 &amp; 245 South Main Street, Tax Map 16, Lot 5-10 &amp; 5-100 120 in so far as it meets the Condominium rules of the State of New Hampshire and the Town of Seabrook regulations, conditional upon receipt of condominium documents.</b> |
| <b>Second:</b> | <b>Lowry</b>   | <b>Approved: Unanimous</b>   |



**Town of Seabrook Planning Board Minutes**

January 2, 2007

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**Case #2006-54 Proposal by Erik & Sandra Gove for a plan re-submittal, continued from December 19.**

Attending Eric Gove and Francis Chase

Henry Boyd of Millennium engineering appearing for the Applicants said the revisions and easement have been submitted. The mylar has a place for the Chair's signature because a future "way" is shown. Morgan said the plan looks good but want to see "future" removed from the plan because, although the road is not being built at this time, the right-of-way easement to the Town is being given. Boyd will remove "future" and refer to right-of-way as shown on the plan.

Foote said several subdivisions had been divided out from the original large lot, one of which created the right -of way. However, the easement deed and the plan Register recording numbers differ, and should be the same or reference both. Boyd will add the appropriate references.

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| <b>Motion:</b> | <b>To approve the Case #2006-54/Erik &amp; Sandra Gove amendment to the original subdivision for 33 Gove Road, Tax Map 7, Lot 50.</b> |
| <b>Second:</b> | <b>Approved: Unanimous</b>  |

There being no other business, Foote adjourned the public hearing and public meeting at 10:15PM.

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