

**Town of Seabrook Planning Board
Minutes**

September 21, 2004

Planning Board Members Present: Susan Foote (Chair), Paul Himmer, Peter Evans, Mike Lowry, and Paul Garand

Commencement: Foote opened the meeting at 6:10 PM. Wayne Morrill of Jones & Beach briefly addressed the board regarding off-site improvements by Lowe's in the vicinity of the Cains Pond to comply with ACOE and USF&W requests.

Minutes: Evans moved to adopt the minutes of August 17, Lowry seconded. All in favor. Lowry moved to adopt the minutes of September 7, Foote seconded. All in favor except Evans who abstained.

Driveway Permit Applications: The following applications were received:

- 1) Robert Jacobs, 68 Collins Street
- 2) Knight, 28 & 30 Weare Road
- 3) Carrillo & Griggs, 32A Adams Avenue

Motion: Peter Evans **To approve all 3 driveway applications**

Second: Paul Himmer

All in Favor

Law Lecture Series: Foote strongly encouraged attendance at the lectures. Garand and Morgan endorsed them as well.

Correspondence: Morgan succinctly summarized the voluminous load of correspondence received during the previous month. Morgan inquired as to the board's interest in acquiring the 2005 edition of the land use RSA books.

Home Depot: The board reviewed correspondence regarding the Home Depot Performance Bond.

Motion: Paul Garand **To release the Home Depot performance bond and close the case due to favorable reports from Town staff**

Second: Peter Evans

All in Favor

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Lowe's: Foote reported that Lowe's would donate funds to the Town to extend the Lafayette Road sidewalk south along the Recreation Center.

2005 Budget: Foote provided a brief review of the proposed budget for 2005. Inquired if any other board members would like to attend the budget review with the Board of Selectmen on Thursday. No volunteers, Foote stated she would attend the meeting.

Bonds: Foote noted that the bond summary list from the Finance Office does not agree with the list the Planning Board has. There is a need to have just one list that all departments involved with bonds use for data. Foote will work with Garand to address this continuing problem.

Town Engineer: Foote reported that Mike Fowler has taken a new day job, and that his new schedule conflicts with the Planning Board's. After some discussion the board agreed that we need an engineer at our meetings to answer our questions. Foote informed the board that this position will have to go out to bid as contractual services.

Administrative Tasks: Foote expressed frustration with the level of support the Planning Board is receiving from municipal staff. She asked other board members if any would be interested in joining her in interviewing applicants for the Planning Board Secretary position.

Motion: Mike Lowry **To authorize the Chair and Vice Chair to conduct interviews of Secretary candidates and to handle all other administrative tasks.**

Second: Paul Himmer **All in Favor except Foote who voted no**

Bonds: Foote distributed a Bond Reduction Form and an Applicant's Bond Posting Procedure flyer for the board's review and approval. Foote reported that the Turtle Creek bond reduction request has been withdrawn. Foote will look into outstanding applications in which we have no bond posted. Some of those cases should be closed. Morgan was directed to contact Walter Mitchell to obtain guidance on appropriate procedures.

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Motion: Mike Lowry To authorize Foote, Morgan, and Garand to sort this matter out.

Second: Paul Himmer

All in Favor

It was noted that the procedure sheet should terminate a sentence after "Planning Board office" in paragraph #4

Motion: Peter Evans To adopt the two forms

Second: Mike Lowry

All in Favor

Bills: reviewed and signed by Foote

Informal #4-45 Suzanne Griggs: For a subdivision of lot located at 32 Adam's Ave.

Ms. Griggs presented her proposal for a two-lot subdivision at 32 Adams Avenue. In 1988 she obtained a variance to permit less than 125' of frontage. In 2003, wetlands were delineated. Foote noted that this applicant has already met with the Conservation Commission regarding the required Dredge and Fill application. Foote attended a site walk in July. Earlier tonight at this meeting, a driveway permit was obtained. Griggs will file a dredge fill permit with NH DES to allow a driveway crossing over wetlands. Evans commented that the plan looks OK. Foote suggested that more 'chicken tracks' be added to plan to better highlight the wetland areas. Griggs inquired about a requirement to have the Assessor's Office assign lot numbers. The board confirmed that requirement, and advised the applicant to have her surveyor take responsibility for all items that need to be included on the plan.

Informal #4-46 NTB: To construct an automotive service facility at the corner of Smalls Ave. and Lafayette Rd.

Henry Boyd of Millennium Engineering reported that the site plan is not ready yet. The site is Mike Marshall's former property at Lafayette and Smalls Avenue. The board advised Boyd of a new regulation that requires the extinguishment of prior Planning Board approvals that were never implemented before a new application will be considered. Boyd stated that said extinguishment will be noted on the new site plan.

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Public Hearing #3-40: Proposal by Ivan Q. Eaton, Jr. for a lot line adjustment at 1 & 6 Eaton Lane.

Henry Boyd presented. The requisite five-foot setback from Town roadway easement for the stone wall is now noted on the plan. Approval by the Selectmen and Town Meeting will be required. Boyd stated that DPW Director Starkey and Fire Chief Brown are both OK with the plan

Motion: Paul Garand **To approve, subject to approval by the Board of Selectmen and Town Meeting. The Chair will sign the plan when the stipulations are satisfied.**

Second: Peter Evans

All in Favor

Public Haring on #4-28: Proposal by Fred Attalla to erect a restaurant and a 75-room hotel at the corner of Rocks Road and Lafayette Road.

Henry Body of Millennium presented the proposal. Boyd made a remark about *CBS Kinkos* which the Acting Secretary did not understand, however Boyd declined to elaborate. The on-site well will take care of both irrigation and laundry (see note on Sheet #4). The outdoor lighting will be no higher than 20 ft. Three State permit applications have been filed. The crosswalks requested by Morgan have been added to the plan. Regarding a proposed traffic signal at Lafayette & Rocks, Boyd read aloud a letter from NH DOT to Bayside Engineering requiring the applicant to escrow \$25,000 for a ten year period. The applicant will apply to the BoA for a variance on September 22 to permit the hotel sign to be adjacent to Lafayette Road.

Foote reported that talks with Florida Power & Light have progressed, and that it is possible that an access to the dump may be constructed from the South Access Road.

Abutter Dave Baxter urged the board to continue to pursue a traffic signal for Rocks & Lafayette. Foote said that "we will". There was a discussion regarding the FLP North Access light being turned off except in case of plant emergency then it will become active and the proposed Rocks Rd. light will become inactive.

Boyd reminded the board that the application includes a proposed lot line adjustment.

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Motion: Paul Garand To approve the lot line adjustment. The chair is authorized to sign the lot line adjustment plan when a new mylar is produced by Millennium.

Second: Mike Lowry

All in Favor

Motion: Paul Garand To approve the site plan subject to the following conditions:

- 1) \$25,000 be placed in DOT's 10-year escrow account for the traffic signals;
- 2) Posting of a two-year \$92,500 construction bond consistent with the Subdivision Regulations;
- 3) All three State permits are granted: wetlands, site specific, and curb-cut;
- 4) During construction, all vehicles and equipment are to enter and leave the site via Lafayette Road (not Rocks Road);
- 5) When construction is complete, posting of a two-year \$9,200 maintenance bond to cover landscaping and fencing.

The Chair will sign the plan when the stipulations are satisfied.

Second: Peter Evans

All in Favor

Public Hearing #4-37: Proposal by Kings Surf Limited to expand the Hampshire Inn at 20 Spur Road.

Henry Boyd of Parker Survey presented.

Boyd noted that substantial ledge was encountered during the municipal sewer system installation. The test pits required by the PB were conducted earlier in the day, and show sand and gravel to a depth of six feet.

Motion: Paul Garand to require a two-year \$16,000 bond consistent with the Site Plan Regulations.

Second: Mike Lowry

All in Favor

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Motion: Paul Garand To close previous site plan and approve the site plan subject to posting of the aforementioned bond, and that prior to excavation, the contractor is required to contact all utility companies and to attend a preconstruction meeting with Parker Survey. Chairman is to sign plans.

Second: Mike Lowry

All in Favor

Public Hearing #4-41: Proposal by James Wright for a condominium conversion at 104 Ocean Drive.

Attorney Mary Ganz presented the application. She reported that shut-off valves have been added to the plan. She confirmed that the building is a pre-existing duplex.

Motion: Susan Foote To approve only for purposes of compliance with the Seabrook Condominium Conversion Regulations. Chairman is to sign plans.

Second: Paul Garand

All in Favor

Public Hearing #4-42: Proposal by the Matthew J. Perkins Irrevocable Trust and Donna Perkins for a condominium conversion at 54 Dows Lane.

Henry Boyd presented the application. Addressing the comment in Morgan's September 1 memo about an easement, Boyd stated that at first he thought it was a really stupid comment, but then the more he thought about it, he came to believe that the comment wasn't so stupid after all. He then added a clarifying easement note to the plan

Motion: Paul Garand To approve only for purposes of compliance with the Seabrook Condominium Conversion Regulations.

Second: Mike Lowry

All in Favor

Public Hearing #4-43: Proposal by Mark Investments, Inc. and Tiki Trust for a 1,500 square foot retail facility immediately south of the Irving Gasoline Station off Lafayette Road.

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Wayne Morrill of Jones & Beach presented the plan. The applicants are proposing to demolition of the tattoo parlor and replace it with the electric-yellow check cashing business just up the street. The new building will be 30' by 50' and will have 12 parking spaces. Morrill tried to convince his client to paint the new building an inoffensive shade of beige, but the client insists on yellow. The board stipulated that the building could remain yellow, but tone it down quite a bit. "Post-a-Note" yellow would be acceptable. The building will be brick bottom with clap-board upper and a metal roof. Morrill asked for a waiver from the requirement to produce a drainage study due to the nature of the site and neighboring drainage. Morrill addressed the proposal's curbs, dumpster, lights (poles to be 20' high), drainage, and landscaping.

Garand noted that with this new proposal the tattoo shop will close and no longer be grand-fathered on this site. Morrill agreed.

Motion: Mike Lowry To set a two-year bond in the amount of \$20,000 consistent with the Subdivision and Site Plan Regulations.

Second: Peter Evans

All in Favor

Motion: Paul Garand To waive drainage study.

Second: Paul Himmer

All in Favor except Peter Evans who voted no

Motion: Paul Garand To approve subject to issuance of a DOT permit and posting of the bond. Chairman to sign when approved Dot Permit is issued

Second: Mike Lowry

All in Favor

Old Business: Pineo Requests on Bond Reduction & Drainage: Mike Fowler recommends a bond reduction from \$1,035,000 to \$900,000. Fowler has submitted a revised costs list for this project.

NH DES is requiring larger culverts under the proposed road.

This will result in an increased discharge into the Hampton Falls River during a 50-year storm. Evans commented that DES is being meddlesome. Wayne Morrill explained the public benefits of the DES requirement. Evans recanted his meddlesome comment, and noted that abutters' properties are

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not being adversely affected. Foote concluded that a waiver to the storm water requirement is not required because abutters are not being impacted. Foote does not want to set precedent in waiving stormwater run-off regulations. Morgan concurred

Motion: Susan Foote To revise bond requirement to be a total of \$900,000.00 per letter from Mike Fowler.

Second: Peter Evans

All in Favor

London Lane Power Supply: Wayne Morrill stated that his client wishes to place the utilities above ground. The site approval stipulated underground utilities. Foote reported that underground utilities in an area with a high water table such as this could be problematic. Morrill stated that UNITIL prefers to go overhead on this site. Evans prefers underground utilities due to the radio and television interference above-ground lines could cause for nearby residents. He also states possible health concerns regarding "EM" radiation. Morrill reminds Evans that this industrial site is considerable distance from the residential development. Evans states that soil and high water-table make good insulators.

Garand inquired whether the proposed change is major or minor. Foote noted that if this change was requested in a residential area she would consider it a major because of the esthetics but an industrial site isn't held to the same standard. Foote polled the board. Garand, Lowry, Himmer & Foote concluded that the change is minor and therefore does not require notification of abutters. Evans believes that the change is major.

Motion: Paul Garand To approve a change to the site plan so as to allow electrical lines to be overhead.

Second: Mike Lowry

All in Favor except Evans who voted no.

Chili's: Wayne Morrill presented architectural elevations for a Chili's Restaurant proposed for a site in front of Lowe's. Morrill stated that the lighting would be almost identical to that of Applebees. The restaurant site was reviewed and approved during the Lowe's site plan review. The architectural elevations were the only outstanding item left to be reviewed.

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Motion: Paul Garand To require that the restaurant site be covered by a two-year bond in the amount of \$5,000 consistent with the Site Plan Regulations.

Second: Paul Himmer

All in Favor

Other Business: Merrimac Street: The board was addressed by Lance Wilkerson of 91 Concord Street and 2 Merrimac Street, John Leary of 5 Merrimac Street, and Buzz Coulliard of 6 Merrimac Street. They inquired about the status of Merrimac Street and its formal acceptance by the Town. Foote noted that the board had been informed that the project had been transferred to Patrick Carey. Carey reportedly told the Town Manager that he had no intention of building the walkway that was a condition of subdivision approval. The Manager then advised the Planning Board to call the bond so that the project could be completed. The Planning Board did so on August 17, 2004. Coulliard requested a punch list of outstanding items. Garand replied that John Starkey and Fred Welch have already compiled documentation detailing project deficiencies. He reminded Coulliard that the walkway is a condition of subdivision approval. Foote stated that she had received a phone call from Carey's real estate office and an attorney for the Sullivan's in the past week requesting information on signing a new site security agreement and posting bonds. She informed both inquirers that per request of the Town Manager the board voted in August to begin proceedings to acquire the bond and finish the project. Leary asked if the walkway and roadway could be bifurcated. The board advised him to direct that question to the Town Manager and Board of Selectmen.

Adjournment: Foote moved to adjourn. Himmer seconded. All in favor. The meeting adjourned at 9:43 PM.

T. Morgan

Acting Secretary

Edits and additions - Sue Foote Chairman