



## Town of Seabrook Planning Board Minutes

Tuesday, February 20, 2007

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

Members Absent: Mark Preston, Vice Chair; Paul Himmer; Aboul Khan;

Chair Foote called the meeting to order at 6:00 PM.

### Minutes of January 30, 2007

<b>Motion:</b>	<b>Moore</b>	<b>To accept the Minutes of January 30, 2007 as written.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### REQUESTS FOR SECURITY REDUCTIONS OR EXTENSIONS

#### **Case # 2004-40 Proposal by Todd Gerrish/Port Lighting for site plan review at 24 London Lane**

Foote referenced a letter from Gerrish requesting his security amount of \$20,000 for the detention pond for this site and two other sites be released as the work has been completed. Gerrish is also requesting a reduction for the construction security in the amount of \$27,000 for the Phase 2 site. Foote said the Planning Board has already granted an extension for completion of the Phase 2 site, and the site plan had been reviewed with Gerrish. Foote recommends the security for the detention pond be released. The Phase 1 building is in operation; Phase 2 is an addition to it. Minimal landscaping is required. The second security is for hazardous potential if he does not complete the minimum building requirement. Garand said the site is missing two catch-basins, some paving, and one retention wall but is otherwise complete. After discussion the consensus is that \$10,000 would be sufficient.

<b>Motion:</b>	<b>Foote</b>	<b>To refund the \$20,000 security for Case #2004-40 relating to the detention pond, and to reduce the maintenance security amount for Phase 2 to \$10,000, to run concurrently with the extension.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>



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### CORRESPONDENCE AND ANNOUNCEMENTS

#### **Case #2002-30, Merrimack Street**, continued from January 16, 2007

Foote said although this case is on the Agenda, there have been several calls from residents requesting Merrimack Street be accepted as a town road. On several occasions the developer/owner has been advised to submit a letter asking for road acceptance to no avail. However, DPW Manager, John Starkey, was asked by [Henry Boyd] to do an inspection. Starkey requests to complete the ditch work, erosion control and landscaping inspection in the spring when the frost is out of the ground. Foote continued Case # 2002-30 to June 5, 2007 at 6 PM at Seabrook Town Hall. Garand asked if this means road acceptance will also have to wait. Foote confirmed this and added the letter request is also needed.

#### **State Building Codes**

Foote referenced a memo from Garand re the Office of Energy and Planning requesting that State Building Codes be adopted and up-to-date. Morgan asked if the Board hadn't already done this. Garand said the 2000 edition had been adopted. The State is looking for adoption of the 2006 edition, and noted some towns do an automatic update. Evans said most towns do this every three years. Morgan asked how familiar Garand is with revisions in the 2006 edition. Garand said if the regulations have not been updated within five years, the Town may be deemed by the State to have outdated construction codes, and also be hit with an insurance premium adjustment. Foote said it is too late to do for this year. Garand said perhaps the verbiage could be revised and asked for Morgan's recommendation. Foote asked if this would be a zoning change. Morgan said he would have to research the status, but the mechanism has to be voted in by the Town. Foote said if this has to go to the voters, it should be addressed in September. Moore said this might be done by the Planning Board with a public hearing and advance notice, but noted international codes are now being considered. Foote asked Morgan to report on the procedure at the March 6<sup>th</sup> meeting.

Foote referenced an **interoffice memo from Mary Souther of the Assessor's Office concerning her review of Rockingham Register filing, D-34349, for Units 1,2, &3 of the Nicholas & Alexander Place Condominiums** and finding 1854 square feet of land unaccounted. The Secretary said there is a subsequent memo indicating the discrepancy is accounted for in the condominium common area. Garand said he contacted Henry Boyd of Millennium Engineering who stated that the structural walls are not counted in the condominium equations. Foote said it is understandable that Assessing would be concerned as property taxes go by the lot square-footage. Evans said this amounts to 600 square feet for each of the three buildings. Foote said this an Assessing not a Planning Board matter.

Foote referenced a **memo from Garand re Cases # 2006-31 & 32 denying a contractor request for permission to place a pylon sign on the DDR property** while the development is before the Planning Board. Garand said in a subsequent phonecall a DDR official explained the request is to post real estate signs, Garand explained this would be allowed without a building permit subject to compliance with the regulations. Evans asked if any signs exist. Garand said there is one sign showing the address of the Venture property.



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Morgan asked to discuss the March 6<sup>th</sup> date for the DDR traffic meeting in light of the Board's request for related documentation and the need to give the outside professionals a date certain and advance notice. Foote asked if any information had been received. The Secretary said none had been submitted. Foote said DDR has been informed by the Secretary of the Board's request that DDR's intended off-site traffic plan be received for review at a minimum of two weeks prior to the March 6<sup>th</sup> meeting. Foote said no correspondence had been received except for an e-mail to Foote from Attorney Malcolm McNeill asking what went wrong at the January 30<sup>th</sup> meeting. Garand suggested going ahead on March 6<sup>th</sup> and setting the traffic discussion for a later date, noting the TIF vote result would also be available at that time. Evans asked when the Board will be given the updated report of its own traffic consultant, Stephen Pernow. Foote said DDR's plans would have to be in before that could be done. Moore said a final report from Pernow would come after the traffic discussion. Morgan said Pernow has requested the same information from DDR and asked Morgan to do what he could to obtain it. DDR agreed to provide this, but a firm "traffic" date is needed to book the consultants and legal counsel who have been standing by for March 6<sup>th</sup>. Foote said on March 6<sup>th</sup> a continuance could be granted because the requested information has not been timely received. Morgan said it sounds like there will not be a substantial traffic discussion on March 6<sup>th</sup>. The Secretary said she had spoken with Jim Grafmeyer of DDR after the January 30 meeting and was clear that March 6<sup>th</sup> was the latest date the Board could set a meeting because DDR's waiver runs out on March 15. However, they could provide another waiver and request a later date.

Morgan said another procedural matter to consider would be to ask the Board of Selectmen for an up to ninety-day waiver, and recommended this. Foote asked if the Board of Selectmen can only give one ninety-day waiver. Morgan said they can grant one extension not to exceed ninety-days. Moore noted this had been previously suggested and DDR wanted to give a shorter waiver. Morgan said the Board should avoid a meeting in which its consultant is not there, but DDR doesn't want to give another extension. Foote asked Morgan if the Board could vote at this meeting to request the Board of Selectmen for a ninety-day extension. Morgan said this would be prudent. Moore noted there is an option to vote on the case if the traffic issues are not resolved. Garand noted that some questions posed by the Rockingham Planning Commission have not yet been addressed. The traffic meeting would be a good time to address them and ask for the status of the Route 1 Corridor Study. Foote said to avoid an in-depth discussion as DDR is not represented here.

Evans said because this proposal is part of a larger puzzle, it would be a good idea to get a look at what our consultant thinks a Routes 1/107 solution might look like. Morgan said legal counsel advises against doing this, and to have DDR's design. Evans said such a study should be done as part of updating the Master Plan. For example, a good plan would look at the Rec Center needs. Foote said 2007 is the time to start working on the Master Plan revision, and recommended doing a few chapters each year, aiming at completion in 2010, instead of trying to cram it all in at once. Traffic could be one of the first chapters to address. Moore said this would take some pretty good projections. Morgan said this is just what the Corridor Plan should visualize. Foote noted the Routes 107/95 area is said to be outside of the scope and there were no plans for the State to address anything further. Morgan said having Rockingham Planning Commission address this and give a status report is a good idea. Moore said the DDR project has thrown everything out of kilter. In recent



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years less than fifteen low -impact units were developed along Route 1. Morgan suggested to pick a date for the traffic discussion and try to avoid much else on that agenda.

<b>Motion:</b>	<b>Moore</b>	<b>To schedule a DDR traffic meeting on the April 3, 2007 Agenda.</b>
<b>Second:</b>	<b>Thibodeau</b>	<b>Approved: Unanimous</b>
<b>Motion:</b>	<b>Foote</b>	<b>To request the Board of Selectmen to grant a 90-day extension for Cases #06-31 &amp; 32.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**Case #2006-42 Proposal by Wildwood Real Estate Holdings, LLC for a condominium conversion at 6-8 Carroll Lane, Tax Map 4, Lot 14-119, continued from January 16, 2007;**

Foote referenced a continuance request from Jones & Beach Engineering. Foote continued Case #2006-42 to March 20, 2007 at 6PM at Seabrook Town Hall.

**Case #06-55 - 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, continued from January 2, 2007.**

Foote referenced a letter from Jones & Beach engineering requesting a continuance. Foote continued Case # 06-55 to March 6, 2007 at 6PM at Seabrook Town Hall.

**Case #2004-50 Paulo & Lisa Cabral for a subdivision off of Ledge Road, continued from January 16, 2007;**

Foote said the Cabral case has again been appealed; Lisa Cabral has signed a waiver to May 1, 2007. Morgan asked if the case was ever accepted. Garand recalled there had been some review but it had not been completed. Foote noted this case first came to the Planning Board in about the last quarter of 2004, and is presumed to be grandfathered and exempt from changes in subdivision and stormwater regulations. The question is when do they have to start complying with new regulations which changed when it was still being heard by the ZBA. The case has been to the Zoning Board of Adjustment and in litigation but has never been heard by the Planning Board. The regulations pertaining to lot frontage and depth for minor subdivisions with roads have had major changes, and it is questionable whether this proposal could be accepted now. Foote asked Morgan to consult with the Planning Board Attorney, and continued Case #2004-50 to May 1, 2007 at 6PM at Seabrook Town Hall.



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**Case #2007-03 - Proposal by Scott Mitchell for a 2-lot subdivision at 103 Ledge Road, Tax Map 5, Lot 8-120.**

Footo referenced a letter from Jones & Beach requesting a continuance without prejudice. Footo continued Case #2007-03 to March 6, 2007 at 6PM at Seabrook Town Hall.

**Case #2007-01 - Proposal by Bruce G Brown for a condominium conversion at 26&27 Katelyn Way, Tax Map 15 Lot 112-10.** Request from [Henry Boyd of Millennium Engineering] for a continuance. Footo continued Case #2007-01 to March 20, 2007 at 6PM at Seabrook Town Hall.

**Case #2006-60 - Proposal by Edwin F. Adams, Griffey Seabrook LLC, and SOFIST (USA) Inc. 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.**

**Case #2006-61 - Proposal by Edwin F. Adams and Griffey Seabrook LLC to construct a 89,911 sf Kohl's Department Store, a 12,500 sf retail establishment, and a 5,495 sf restaurant off Lafayette Road, between Lowe's and the Seabrook Recreation Center, Tax Map 9, Lots 62, 238-1, and 240.**

Footo noted the letter from Jones & Beach requesting a continuance. Footo continued Cases 2006-60 & 61 to March 6, 2007 at 6PM at Seabrook Town Hall.

Footo referenced a letter from **Jones & Beach re London Lane sidewalks/Chase Industrial subdivision** noting that according to the Public Works Manager the as-built sidewalk width is greater than approved making the island narrower than approved. The Applicant requests Planning Board permission to leave the sidewalk as is. Garand noted the requirement for a granite curb. Footo asked if this would be a violation. Morgan asked if this would cause drainage or maintenance issues. The Secretary was asked to send the letter to the Public Works Manager noting the Planning Board questions, and asking if there would be a problem with the Town accepting the road as is.

Footo referenced a memo from **Unitil indicating it intends to cut some Town trees**. Moore said in the locator plan these trees are within the Town's right-of-way. Garand said these are the trees that had first been marked. Then it was said they would not be taken down. Footo commented these are decent standard pines. Moore thought the trees were only on the very edge of the right-of-way. Footo said with a 50-foot right-of-way, if the utility lines were run down the center why would they have to take down trees. Yet the line is about fifteen-feet from the edge. If they needed a one hundred foot-fall zone why didn't they ask for it. Garand said they need to protect the utility lines and are pushing it to the extreme of the outside of the property. Footo said if the Town does allow this, it should be paid the going rate for board footage of pine tree. Moore said someone should watch the work. Garand said they should also be directed to replant with small scrub pines. Footo said these trees are in wetlands so a timber-cut wetland impact permit needs to be filed. Evans asked if the area will be included in the DDR wetlands calculations. Footo said this is offsite and won't be calculated in the VHB figures. Moore said the work has to wait for the dry period, probably in August. Morgan asked how the Board of Selectmen would respond. Moore said the BOS limited the cut to a specific area. Evans said trees are taxpayer property and a forester should calculate the value.



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**Case #03-38** Tom Morgan will be asked to review the revised deeds submitted for Pineo Farms Road and Carroll Lane.

### ANNOUNCEMENTS

Foote described a memo from **Public Service of NH on procedures and survey requirements for Transmission Line Easements and right-of way encroachment procedures**. Morgan said this is an annual announcement. Garand will make a copy for Moore and return it to the Planning Board Office.

Foote referenced the **Agenda for the next Zoning Board of Adjustment** meeting which includes the Kohl's related requests, and 10 River Street.

The **Coastal Training Center** will conduct a pervious concrete seminar on both February 22 and March 22. [See the Planning Board Bulletin Board for details.]

The NH Department of Environmental Services is requesting comments on the technical aspects of the Kohl's application for alteration of terrain by March 13, 2007.

The Town Manager reports that the **Board of Selectmen** has accepted as a public way: Austins Way, with a \$23,000 two-year maintenance bond, Becky's and Nicholas Way with an \$18,170 two-year maintenance bond, and Elephant Rock Road is now a public highway.

### SECURITY REDUCTION-Continued

#### **Cases # 2000-41 and 2004-37 Proposals from the Hampshire Inn**

Foote referenced a letter from the Hampshire Inn asking to be released from the requirement to post a construction bond and for release of the site security. The project is not going forward. Foote said the \$5000 site security from case 2000-41 had been retained for Case 2004-37.

<b>Motion:</b>	<b>Foote</b>	<b>To close Cases # 2000-41 and 2004-37 and to return any site security being held for either of those cases.</b>
<b>Second:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

### PUBLIC HEARINGS

#### ONGOING CASES

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

Foote said Bagley has not been responsive to the Notice of Decision and site security. At the January 16<sup>th</sup> meeting Bagley said this was an oversight and would look into it. Garand said the drainage is eighty-five percent done and the building is at least fifty percent done. Foote asked



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what can be done until site security is placed. Garand said to hold up occupancy and inspections and then consult with Planning Board counsel. Foote pointed out that by that time the building would probably be ready for occupancy. Garand said he can issue a cease & desist for building development. Foote recalled Bagley was going to transfer some of the refunded Austin Way security for this site. Morgan said the Planning Board needs to be continued to a date certain. Foote continued Case # 2006-13 to April 17, 2007 at 6 PM at Seabrook Town Hall.

### NEW CASES

#### **Case #2007-02 - Proposal by Thomas & Jane O'Hara to construct four attached dwellings at 192 Lafayette Road, Tax Map 10, Lot 2.**

Revised plans, Town Planner and Town Engineer memos, and Tech Review Minutes were distributed. A letter from the Wetlands Scientist was introduced. Foote asked about the Zoning Board of Adjustment variance. Garand said the variance allows replacement of the non-conforming use and ten-foot side setbacks in Zone 2. Moore asked if this proposal replaces the original four units. Ohara said it does. Foote said the plan is considerably different than the Board is used to looking at. Garand noted Ohara did most of the work himself. Ohara said he wants to move the building about twenty-feet back which would allow for the greenbelt, sidewalks, and adequate off-site parking. Foote noted the plan is to remove the existing building and building a new building. Ohara agreed and said he has done the plan work himself because when he originally applied for a permit to rebuild the structure a number of people recommended he move the building back. Engineers want about \$15,000 for the new drawings, so he is trying to cut the bill in half at this time and has been through the Zoning Board of Adjustment with this plan saving \$4000. The intention is to have the surveyors stake out the lot and do a complete condo plan to bring back to the Planning Board.

Garand asked for Morgan's recommendation. Morgan said the plans speak for itself and referenced the Town Engineer's comments. Foote asked Ohara if he is aware of the Planning Board requirements. Ohara said he is and is asking for a blanket waiver. Foote said that would set an ugly precedent. Ohara introduced the plan he brought before the Board in 1996 for site plan review, which has much less data. Ohara believes the new plan is in the best interest of the Town. Foote said regulations have changed considerably. Morgan asked why town officials would suggest pushing the building back. Ohara said the current placement doesn't allow for the greenbelt or sidewalk which would not be necessary if the building is left where it is. There is room behind the building and also to leave fifty-feet to the river and wetlands, and improve the neighborhood. Garand asked if the units will be condominiumized and sold individually. Ohara said "yes". Foote said if Ohara had the engineers do the siteplan now, it could be used for the condominium conversion plan. Ohara said the engineers would have to first address the current site and then resurvey and stake out the area for the condominiums. He is trying to cut out duplicative work and cost.

Foote said whether this is a siteplan, or for building a house on an existing lot, the boundary lines and building would have to be staked. Ohara said this isn't necessary if the building is rebuilt where it is. Foote said the plans don't depict the greenbelt and sidewalks. Ohara showed a reference on the plans. Morgan said the wetlands scientist was paid to write a letter but hasn't seen the plans.



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Ohara said the wetlands scientist did the delineation. Morgan said wouldn't getting the wetlands stamp make more sense. Ohara said the wetlands scientist would not stamp a plan done by the owner and submitted a letter. Morgan asked how much confidence there can be as to where the wetlands are located on this plan. Ohara said he did the measurements so far, but the survey would be done. Moore agreed with Foote's suggestion, and said once the footprint is in the siteplan the condos can be sighted without duplication and comply with town regulations. Ohara said he wants to do this all at once when the building is down. Moore said the cost would not be that much more. Ohara said he wants to do the right thing, but also to keep the engineering cost down by doing that work when the building is down. This is a better project and he is asking for leeway. Ohara believes there is enough information for the Board to make an informed decision.

Foote asked for opinions from the Board as to whether the submission can be accepted as administratively complete for deliberation given it is missing so much of the siteplan review regulations. Evans said this plan doesn't tell the Board what it needs to know. Having a surveyed plot provides the Board with the confidence it needs that a plan complies with town regulations. Ohara offered a July 1974 Parker survey for Map 10 lot 2. After discussion the Board's consensus was this did not directly apply. Moore said it might make it easier for Ohara's surveyor to draw the plan which has to be done sooner or later and can't be bypassed. Ohara said he's not trying to escape this but is trying to work toward a better product. At some point it doesn't make sense to move the building location. Foote said Ohara's "happy medium" is miles apart from the Board's perception. Ohara said the Board has the right to deny his plan but he doesn't think that would benefit the town's residents or himself. Evans said the plan is not up to the town's standards; it hasn't been surveyed, nor does it carry a surveyor's stamp. Engineers are expensive but they provide a public service to avoid legal trouble later on. Foote said no detention ponds or stormwater treatment are addressed in the plan, other than stating a positive drainage away from the structure and into the wetlands. Ohara said this is correct; it would have the same runoff as now. Foote said pavements aren't shown nor is open space calculated.

Foote applauded Ohara for the work he has done citing the difficulty with creating plans generally and the siteplan regulation requirements. Ohara said he has read these and is asking for waivers for the current issues he is not capable of complying with. He hopes for approval pending approval of the final plan. Foote said she is not willing to consider demolition of the current structure and building a structure occupying substantially more square footage, without there being some form of stormwater treatment in the siteplan that brings this up to code and regulations. For example, the brook behind the building drains into the Cains Brook System. Ohara said he is asking for waivers to do a better plan. Garand noted Ohara has cleaned up the property. Evans said this is going in the right direction but now is the time to get all the plans laid out. The drainage and sidewalks are not depicted and the plan doesn't convey Ohara's intent. Ohara asked if the stamps can be overlooked. Thibodeau said it would be a mistake to set a precedent for providing such waivers. Moore pointed out the stamps are required for recording.



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<b>Motion:</b>	<b>Foote</b>	<b>To not accept the Case 2007-02 proposal because it is not administratively complete for deliberations and does not meet the Town of Seabrook regulations.</b>
<b>Second:</b>	<b>Thibodeau</b>	<b>Approved: Unanimous</b>

Ohara said he is not willing to spend the money now. Foote suggested continuing the case so there would not have to be an additional fee if resubmitted. Moore said he likes the plan but it needs to meet regulations. Ohara said there are four legal units now but he wants to move the footprint and regularize the units and asked if there is a way to do this. Evans said the plan must show how he intends to go forward. Foote said surveyors would locate new corners for pouring the foundation. Evans said a continuance would give Ohara time to decide. Foote continued Case 2007-02 to May 1, 2007 at 6PM at Seabrook Town Hall.

Foote adjourned the public hearing at 7:50PM

The Secretary introduced Sean Graham, a Winnacunnet high School Senior doing his senior thesis. Graham asked to interview the Town Planner.

Foote referenced the Cains Brook and Mill Creek Watershed Management Plan copies of which were given to the Board. The document was produced with help from a 319A Watershed Assistance grant.

There being no further comments or questions,  
Foote adjourned the public meeting at 7:53PM.

Respectfully submitted,  
Barbara Kravitz, Secretary  
Seabrook Planning Board