



Town of Seabrook  
Planning Board Minutes  
Tuesday, June 16, 2015

NOT OFFICIAL UNTIL APPROVED

Members Present: Jason Janvrin, Chair, Donald Hawkins, Vice Chair, Francis Chase, Michael Lowry, Ivan Eaton III, Theresa Kyle, Ex-Officio; Paula Wood, Alternate, Tom Morgan, Town Planner; Barbara Kravitz, Secretary; Steve Zalewski, Building Inspector; Rick Friberg, peer review civil engineer, Eric Gerade, TEC;

Members Absent: John Kelley, David Baxter, Alternate;

Janvrin opened the meeting at 6:40 PM.

**MINUTES OF JUNE 2, 2015**

Janvrin asked for comments on the June 2, 2015 Minutes; there being none.

<b>MOTION:</b>	<b>Lowry</b>	<b>to accept the Minutes of June 2, 2015, as written.</b>
<b>SECOND:</b>	<b>Chase</b>	<b>Approved: Janvrin, Lowry, Chase</b> <b>Abstained: Eaton, Wood, Hawkins, Kyle</b>

**NO PLANNING BOARD MEETING ON JULY 7, 2015**

Janvrin noted that the Planning Board generally did not meet on the day of an election. On July 7, 2015 a special election will be held to fill a New Hampshire House of Representatives seat now open due to the resignation of the previously elected representative who has experienced a changed work schedule. As a couple of Planning Board members would be at the polls, Janvrin asked if the Board wanted to postpone the July 7, 2015 meeting.

<b>MOTION:</b>	<b>Chase</b>	<b>that the Planning Board will not meet on July 7, 2015, and that the Planning Board meeting will next meet on July 21, 2015 at 6:30PM in Seabrook Town Hall.</b>
<b>SECOND:</b>	<b>Eaton</b>	<b>Approved: Unanimous</b>

**SELECTION OF PLANNING BOARD ALTERNATE MEMBER**

Janvrin referenced a letter from former member Robert Fowler requesting to be reappointed as a Planning Board Member.

<b>MOTION:</b>	<b>Chase</b>	<b>to appoint Robert Fowler as a Planning Board Alternate Member for a 3 year term, to serve in that capacity until June 16, 2018.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

**SECURITY REDUCTIONS, EXTENSIONS, ROADWAYS**

Janvrin said this would be discussed later in the meeting.



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## CORRESPONDENCE/ANNOUNCEMENTS

Eaton recused himself at this point. Wood was designated by Janvrin as a voting member for this meeting;

### Letter to the Zoning Board of Adjustment

Janvrin read the proposed draft letter to the ZBA as follows:

"We are writing to provide the Board of Adjustment with some background regarding the Planning Board's efforts to protect the Town's water supply, while simultaneously promoting the development of clean industry in appropriate locations. The benefits of such industry are several. These include wages that are generally higher than those paid by commercial enterprises along Route 1, an expanded tax base, little traffic impact, and little demand for municipal services.

That said, we are acutely aware of the importance of protecting our water supply. The Planning Board intends to require this approach for all proposed development in the vicinity of the aquifer.

Toward that end, in late 2014 the Planning Board put in long hours drafting a zoning amendment designed to protect the aquifer while permitting compatible industry in the vicinity. Regrettably, we apparently did not quite complete the task prior to Town Meeting in March 2015 as the newly adopted amendment should also include an exemption allowing such use if the applicant first obtains a safety plan approved by the Fire Department. We intend to finish the job in the coming months, and will present a proposed zoning revision to Town Meeting in 2016. In the interim, we would have no objection to your considering the granting of variance applications such as Rand Whitney's, with the stipulation that the applicant's aquifer protection measures shall be entirely satisfactory to the Planning Board.

Respectfully submitted,"

Janvrin said he would sign the letter if the Planning Board so approved. Wood noted that she had not been involved in discussions, and asked if last year's work was not complete so it didn't allow for any type of exception. Janvrin explained that currently the Zoning Ordinance offered no alternative or exception [in the Aquifer Protection Zone]. The letter was to indicate that the Planning Board would be amenable should the ZBA approve a variance with such a stipulation. The Planning Board could not approve the [Kane application] with a variance to that effect. Janvrin said that the letter had been reviewed by the Planning Board attorney who advised that the letter was fine to send to the ZBA; also counseled that Planning Board members should not attend the ZBA hearing. Janvrin hoped that the members would abide by that advice, with the exception of the Planning Board Member who was also a ZBA Member.

<b>MOTION:</b>	Hawkins	<b>to authorize the Planning Board Chair to sign the zoning position letter as read to the Planning Board on June 16, 2015 and send it to the Zoning Board of Adjustment</b>
<b>SECOND:</b>	Chase	<b>Approved: Unanimous</b>



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Janvrin asked for public comment; there being none. Janvrin said that the Planning Board was in the affirmative – he signed the letter and said it should be forwarded to the ZBA.

**POTENTIAL ASPHALT BUSINESS**

Attending: David Benoit;

Appearing for the Applicant: Henry Boyd, Jr, Millennium Engineering;

Boyd used a drawing to show the property purchased by David Benoit 30 years ago from the Demoulas interest. He thought that might have been when the town did not have a zoning ordinance; the property had always been treated as industrial. They attended a Zoning Board of Adjustment meeting to ask if they needed a variance because on in re a couple of ambiguities, but the ZBA was reluctant to speak to this. Boyd said this was one of the largest industrial parcels in the Town of Seabrook, and pointed out the surrounding parcels including the Market Basket northern plaza, the north access road, and the power plant. Under the new zoning ordinance the property was in Zone 6M.

Boyd said this property had been existing as industrial – commercial property about 1,000 feet from Route 1. Previously, even for heavy industrial use, they could have applied for a conditional use permit from the Planning Board. Now the question was whether a variance was necessary, and if liquid asphalt was a regulated substance. Boyd said he consulted with the Building Inspector and they searched for but could not find this designation. He said that the New Hampshire Department of Environmental Services did not consider liquid asphalt a regulated substance. However, it would be contained in an approximately 600 gallon tank, which would be regulated by the NHDES. The other factor would be the differences between heavy and light industrial uses. Heavy industrial uses regulated substances and heavy equipment. He referenced a letter sent to the ZBA and the Planning Board stating that the proposal for the 6M Zone would include trucks bringing stone, sand, recycled asphalt product, and liquid asphalt to the site for mixing some, and some heavy equipment to move them to move finished product out in trucks along Route 1.

Boyd said that, for example, agricultural uses would require the type of heavy equipment being proposed. He asked if a "loader" for snow removal needed a variance. Every business had truck deliveries, and even residence areas had oil delivery trucks. Boyd did not know why the ZBA would not give advice and turned them to the Planning Board. They would bring the proposal to the Planning Board but whether a variance would be needed would be an issue i.e. the decision would be whether a loader would trigger light or heavy industrial use. Boyd stated that he did not think that parcel should have been grabbed [for 6M], noting that people vote for warrants that are identified as recommended by the Planning Board. Boyd noted that everything west of I-95 was now in the aquifer zone. This property was one of the true industrial parcels, that had large acreage with quality soil, that now was in a mixed use zone. He liked 6M mixed use, but did not see this area having downtown Exeter-like downtown uses on this site. Boyd said the only question was whether a variance was needed.

Janvrin said that the Planning Board was very familiar with not putting itself in a position of providing an opinion that it would not be right for an appeal to the ZBA. A few years ago the Planning Board had an informal conversation with someone that would later become an applicant; the Board took a vote on an interpretation of the town zoning ordinance. Subsequently, when that party appealed that vote to the ZBA, they could not take jurisdiction because the Planning Board vote in question had not been attached to a particular case. Upon further appeal



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the Superior Court said that the ZBA could not take jurisdiction because the question had not been put to the Board that would have had jurisdiction [ZBA].

He thought the Planning Board would be reluctant to provide an opinion in re a variance without having a case before it. However, the Planning Board is aware of a change in the state statute referencing notice for zoning change; he thought that such notice might have gone to this landowner. Boyd said the landowner lived in Argentina for 6 months each year. Janvrin added that the Planning Board held 3 public meetings regarding changes to the zoning without objection in re this property. The zoning change was done properly with notice given according to the law, and the Planning Board did nothing wrong. Boyd said he did not mean it was not legal, only that including this parcel was improper. He thought that the ideals constituted in Zone 6M were admirable for the corridor, but not for a parcel that was a quarter of a mile into the woods. He agreed with Janvrin that this was not the forum without a case. Boyd said that to place a case in front of the Planning Board that would go through the application procedures and engineering to satisfy the Planning Board, and then send it to the ZBA would incur a cost of about \$50,000. He thought the ZBA could offer an opinion. Janvrin pointed out that the NH Office of Energy and Planning guidance says that a zoning board should not offer advice or interpretation without a case before it. He thought that the ZBA had intelligently followed this.

Boyd said they were not asking for advice, they wanted an opinion as to whether this proposal would require a variance. He believed the Code Enforcement Officer could tell them that as an ex-officio of the ZBA. Janvrin commented that the Code Enforcement Officer was a land use board himself. Such a decision could be appealed to the ZBA, or a variance could be pursued. Boyd's issue was that it should not be so hard Janvrin said that the Planning Board would not give legal advice or speak to a potential variance without a case before it. Boyd asked if the Planning board would accept an Application without the full engineering. Janvrin said this Board would not take jurisdiction without having a complete application with siteplan drawings. However, he would allow non-binding conversation with the members so that Boyd could understand the Planning Board position. Janvrin read the definition of light industrial as follows:

"Industrial Light means any production and/or manufacturing activity that uses moderate amounts of partially processed material to produce finished goods or product parts and components with no significant environmental pollution or risk of contamination."

Chase asked if the Building Department was refusing a permit. Janvrin said they were refusing to give advice. Janvrin said the CEO could speak as a land use board; if a building permit were denied that action could be appealed to the ZBA as an administrative decision or to seek a variance. Chase thought this confusing. Janvrin said there would be no building permit until there was a Planning Board decision. Chase asked if Benoit could not build a building. Janvrin said he could not get a building permit until the Planning Board had made a case approval of the site plan. Boyd said they had an application before the ZBA for a heavy industrial use, but they did not want to pursue the variance, and run the risk of a denial, if it was felt unnecessary. They went to the ZBA to try to get some feedback. Zalewski said there was no application in his office for a building permit. Boyd said they could not apply for a building permit on a site without a siteplan.

Wood said this issue was going back and forth from the ZBA to the Planning Board, and to Building and Health. She knew that the Planning Board could not give advice, but asked what avenue could the Board give to a landowner. She thought Boyd has said that filing an application with all of the engineering etc. would cost in excess of \$50,000, and the Board might say to go to the ZBA. Boyd said they would come first to the Planning Board to be denied. Janvrin said, alternatively, they could go to the ZBA for a variance. Wood commented that no one had said



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there was a problem, and said that there should not be a problem until one was created. There should be a solution; an applicant should not have to put up \$50,000 to find out whether someone was interpreting the law correctly. She thought it would be advantageous for a [potential] applicant to come in to get an indication of what could be done, before putting up that kind of money to find out if they can or can't do something. Boyd said that this Board was not the one that could grant a variance. His point was that if this parcel had not been consumed for ^M, they would only have to come for a conditional use. The town needed industrial, and the west part of town could not be used.

Lowry asked if liquid asphalt was not controlled, why did they need a NHDES permit. Boyd said the NHDES permit was not for the asphalt; it was for the emissions of the hot-top once it's mixed. They would submit that permitting to this Board. Janvrin noted ... "no significant environmental pollution or risk of contamination...". Boyd said the design matters. Janvrin noted there was still a risk; Boyd said there could be a risk with anything.

Janvrin had a few questions without going to siteplan review. He asked if the refueling of the loaders would be on or offsite. Boyd said onsite. Janvrin aside if a person comes onto the site for an asphalt pick up, how did they coat the back of the truck and with what. Boyd did not know that answer. Janvrin said he used to drive a truck that was coated so the asphalt would not stick. The truck had to be heated and coated generally with diesel fuel. A soaping station could be used and then the truck coated with diesel fuel from a 5 gallon jug which would be illegal. Chase said someone would have to decide, if this was illegal. Kyle referenced Boyd's letter and thought they were just asking, generally, if a business of that type would be allowed by the Board. If the answer was yes, then they could come to this Board [with an application]. Boyd said if the answer was yes, they would bring a full application to the Planning Board and take the risk of satisfying the NHDED and the town on the environmental issues. Chase thought that was the CFO's job. Boyd did not disagree, but would not be critical of how the CEO did his job.

Wood said she was on the zoning subcommittee that did a lot of work. There were different thought processes about the parcel in question and some other property across the way. Her recollection was that the discussion was about light industrial and not to have a huge Walmart. Her concern was about traffic, and did not see 100 trucks coming in and out every day; there would not be a lot of traffic. She did not see why the landowner should be expected to spend so much money.

Hawkins worked on that subcommittee. The members went out of their way to meet with as many residents of that area as possible. Business owners and property owners were invited to talks separately from residents to get their input. There were long discussions about what types of uses were wanted in that area. Throughout there was a desire to return to the more traditional feel of the 1990s without all the big box stores and get back to the small village feeling. There was much discussion about the type of buildings, and the small light industrial uses contained within buildings. His recollection was discussion about not a lot of chemicals, traffic, or outside processing, and noted that the definition for light industrial was created at that time. Smithtown was done first and it was very clear what to accomplish at the southern end of Route 1. The middle part of Route 1 had retail and big boxes; DDR was in the middle of its construction. The thinking was how to maintain a small town feel if at all possible. There was open discussion about including the industrial land in 6M; a small light manufacturing plant could be built. They were envisioning more of an indoor use or offices for parcels along that corridor – a cleaner operation than now being discussed.



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Boyd had no issue with Hawkins' description of the vision, except that the parcel in question was 1000 feet away. It was unique in that he did not think a person would put a 6M use on that parcel, which was not suitable for the uses envisioned for 6M. Fowler did not want banging or making dust all day long. Boyd emphasized that it was 1000 feet inward. Chase said he had worked driving trucks, and would go down streets at 11 o'clock at night. The new technology today had much lower noise levels, other than the actual materials delivery; it was entirely different. Boyd asked if this was considered a heavy industrial use; if they needed a variance they would get it. Hawkins said it was important to remember how the noise levels were controlled in re a couple of applications, i.e. building high walls to protect homes from noise and traffic. Wood said if the noise were contained she would have no problem with the use, noting that she lived close by. Every day she hears the crushed rock and nothing was ever done about that; she can tell the time by when the rock crushing begins. Boyd noted that noise would have to be under the regulation threshold.

Hawkins asked if an MSD about the chemicals had been issued, and questioned this discussion if it had not been issued. With an MSD there could be a quick determination. Zalewski said he had none. Boyd said that Zalewski had asked for a letter from the state as to whether liquid asphalt was a regulated substance; Boyd could not get that. The state's response was they would not provide a written letter. They did not regulate the liquid asphalt, but did regulate the tank as it would be over 600 gallons; to his knowledge it was not on their website. Janvrin pointed to the direction it could be found – the hazardous materials manual of the NH Department of Transportation. Boyd said that did not mean it was a regulated substance. Boyd said he did not want to be at this meeting.

Janvrin asked Boyd to explain the variance request now before the ZBA. Boyd said only if it were determined that the use was heavy industrial. Janvrin asked if there was a designation as heavy industrial, would they request a variance from the ZBA with a conditional use permit from the Planning Board. The Planning Board could still deny a case approval. Boyd agreed. Chase still did not favor going to the ZBA. Janvrin said that no one had stepped up to tell them if this use would be a heavy or light industrial use. He reminded that in a previous situation a decision was nullified because the Board had not had a case before it. He agreed with Wood that considerable work would have to be done to get an application to the Planning Board. Boyd asked who in the room would spend \$50,000. Wood said there should be another avenue; perhaps the Board should look into this. The Board creates the zoning ordinance. If the ZBA does not want to look into a situation, they send it back to the Planning Board. She thought there was a break in the system somewhere. Zalewski said if he denied a permit, they could go to the ZBA. Boyd said they could not yet apply for a building permit without siteplan approval.

Hawkins said if someone came to the Planning Board and described what they wanted to do, why couldn't they ask if that would be considered heavy or light industrial use or ask for guidance. There wouldn't be a specific case or application, so he was not sure that would be specific advice. If someone asked if there were such a case, members might have different views and could discuss this for guidance purposes only. Subsequently, if a case were submitted the Board could still deny it. He thought the Board was being asked for guidance by a landowner in re if a case were submitted as an application, how would the Board view a particular use on that property. He thought the Board had given general guidance in the past about what was needed to submit a proposal. Hawkins said he would be comfortable giving such an opinion. Chase said what if they needed to go to the ZBA, which he did not favor. Hawkins said the Board would not be telling them to go to the ZBA; members would only be providing their view, without a vote or consensus.



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Janvrin said based on the Board comments, he would poll the members as to whether the circumstance that Boyd was proposing would be considered light or heavy industrial use. Wood liked landscaping and, in general did not favor large trucks. She did not consider this use heavy industrial as there would not be a lot of traffic. Hawkins had no doubt that such a situation was heavy industrial because the factors included large scale equipment, chemicals, odors and emissions that the NHDES would control. Janvrin polled the Members. Fowler asked how big the loaders were. Wood noted there were large trucks going to the power plant and the dump; she did not see much traffic. Boyd agreed that some went to the transfer station. Kyle thought this was a simple question of allowing heavy industrial on that parcel. Hawkins explained that heavy industrial would not be allowed; it would have to go to the ZBA. Wood's view was this could

**Those in favor of a light industrial designation were Chase, Fowler, and Wood;  
Those in favor of a heavy industrial designation were Hawkins, Janvrin, and Kyle Lowry had no comment.**

Janvrin recessed the meeting at 7:40PM and resumed at 7:50PM

**PUBLIC HEARINGS  
NEW CASES**

**Case # 2015-11- Proposal by Yankee Greyhound Racing and the Kane Company for a 2-lot subdivision at 319 New Zealand Road, Tax Map 2, Lot 41;**

Janvrin reported that the Applicant had asked to postpone this hearing, and continued Case 2015-11 to July 21, 2015 at 6:30 PM on Seabrook Town Hall.

**Case # 2015-12- Proposal by Yankee Greyhound Racing and the Kane Company for construction of a 107,212 square foot industrial building at 319 New Zealand Road, Tax Map 2, Lot 41;**

Janvrin reported that the Applicant had asked to postpone this hearing, and continued Case # 2015-12 to July 21, 2015 at 6:30 PM on Seabrook Town Hall.

**Case #2015-10 - Proposal by Columbia Properties Belle Vernon LLC and Kobe Sumo House, Inc. to establish a restaurant at the former Famous Footwear store adjacent to Kohl's, 325 Lafayette Road, Tax Map 9, Lot 240.**

Attending: Andy Chen, restaurant owner; Andy Fleisher, representing the property owner association;

Appearing for the Applicant: Attorney Bernard Pelech, Andy Fleisher,

Pelech said that Andy Chen had submitted an expedited application to open a Kobe Sumo steakhouse restaurant adjacent to the Kohl's in the Kohl's Plaza in unit formerly occupied by Famous Footwear. Kobe Sumo had 2 successful hibachi sumo type restaurants in Maine; this would be its first location in New Hampshire. After talking with the Building Inspector, he understood there was a plumbing concern because a 1000 gallon grease trap would be installed; the plumbing schematics had been submitted. A concrete pad with a cooler – freezer would be installed on a concrete block in the back of the restaurant. Pelech said there was no need for a

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technical review; they would work out details with the Building Inspector and the Sewer Department. The Chens could answer questions about the restaurants they now operate and their plans for the Seabrook venue. He thought the allowed use would fit well in the town. A certified restaurant architect was drawing the plans

Wood asked if the abutters had been notified about the change of use, recalling strong neighborhood concern in the past. Janvrin said the abutters had been notified, and the plans provided to department heads; there were some comments from the Sewer Department; the case had not been to the Technical Review Committee. He referenced certain of the criteria for expedited applications: (i) signoff by Town Planner or CFO, (ii) no discernible impact on abutters, (iii) no adverse impact to the public or the environment, (iv) no building expansion, (v) no increase in intensity of use, (vi) no increase in traffic impact, (vii) no subdivision, or lot line adjustment, (viii) no changes to stormwater flow or utilities, (ix) it is the site of a previously approved siteplan, (x) No Technical Review Committee is warranted, and (xi) no change to lighting or signage. The Board had to decide if this is appropriately an expedited application.

Lowry said that a grease trap would be considered a structure. Wood said that this type of proposal should definitely go to the TRC because the systems were different. Janvrin said typically an expedited application would not go to TRC. For a recent expedited case, 2 department heads stated that it should have gone to the TRC. The Case #2015-10 walk-in freezer in the rear did expand the building footprint. It was up to the Planning Board to decide whether this application was suitable for expedited. If not, were any other exhibits needed, and how the Board would proceed. Pelech said the grease trap was shown on the plumbing plansheet. Chen pointed out the grease trap location. Wood asked about access for maintenance and cleaning out. Chen said there were 2 manholes. Wood asked how accessible the grease trap was. Chen said the access was through the walkway area. Janvrin asked if this should go to the TRC, and read the following comments from Mario Leclerc of the Sewer Department:

A description for plumbing modifications - the former tenant was a footwear retail outlet, and did not have an extensive sanitary requirement. The drawing shows numerous floor drains, including the restroom and kitchen areas. The extensive kitchen area is of concern, namely the proposed cooking operations (fryolators and woks). What is the proposed oil and grease management system?"

Pelech said he provided 8 copies to the Building Department. Zalewski said they had been distributed. Wood thought expedited meant a new business was going in; this was a total change of use that should be reviewed for comments on building and health matters. There was already the Leclerc comments that could not be ignored. Chase thought there was a requirement for another test point or sampling station. Janvrin reiterated that there could be no changes to the outside of the building. This application is adding a refrigeration – cooler concrete pad, and a grease trap. Janvrin asked for the Board's view accepting Case #2015-10 as expedited.

<b>MOTION:</b>	<b>Wood</b>	<b>to find that Case #2015-10 could not be accepted as an expedited application.</b>
<b>SECOND:</b>	<b>Lowry</b>	<b>Approved: Unanimous</b>

Pelech asked if they would have to reapply. Janvrin said the difference between an expedited and full application was the amount and character of the exhibits that would be required. They did not



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have to reapply. A building site plan was submitted to the Building Department. The Planning Board had 2 pages, one of which was the original site plan. Janvrin thought that sufficient for accepting the case, and asked if the Board wanted anything else. Wood thought the Planning Board should have a full planset. Pelech will supply full planset in 11 x 17. Kravitz asked for 2 full size plansets, and 16 of the 11 x 17.

Pelech noted the TRC was July 14, and asked if they could return to the Board at the July 21, 2015 meeting. Hawkins noted that the TRC might ask for changes to the plan; he did not think that could be ready for the July 21, 2015 Planning Board meeting. Pelech requested to be on the July 21 Agenda; if they are not ready, they would ask for a continuance. Janvrin asked if TRC Minutes could be ready for the July 21 packets. Kravitz said the minutes could be ready at the Board meeting, but not for the packets. Wood asked how long the interval usually is. Janvrin said that the department heads want 10 to 14 days for review. He noted that the submittal date for July 21 would actually be the day of the TRC at noon. He did not see how they could make that deadline, although he did not have a problem continuing to July 21. Pelech said they would endeavor to make the changes quickly. Hawkins remarked that if the changes are slight the Board might be able to work with that.

**Janvrin scheduled Case #2015-10 for the Technical Review Committee on July 14, 2015 at 10AM in Seabrook Town Hall, and continued Case #2015-10 to July 21, 2015 at 6:30PM in Seabrook Town Hall. Questions or assistance should be coordinated through the Secretary.** Any questions or assistance are to be coordinated with the Secretary.

Hawkins said there was not a lot of documentation relating to the impact on the utilities. He noted that Kohl's neighbors had followed that case with strong concerns. Elsewhere neighbors have in the past complained about restaurant odors, so the Board might ask for a carbon type filter. Chase noted that the case would no longer be expedited. Hawkins commented that there would be little impact except for the number of documents that needed to be submitted. Actually, there were not many; the main impact would be on the utilities. [One person attending said an abutter notice was not received. Janvrin said to see the Secretary.]

#### **ONGOING CASES**

**Case #2015-09 proposal by Scott MacKenzie to erect a 3,000 square foot industrial building and to grade an adjacent area for propane filling at 28 London Lane, Tax Map 5, Lot 8-43, ; continued from June 2, 2015;**

Janvrin reported that the Applicant had decided to withdraw Case #2015-09, and read the following letter:

"Jones & Beach Engineers, Inc, on behalf of our client and owner, Scott MacKenzie, MacKenzie Properties , LLC respectfully requests to withdraw the current Site Plan Review Application that t was submitted to the Planning Board on May 5, 2015.

If you have any questions or need information, please feel free to contact our office. Thank you very much for your time."

Janvrin said no further action would be needed.



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**ONGOING CASES – UPDATE**

**Case #2013-15 Waterstone Retail Development – Seabrook Crossing;**

Attending: Anton Melchionda, Waterstone; Arleigh Greene;

Appearing for the Applicant: Wayne Morrill, Jones & Beach; Michael Ossing, NextEra Energy;

Janvrin said Waterstone was requesting a change of use from retail to restaurant in Building #8; removal of restaurant use in Building #2, and reduction of retail space in Building #5. Morrill reported that things were moving forward, and said their request at this time was to reduce an original 32,000 square foot building next to Hobby Lobby to 19,000 square feet plus an outdoor garden supply area. A tractor supply business would be located in that building. Originally they had a restaurant behind Bob's which they wanted to change to retail, and they wanted a change in Building 8A from retail to a 6,000 square foot restaurant space with a small patio in a concrete area. There would be 181 parking spaces for the restaurant use and 320 spaces for retail.

Hawkins noted there was a minimum requirement for the number of retail spaces and the count was now a little under. He recognized that there now was less retail square footage than originally planned, and more restaurant square footage. Morrill said that one original retail space was now for restaurant use, and Hobby Lobby was closed on Sundays. Hawkins wondered why they would reduce the number of spaces and thought it might be because of the change in the types of retail use. Morrill agreed, saying they tried to come up with different types of retail; a breakfast shop would not have a lot of traffic. .

Melchionda said the current blend of stores would produce less traffic than originally envisioned. A Hobby Lobby type store would be most busy on the weekends, but because of a corporate mandate the store was closed on Sunday reducing that day's traffic. Also, a furniture store would produce the lowest traffic generation. One building had been reduced in size, and IHop was mostly a morning operation. He asked that the Board consider those factors. Janvrin asked about the hours of operation for the IHop, saying that some people thought it would be a 24 hour operation. Melchionda did not know that and offered to find out. Janvrin thought that what was being proposed was what the Board had been looking for in the Master Plan i.e. shared parking which meant less parking spaces, and no huge paved surfaces were being proposed. A written waiver request (on the number of parking spaces) should be submitted; it would be a condition for allowing the changes.

Janvrin asked about the square footage reduction. Morrill said it would be from 32,000 to 19,000 – a loss of 13,000 square feet. Janvrin asked if there would be other changes e.g. dumpsters. Morrill said all the utilities were in, the drainage would be the same, all the grease traps and site infrastructure had been installed. Chase asked about sewer test pits. Morrill said when a grease trap was installed they needed a manhole for sampling. Janvrin thought there were no wheelchair ramps in Building #8 facing west. Morrill pointed out the handicap accessible points were at the front of the building, and for Building #9 in the rear of the building at the front door. Wood noted one fast food and one sit down restaurant could take up the handicap spaces. She hoped the drive-through would be dissimilar to the MacDonald's where vehicles had to circle the building, and trucks came in the wrong way blocking handicap spaces. Morrill said vehicles had to circle the building for the drive through traffic flow. Wood was concerned that delivery trucks would take up the handicap spaces rather than going around which she thought would be a bad safety hazard. She said that in other towns vehicles go straight to the drive through without the circling pattern. Morrill commented that the same circumstances existed for the old MacDonald's. They had allowed for extra width and said the trucks would not block the handicap spaces.



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Janvrin recalled that Waterstone was limited in re opening new business units before their Route 1 roadway work from Route 107 to the Staples, including the Perkins signal, was complete. Melchionda said they had met for coordination with the NHDOT the day before, and were told that full bid advertising for the NHDOT widening of Route 1 south of Route 107 would be out and open to the public on October 20, 2015 and completed by the end of 2016. Waterstone wanted to do the work on its side of Route 1 in advance of that date at their own expense, so they could keep commitments to their tenants. They had not been able to start that work because, up to now, they had not been able to get the sign off from NHDOT, which required synchronization with the NHDOT engineers' design. Yesterday, they got NHDOT's signoff re the Perkins Street signal. Janvrin noted that Waterstone had been dealing with District 6, while the overall widening was being done in Concord. If Concord and Division 6 were now in sync, could Waterstone begin its Route 1 roadway work.

Morrill said that Waterstone had verbal approval for doing their Route 1 work from the Route 107 intersection to the Staples, and could start that construction in July 2015. The roadway from Staples to the South would go out to bid in October. By the end of 2016 the entire widening would be completed. Melchionda said they were looking at 2 months of construction and then temporary signals. Chase was concerned that the signal on Provident Way had taken 2 months and still was temporary. Janvrin asked if Waterstone was clear that there would be no further certificates of occupancy until their roadway work was done. Melchionda confirmed that the condition of approval required their portion to be done before another certificate of occupancy would be issued.

Janvrin asked when the Provident Way signal intersection would be completed. Melchionda said as of yesterday they had a final written and signed agreement with NextEra and would kick off construction on that road next week. Hawkins asked what was agreed with NextEra. Melchionda said the lane would have a modified taper. Wood commented that Waterstone's Seabrook Crossing was easy to get around in, not confusing, and convenient like some malls. Greene said there would be a good flow with the Perkins light.

Janvrin (who works at Staples) noted that the North Hampton store had closed so they had that overflow; the customers like the cross connect all the way to the Sunoco station. He noted that the Planning Board wanted that to happen for many years. Wood liked using that cross-connect and stopping at stores along the way. Janvrin asked if they had a potential tenant for Building #10. Melchionda said they did but he was not 100 percent sure. Wood asked about a tenant for the Bob's former building. Melchionda said they knew had one tenant, and would be releasing that information soon. They would reface the building so it looks like the other structures. Janvrin noted that because Bob's was allowed to move to a new building and to reopen, the former Bob's store would be vacant until Waterstone's work on Route 1 was done. Melchionda confirmed that that was the agreement. There being no further questions:



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<b>MOTION:</b>	Hawkins	<b>to approve the change of use proposed for Case #2013-15 Waterstone Retail Development as presented to the Planning Board on June 16, 2015, conditioned on:</b> <b>(i) the revised siteplan to be reviewed by the Sewer Department and their written assurance provided with respect to the satisfactory design of the grease traps : (ii) submitting the written waiver request as to the number of parking spaces; and (iii) the certificate of occupancy not to be granted until the Waterstone portion of the Route 1 roadway work is done.</b>
<b>SECOND:</b>	Lowry	<b>Approved: Unanimous</b>

Chase asked if they needed to return to the Board in re the certificates of occupancy. Hawkins said they did not. Melchionda said they will return to the Planning Board when the work is done, and will provide a letter in advance of the meeting to so stipulate, and request the return of the remaining security.

## **SECURITY REDUCTIONS, EXTENSIONS, ROADWAYS**

### **DDR Security Release Request**

Janvrin met with the Treasurer and Kravitz to review the amounts held for several DDR submissions. The question of when to hold a maintenance amount when security was related to private property; this has been confusing. Chase said if for internal purposes, it should be fully released. Janvrin noted that the regulations specify 10 percent for 2 years. Chase said that would apply to roads. Hawkins said the 10 percent should be held in re responsibility on Provident Way, and assuring funds for infrastructure repair, if any. This would be effective in getting at small items at the end. The traffic signals on Route 1 were not coordinated properly. Some security could be released; each security should be addressed individually.

Hawkins said that Phase 1 concerned the roads infrastructure; Phase 2 related to the internal onsite in re any potential worry about impact affecting the town, e.g. runoff. Janvrin noted that Jim Kerivan had created a punch list and recommendations. He will meet with department heads on June 23 to go through each security to determine the recommended amount of each security to retain until the end of the project. Janvrin commented that he had the Route 1 intersection light coordination would not occur until 6 months after everything was done; he had talked with VHB. Hawkins commented that the NHDOT would defer to VHB. Where no worries existed, funds could be returned; where construction was still open, a good amount should be retained to assure satisfactory completion. Janvrin noted that VHB and Waterstone would have to collaborate in the Provident Way area. Wood asked about a berm; Janvrin said that no dirt was to be removed on the site. Hawkins said it could have been used as sound barriers or for drainage systems; Janvrin said the clay could have been used for the berms.



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**OTHER BUSINESS**  
**Technical Review Committee**

Janvrin described his meeting with the TRC to discuss department head views on how to improve the process. The consensus was to meet only once per month on the second Tuesday. This would mean that, depending on the submission date, and to avoid unnecessary delay, some cases would reach the TRC before the first Planning Board meeting, and some would go to the TRC after that Board meeting. The department heads want at least 10 days to review a siteplan; A sufficient time period was needed to submit revised plans to the Board, as well as for the secretary to produce and distribute the minutes.

One concern was how comments could be considered if a case did not go to the TRC. Janvrin said plans would be distributed to department heads quickly after they are submitted. The Planning Board's TEC engineer would make the decision on whether TRC would be unnecessary. Wood asked if a Board vote to that effect was needed. Janvrin said this was in line with the current practice of the Town Planner or the Code Enforcement Officer signing off on the suitability for an expedited application without Board action. Hawkins said that the Planning Board could change the process if it chose. The Board's time should be utilized efficiently. Usually it was easy if there was to be construction. The Board members were not engineers; it was proper for the engineer to make that judgment. The department heads could have less down time for small or expedited projects. Janvrin agreed that he is not an expert. Wood welcomed the expertise, but wanted the Board to have control. She asked if the Board could decide that it wanted a TRC. Janvrin and Hawkins said they could. Zalewski would consider sending everything to the TRC. Hawkins said the Board could waive jurisdiction on items in the conditions. Department heads want the schedule. Zalewski thought department heads could be called for the requirements to speed up the process. Hawkins wanted appointments made through the Planning Board.

Janvrin asked for further comments. Hawkins said there was consensus on the TRC related changes.

**Impact Fees**

Hawkins said that the Impact Fee Subcommittee members, Hawkins, Chase, Manzi Khan, and the secretary, met with the consultant, Bruce Mayberry to speak about procedures and guidelines. Mayberry was almost ready to submit his proposal for discussion at the next subcommittee meeting. They needed to know how to do various items to determine the basis for an impact fee. The goal was to move the process forward as soon as possible.

Janvrin suggested getting a copy of the Schools Master Plan.

**Sign Committee**

Zalewski asked about the status of the signage committee. Chase said he would provide a draft proposal for electronic distribution.

There being no further items for discussion, Janvrin adjourned the meeting at 9:10 PM.

Respectfully Submitted,  
Barbara Kravitz, Secretary  
Seabrook Planning Board