



Town of Seabrook
Planning Board Minutes
Tuesday, July 19, 2016
Seabrook Town Hall, 99 Lafayette Road
603-474-5605

PUBLIC HEARING

MEMBERS PRESENT

Don Hawkins, Vice Chairman, Michael Rabideau, James Sanborn, Alternate (voting member tonight), Francis Chase, Alternate (voting member tonight), Aboul Khan, Ex-Officio, Tom Morgan, Town Planner, Rick Friberg, TEC, Stephen Zalewski, Code Enforcement Officer, Maria Brown, Planning Board Secretary

MEMBERS ABSENT

Michael Lowry, David Baxter, Ivan Eaton III, Jason Janvrin, Paula Wood, Alternate, Robert Fowler, Alternate

Hawkins opened the meeting and work session at 6:00pm.

MINUTES

Motion:	Hawkins	To approve the July 5, 2016 Minutes with corrections.
Second:	Rabideau	Approved: Khan, Rabideau, Sanborn, Hawkins

CORRESPONDENCE/ANNOUNCEMENTS

Hinkley Allen – Case #2012-18, Latium Management Corporation/Tropic Star Development, LLC, 663 Lafayette Road, Tax Map 7, Lot 87

The gas station was approved by the Planning Board and an abutter took it to Superior Court. The Court sent it back to the Planning Board. Hawkins stated the Board has a complete site plan review that was approved. The Court found that the Planning Board followed the correct procedure. The abutter took the case to the Supreme Court and again the Judge agreed that the Planning Board took all the right steps. The abutter has asked the Supreme Court to reconsider at this time and the case is in an appeal stage. Hinkley Allen wanted to be clear that the 180 days to meet the conditions of approval starts after all the Court decisions are over with. Hawkins stated that the final date of the final decision is when the 180 days will start.

Hawkins shared a letter of interest from Mr. Francis Chase to serve as an alternate. Mr. Chase was a past Planning Board Member and his term ended March of 2016.

Motion:	Hawkins	To approve the request from Mr. Francis Chase to serve as a Planning Board Alternate.
Second:	Rabideau	Approved: Hawkins, Rabideau, Sanborn, Khan

Hawkins discussed the previous bill from DOT and shared the update with the Board. Hawkins questions the amount that is being charged. Hawkins stated that the original estimate was \$595,000.00 and we knew we had enough funds from exaction fees to pay for them. We also knew if there is an overrun we will have to pay 20% of those cost. Waterstone took care of half of the construction cost. Hawkins feels that Waterstone already paid for the work we are being charged for. Khan wanted to take this opportunity to ask Morgan if anymore construction will be done this year. Mr. Green was at a previous meeting and it was said that they were not going to work on the Route 1 project any further for 2016. Hawkins stated that we have a MOA that states we should be notified if anything changes. Neither the Town nor the Planning Board has heard anything official on whether the work will be completed this year. Hawkins stated we are late with the completion regarding the construction date. Mr. Joe Titone, Mr. Tom Morgan met with the New Hampshire Lay Out Committee and worked on the Route 1 project. Morgan has not heard anything regarding the halt on any further work for the Route 1 project. Khan is not sure how they can stop this as the committee has not been notified.

Motion:	Hawkins	To approve the NH DOT request for \$452,315.45 to be paid from exaction funds.
Second:	Chase	Approved: Khan, Rabideau, Sanborn, Hawkins, Chase

The account has a total of \$1.8 Million dollars to date in exaction fee funds. The estimate for the cost of Route 1 was done in 2009 when the economy was in bad shape.

Informal discussion took place with Mr. Jarrod Savinelli regarding Fantasy Fireworks. Hawkins polled the Board and asked if there is any reason not to listen Business owner. Morgan had advised Mr. Savinelli that he needed to go to the Zoning Board of Adjustment regarding his request and that is why he was not on the Planning Board Agenda.

Mr. Savinelli stated that about 5-6 years ago the Town removed storage containers from the ordinance. He has been using storage containers for 20 years. He lost over \$35,000.00 in fireworks which were stolen from his current storage location. He is looking to have 6 conex box's, with alarms, sprinklers, crushed stone, and rubber roofs. It is the only thing he can come up with. He doesn't have enough space to add a storage building. This change has caused a very extreme hardship on his business and he did everything he could do to protect his business. Hawkins stated that Mr. Jarrod Savinelli came to the Board prior to this evening and the 2 container law was put in to place for temporary use only. The application was withdrawn according to Mr. Savinelli due to the change in ordinance. Hawkins stated that this applicant was here before us to store containers at Stard Road. Hawkins asked if they could add a storage building. Mr. Savinelli would like to take conex boxes and turn them into the storage/warehouse. Chase stated if you cannot comply with a building how can you comply with conex boxes. A building wouldn't work according to Jones and Beach. Mr. Savinelli spoke to the Fire Marshall and he told him that it is not a bad idea. Hawkins stated the Selectmen told all the fireworks stores that they had to store all fireworks inside a sprinkler building. They did allow storage during peak time on Stard Road in storage containers. The Planning Board agreed they were useful for temporary storage but not for permanent storage. The Planning Board recommended the ordinance to the voters and it was approved. Mr. Savinelli stated that the Planning Board took out hazmat.

Hawkins stated that this is a better solution to go to the Zoning Board for this hardship. Zalewski stated that they cannot have any storage for fireworks on the second floor of any building. Mr. Savinelli stated that the amount of fireworks stolen is very bad. Zalewski stated they have very little record of what was in that building when the fireworks place was established. The ZBA granted an apartment many years ago on the second floor for a care taker. Zalewski stated that they have several uses above the fireworks store at this time and they are serious issues. Structures need to be put on foundations per Zalewski. Zalewski has not seen any plans to date. Chase stated that Mr. Savanellis business is pretty limited on this property. Hawkins stated again the business is in a residential area and the Selectmen stated no more fireworks unless they are in a sprinklered building. Hawkins would much rather see a proposal for an expanded building. The storage containers are intended to be temporary. Mr. Savinelli asked how this can be fair and the robbery put him over the edge. The trucks on the site contain fireworks every now and then. The trucks are registered vehicles. Zalewski

asked if this size lot is limited to one building. Chase asked if the units could be stored 3 high. They cannot be stored like that.

Hawkins stated that the owner of the business has go to the ZBA first. Hawkins stated we have given some feedback and the owner needs to go through the process and explore everything that could be done to the property. Hawkins stated that when Mr. Savinelli came to the Board it was a time when the Board was reviewing changes for the upcoming Town Meeting. Mr. Savinelli stated he would go to the ZBA for a variance and then come back to the Planning Board for a site plan review. Mr. Savinelli stated he needs to pull a permit for 6 containers and other places have 30 containers. Hawkins asked if warehousing is an option. Mr. Savinelli stated that he cannot use warehousing. Morgan stated that he concurs with what Hawkins said and safety is the top priority and he would prefer that storage be in a building instead of a storage container. Mr. Savinelli stated that the fire Marshall said that the buildings cannot be connected but they can be 2" apart. The conex box's are 40' x 9'. Zalewski will look at the reason it needs to be a separate building. Mr. Savanelli would like to do the foundation as cement block.

Conditional Use Permits

Hawkins stated he wanted to try and clean up our definition for home office, home base business, and different events. We had a request for a Circus at the old Wal-Mart and we didn't have procedure so we waived jurisdiction. Zalewski, Morgan, and Hawkins met today and have some procedures. We deal with home occupation but we don't deal with home office and we don't have a procedure. Hawkins felt we should separate the Home Office from the Home Occupation. Hawkins stated he would like to set up some criteria through the Code Enforcement Office to follow for a permit. Hawkins felt the procedure seemed to be pretty easy and Zalewski presented a list to the Board for Home Office (business use). Please see attached memo.

If all requirements are met Zalewski will give a permit. Hawkins stated it would require a definition be added to our ordinances. We would have a use table that agrees with the definition of Home Office and Home Business. Hawkins stated that if the owner has 3 employees that don't live on the property they would not meet requirements and would have to come to the Planning Board. Zalewski stated that anything that will be bugging the neighbors must go before the Planning Board. Chase asked if it is a problem at this time. Zalewski stated it is becoming a problem and the office is getting calls. The residents have Home Occupation which is different from Home Office. Chase asked if neighbors can come to the Planning Board if they have complaints. Hawkins stated that they can come to the Board. Hawkins would like to clarify and make it easier for people who simply need a Home Office permit that does not need to come to the Planning Board. This is an effort to make the requirements clear. Khan

stated that a friend of his has two rental houses in Town and the third house has a Home Office. Khan has a roofer that has a Business does this mean he will need to have a Home Office permit. Zalewski stated if it is just a vehicle and everything else is inside it would not be an issue. Once you start doing things outside it will become an issue. Some existing businesses are expanded and he would like to see those types of commercial use come to the Planning Board. Khan stated we are talking about two different things; one Home Office and a Commercial use in an existing enterprise. Chase has two offices in his house and if he transfers to a new building does he need to pay \$50.00 again. Hawkins stated these discussions are for the Board to agree or disagree.

The next part is Home Occupation. The home office is a real easy one. If we look at Home Occupation and used the procedure that is already in our ordinance and we use the conditional use already in our table it would be simple. Conditional use requirement could also be used. We do not have a definition for Home Office. If you meet the conditions for Home Occupation set by the Code Enforcement Officer you would apply to the Planning Board for a conditional use. The Planning Board would give a permit and it would not require a site plan review. If you don't meet the requirements, the Code Enforcement Officer would tell you to go to the ZBA. After that you would have to come to the Planning Board for a site plan or conditional use review with input from the Code Enforcement Officer. The conditions are on page 27 and page Z 21 Home Occupation for the use table. If we look on page 27 you will see conditions that must be met for conditional use. The definition on page 9 also has 7 requirements that must be met in the Zoning Ordinances. Hawkins stated that we are discussing the criteria for Home Occupation which has everything in the Zoning Ordinances. Home Office, if conditions are met, Zalewski gives permits and the Planning Board must give a conditional use permit for Home Occupation. Chase asked how many conditional use permits have been issued. Hawkins feels that it should be much easier than a site plan review for conditional use. Chase asked if there is fees attached to conditional use permits. Hawkins stated we are using the site plan review fee. He would hope that it would be one night to the Planning Board and you're done. Zalewski stated that a lot of it has to do with defining things properly. The procedure has not been established and it needs to be. Zalewski stated that the Town has grown so much in the past few years and the residential property is shrinking. Khan stated that the neighbor doesn't want to see a construction truck but what if the truck was there before they bought their house. Hawkins stated it is important to stress they are grandfathered but if they expand it will have to come before the Board. Morgan will be drafting the ideas up in writing and the intent is to clarify stuff that is already on the books. Chase would like to know the reason we are charging fees. Morgan stated the \$50.00 fee would be an administrative charge from the Building Office and they set their own fees. Hawkins feels that if you're a use services for a department you should have to pay but feels that

other tax payers should not have to pay if they don't use it. Chase asked if all the fees are decided by Department Heads. Morgan stated that the Planning Board fees come from our ordinances. Zalewski stated his fees are set by the Board of Selectmen. Home Business fees are exempt for grandfathered businesses. Zalewski stated they would charge the \$50.00 fee but as renewing he feels we should look at that. Chase stated at this time the permits \$125.00 and he renews them every year. Zalewski stated it is something that needs to be looked at. Hawkins stated that the question is what should the Planning Board be involved in and what should we not be involved in.

The next area is events (fairs, back deck used for a special party) we treat it like a site plan review. If you meet the criteria set up for an event it goes to the Selectmen right away and they say yes or no. The Selectmen sometimes say go to the Planning Board first but criteria will help resolve this. Some concerns around events are as follows; safety, traffic, parking, set limits for a certain number of people, liquor being served, should abutters be noticed (may disturb the neighbors), and are outside bathrooms required for this event. If the conditions are met Code Enforcement would send them directly to the Selectmen with no need to go before the Planning Board. Hawkins stated at this time everyone comes to the Planning Board. Khan asked could this be the same for the party permit. Currently they come to Town Manager for party permit, time of event, and how many people. The Board of Selectmen takes care of this. Hawkins doesn't want anything that doesn't need to come to the Planning Board. Hawkins stated it is a procedural thing and we don't have ground rules at this time as to when you need to come to the Planning Board. Chase asked for examples of events. Hawkins stated one time party event to use a back deck and last week someone wanted to run a fair and recently Dick's came in with a tent sale. Hawkins is not talking about a Birthday Party the Selectmen already give party permits. Khan stated that at this time the Board of Selectmen approved party permits and it has been a long time since it has been reviewed. An auction took place recently and they used another parking area which would fall under the new requirements so they would not have to come to the Board. Hawkins recommends that we turn this back to Morgan and have him write the Home Office and Home Occupation for Board review. Hawkins would suggest that Zalewski starts using his check list to determine if Planning Board review is needed. Chase asked what the penalty is for not following the requirements. Hawkins stated you could say you're not going to get your business license. Hawkins stated that we don't have fines for it but it doesn't mean you won't get a letter from a lawyer stating we have an issue. Hawkins stated that we will have to have a public hearing on this and go through the process. Hawkins stated it can be voted down or people can say has been needed for a long time. Khan stated that we have many businesses in neighborhoods that have existed for many years. Some have closed and opened up 6 months or a year later. Hawkins stated that State Law says you have 12 months to reopen a business.

Other

Bed and Breakfast

Hawkins stated that ARBB will be looked at and other Town's in the area are having issues with Bed and Breakfast. At this time we have no guidance on this subject. Exeter has had the subject come up. Hawkins is not sure what we need to do and we are still looking into it. Hawkins assumes Zalewski will hear about a complaint before we do. The parking on the Streets has been an issue for Portsmouth. Seabrook doesn't allow parking on the streets at nights so it is not an issue. Khan stated that it is a retired couple in the neighborhood and they are trying to understand if they need to do anything. Hawkins stated that at this time we have nothing on the books. Morgan as of two years ago, Portsmouth has 100 pop-up on the screen. Seabrook doesn't have that issue.

Chase asked if the exaction fees can be used beyond Road construction such as dams. Hawkins proposed a couple of changes to simplify the use. Friberg's colleague who is a traffic consultant has been working on this and Hawkins will follow up with him. Hawkins feels that we may need a change in the definition as to how it would be used. There is still work that needs to be done such as reviewing state laws around the exaction and the donation and how they can be used. We should deal with this when we deal with the rate table. Chase asked if we see any chance we can use the fees for other things. Hawkins is very hopeful that we could use the fees most of all donation to be used for other things that are needed in Town. Chase worries that if the dam area is not fixed soon it may become so costly that it cannot be fixed. Chase feels we created the water issue with the dam due to the building on Route 1. Hawkins wonders if it will be simply the way we accept a donation verses the exaction fee. Hawkins wonders if the developer could state what they would like the donation used for. Khan stated that the sidewalk plow is on the table and the dam should go on the list. Morgan stated this conversation has been happening. Morgan stated that they are revising the Master Plan in the transportation chapter and it is a good idea to check with legal counsel regarding this question.

Hawkins adjourned the meeting at 8:50pm

Respectfully Submitted, Maria Brown, Planning Board Secretary