



Town of Seabrook
Planning Board Minutes
Tuesday, September 20, 2016
Seabrook Town Hall, 99 Lafayette Road
603-474-5605

PUBLIC NOTICE

MEMBERS PRESENT

Jason Janvrin, Chair, Donald Hawkins, Vice Chair, David Baxter, Michael Rabideau, Aboul Khan, Ex Officio, Tom Morgan, Town Planner, Stephen Zalewski, Building Inspector, Rick Friberg, TEC, Maria Brown, Planning Board Secretary

MEMBERS ABSENT

Michael Lowry, Ivan Eaton III, Members
 James Sanborn, Francis Chase, Paula Wood, Robert Fowler, Alternates

Janvrin called the meeting at 6:34pm

MINUTES

September 6, 2016

Janvrin noted a correction on Page 3 motion was; To find administratively that the intent of the Zoning Board of Adjustment was to grant expansion of buildings in their variance in reference to 72 New Zealand Road, Planning Board Case # 2016-14.

Motion:	Hawkins	To approve the September 6, 2016 Minutes as amended for case #2016-14; To find administratively that the intent of the Zoning Board of Adjustment was to grant expansion of buildings in their variance
Second:	Rabideau	Approved: Rabideau, Hawkins, Khan, Janvrin, Baxter

August 2, 2016

Motion:	Hawkins	To Approve the following amendments to the minutes, Case #2016-13 with the following conditions; 1) Hours of operation be set at 9:00am – 7:00pm Monday through Saturday, 2) Outdoor lighting and signage be reviewed by Code Enforcement before installed, 3) No Dumpster is allowed to be placed on the property for business use
Second:	Janvrin	Approved: Hawkins, Janvrin, Rabideau, Baxter Abstain: Khan

Update on Raccoon Car Wash

The owner of the business was given a cease and desist letter from the Planning Board. The car wash switched to well water within an hour and Slayton supervised this change. The Town Manager met with the owner on September 9, 2016. The car wash given until Friday, September 16, 2016 to have the recycling equipment is in full use as the vote of the Planning Board in 1997 stated. If at any point the car wash wants to use Town Water in addition to the well water they will need to go back to the Water Commissioners to ask for approval.

Rockingham Planning Commission will be hosting an advisory meeting on September 29, 2016 at the Exeter Public Library at 7:00pm. They will be discussing the new statute for Accessory Dwelling Units. All Planning Board Members are welcome to attend just RSVP. Morgan has drafted our zoning to coincide with the new statute. We are in the administrative mode in making zoning changes for Town Meeting. We may discuss it further at our October 4, 2016 Planning Board Meeting and hold a Public Hearing on October 20, 2016.

A Bank sent the Planning Board a letter at the last meeting regarding a letter of credit for Waterstone. Mr. Kerivan visited the site and sent the Board his recommendations. He recommended that we not make any changes in the letter of credit or return of security until the punch list is met and we get feedback from Department Heads. The Letter Credit expires in October 10, 2016. If we cannot get an extension 1 week prior to the expiration date Janvrin suggest that we would cease the Bond unless it can be replaced. Janvrin is leaving it up to Friberg to follow up with the Department Heads. Mr. Richardson was given a copy of the punch list and the Planning Board will discuss further on October 4, 2016.

Case #2014-17

Tropic stars –

Hawkins stated that we need to look at both cases separately.

Morgan stated we don't have enough information to take action tonight. Janvrin asked Morgan to review the cases.

Case #2015-16

Southern New Hampshire Services requested a return of Security. Friberg will follow up with Department Heads on this request.

Janvrin in the past has excused himself from Case #2013-28 but he no longer has an interest as property has been sold. Janvrin would like to sit in on the case this evening. Hawkins and Khan were both fine with that.

Case #2013-28, Subdivision, 49 Rocks Road, Mr. Michael Green, Tax Map 7, Lots 104 & 104-1

Janvrin has several correspondences from Department Heads and Mr. Green. Mr. Green is asking for the acceptance of Marshall Way. Monday, September 19, 2016 Mr. Starkey sent out an email that he met with Mr. Green. Mr. Green presented him with the recorded easement for access to the retention detention pond. The silk fence will be removed and a sign will be added. Mr. Starkey has no other issues at this time and would expect Marshall Way to be the next accepted Town Road. Janvrin stated that the easement has been recorded and he has the plan to go along with it. Morgan asked if the silk fence has been removed. Mr. Green stated that the fence was moved this afternoon. Hawkins stated Slayton had comments as well and asked if they have they been dealt with. Friberg stated that a site walk was completed with Chris from TEC, Herb from the Water Department, and Mr. Green. Friberg stated that they found very minor things such as painting the fire hydrants but nothing that would slow down the Planning Board acceptance. Morgan was at the TRC meeting and stated that the Department Heads would notify the office before September 20, 2016 if they have any issues. Janvrin stated that since the Department Heads are satisfied. Khan asked if any abutters had comment. The abutters in attendance just wanted to see how the process was going. Janvrin explained the process. Hawkins asked if we have any security left. Friberg will follow up with Kerivan on the security request. Janvrin asked Mr. Green if he would like to do this in two step process. This evening the Board would review the Road acceptance and come back for security reduction at a later date. Mr. Green was fine with that suggestion. Hawkins stated that the security part will be held until the next meeting. Khan reminded Mr. Green to request this item to be on the next meeting of the Selectmen. Mr. Green will be on the Agenda for October 4, 2016.

Motion:	Hawkins	To recommend that the Board of Selectmen accept Marshall Way as a Town Road.
Second:	Rabideau	Approved: Hawkins, Janvrin, Rabideau, Baxter, Khan

CASE #2016-20, 32 Stard Road, Proposed addition to existing building, Stard Road Realty Trust, Eugene J. Dean, III, Tax Map # 4, Lot # 19-22

The applicant requested the case to be continued until October 4, 2016.

CASE #2016-14, 72 New Zealand Road, Site Plan Review, Construct an additional 33,500 sq. ft. Self Storage Buildings and Associated Pavement, Ken Sweet, Tax Map 7, Lot 55

The applicant requested the case be continued until October 4, 2016

CASE #2016-21, 2 Felch Lane, Proposed Subdivision into two separate lots, Felch Lane Realty Trust, Tax Map #12, Lot #19-2

Mr. Paul Lepere is presenting the case tonight on behalf of Mr. Brian Rios. In the past there has been a lot of litigation on this Street between family members. The case is to propose one lot referred to as lot 2 and 2A on Felch Lane be converted into 2 separate lots. The lot already has two modular homes. The first unit 2a is 12,456 total and has .34 total acres which meets the Town requirements, it has 100 foot frontage, and it meets the setbacks. The second unit is a modular 27,535 square feet totaling .63 Acres. This lot easily meets the requirements and both of the lots meets the 100 foot square that is required. There will no additional noise or traffic. They will not be asking for any variances and would like to get the two lots subdivided. In Mr. Rios has any financial issues he can sell one. These lots are on private Road built in 1975 it has town water, town sewerage, and the trash is collected at the top of the street. Unitil has natural gas also. There would be no additional lighting or the number of people residing in the neighborhood. Janvrin asked if Mr. Lepere got the memo from Tom Morgan. The new plan states shed to be moved. The shed will be moved to lot 2 within the setbacks required. In regards to the 2 foot strip it is owned by Allen Felch. In the past they have a lot of litigation with family members on this Street, 2001 extensive court case he purchases 4 acres. This became a lawsuit between Allen Felch and Donald Felch. The judge felt it would significantly affect the lighting, traffic, noise, and the number of people. Mr. Lapere feels that in this case it would not significantly increase any traffic, lighting, noise, and or the number of people. Mr. Boyd wrote a letter regarding the need for topographical contours since no proposed structures are being built or altered. Janvrin sees that 3 monuments need to be set. The final plan must be stamped by a

West Environmental. Shed to be moved within set back of lot 2 and note to plan. Janvrin as about the Conservation Commission comment nothing was submitted. Morgan is not concerned due to the fact the dwellings are already there with no change.

Motion:	Janvrin	To Approve Case #2016-21 as Administratively complete.
Second:	Khan	Approved: Hawkins, Janvrin, Rabideau, Baxter, Khan

Motion:	Janvrin	To Approve the waiver request regarding the topographical contours.
Second:	Baxter	Approved: Hawkins, Janvrin, Rabideau, Baxter, Khan

Janvrin asked Friberg if we have any interest to the Town for security and they have separate water service. Friberg stated that this case would not require security.

Janvrin called for abutters to speak. Allen Felch and wife Kathy are abutters and they both disagree with this request. Mr. Allen Felch stated that he owns Felch Lane. Mr. Felch has a copy of the court order for single family lots. The intent was for three lots for family use only. One went to Brian, one to Donald, and one for his sister if she decides to come home. Mr. Allen Felch is asking that the case be postponed and his attorney states that it was cut and dry with court order. Janvrin asked about ownership of Felch Lane. The 100 feet frontage is needed and must be on a public Road. Morgan stated there is a court order that we know nothing about.

Janvrin continued the hearing until to October 4, 2016 so council can review the matters in this case.

Paul Lepere stated that he ran this past legal counsel and this court case was resolved on Felch Lane. Janvrin asked who owns the Road and Mr. Rios stated that no one has ever paid taxes on it. The mail goes to Farm Lane for Felch Lane. Mr. Rios stated that he has always maintained the Road. The Town has an easement for water and sewerage. Mr. Rios stated that at this time there are only 2 lots listed and the electric company is always looking for the other lot all the time and often has turned off Mr. Rios electric due to confusion of 2 and 2A.

Abutter Kim Felch from 5 Acorn Drive spoke about the ongoing tension with the matter of subdividing. In the past she wanted to build off Felch Lane and it was denied. She also wanted the Board to know that noise is already an issue. Janvrin stated that current noise is not an issue for this board to handle. The Board of Selectmen are the ones that handle noise issues. Janvrin stated that he can tell Ms. Felch if it was a minor subdivision she was requesting they are no longer legal. Ms. Felch asked the Board to

look at the lot line and the area is already tight. She asked the Board to look at the existing mobile homes and that they are on a very small piece of land with lots of wetlands. She also asked the Board to look at the original lot lines and you will see that it is not that size. The space will potentially be sold to someone outside of the family and it is the lot next to her.

Janvrin offered the Planning Board Members to go and look at the property but not more than 3 members at a time.

Allen Felch stated that this property is already being used as commercial which is not what it was intending for. When you see the Court Order you will see that Brian was key in the court case. Janvrin stated that he is a native in Town and doesn't like to see family's feuding and he doesn't want to feed into it. Khan stated that there will not be any other notification to abutters and this case has been accepted as administratively complete.

Janvrin continued the meeting until October 4, 2016.

Janvrin recessed the meeting at 7:24pm until 7:36pm

CASE #2016-12, 603 Lafayette Road, Site Plan Review, Construct a 10,820 sq. ft. Medical Office Building and Associated Parking, Waterstone Retail Development, Anton Melchionda, Seabrook Development Association LLC, Tax Map 8, Lot 1

Amendment to the site plan and an additional abutter had to be notified due to the changed on plan. Brown stated that it was 4 abutters.

Mr. Doug Richardson – Waterstone, Eric Poulin Jones and Beach, Carl Ham for traffic presented this case to the Board tonight. Mr. Richardson stated that they supplied an updated traffic report and the abutters have been notified. They took a count from another urgent care facility in Stratham.

Eric from Jones and Beach stated the change was the adjustment to the access road from Perkins Ave it is behind BP gas station. In regards to storm water they adjusted the area of the rain garden. The gate and gravel will be maintained. Janvrin underground detention pond sheet c3 he cannot see 1. It is the wet pond in the rear it is the swale 1 and 2 and 3 are in the middle and the 4th is the newer one the new access road. The only location doing infiltration is the smaller one to catch clean roof run off. The larger detention pond underground is for detention. The design of the parking lot breaks the parking lot in half. Janvrin asked about rain garden features small one along Perkins Ave where the new access road connects and ends in the existing catch basin which will be replaced. Janvrin stated the propane tank was moved. They discussed briefly that it may go underground and the propane tank will be going underground. Janvrin asked Friberg on sheet c4 and he is seeing g is natural gas would it be prudent to change to p. Friberg stated it is fine propane is a gas.

Janvrin asked about parking and wondered if the space is sufficient for large truck turn radius. The entrance from Perkins Ave was designed for a tractor trailer and they all will be sufficient. Janvrin asked if any other signs will be placed in the access of Perkins Ave. Janvrin asked if they will add any other signs. They have asked if it could be a condition. They will have a route 1 sign directing onsite. Janvrin asked about the cross

connection between the applicant and cigarette city. Mr. Richardson stated that the access was completely different uses and the blending of the two is not conducive at this time. They will leave it for the future discussion. Morgan asked if they have a note on the plan and there is for future connection. Hawkins stated that we heard concerns from abutters about the traffic form Cigarette City and the concerned about the increased traffic flow if the cross connect was opened. Hawkins feels it would dump a lot of traffic on Perkins Ave. Morgan is concerned if ownership changes will they agree. Richardson stated they can show it as an easement or cross connection for future discussion. Khan would like it noted. Janvrin recordable operation maintenance plan on sheet 3 may question that sheet as it is really busy. Morgan asked if Jones and beach is confident sheet 3 will be recordable. The text is readable and the surveyor reviewed it and it is stamped. The cost would be another 100.00 if denied by the deed or registry. Friberg feels sheet 3 would be the one recorded. Khan asked for any concern or comment from Friberg. Friberg feels the change in the entrance is a huge benefit to the project. The nose of the median will be extended but NH DOT has to approve first per Friberg which may be why it is not on the current plan. The median will force right in right out and be much safer per Friberg. Friberg has also seen the comparison of traffic at the Stratham facility and it is acceptable as well. Khan asked what direction the ambulance lights be facing. Friberg stated it would have been a house coming out of the facility now it will face the fireworks business. Friberg also stated that the landscaping package in this plan is much more substantial. Rabideau asked if they will be a lit sign at the entrance. Mr. Richardson stated they can do a monument sign. Janvrin stated they only allow one business sign but a directional sign is allowed. Janvrin asked if you're traveling north on Route 1 how will you know where to turn. Hawkins asked if they will have a blue Hospital sign. The hospital signs are standard and the applicant needs to work with DOT for that. Janvrin is assuming there will be an arm over the route 1 intersection and that would be a great place for a hospital sign. Hawkins asked what happens if the median is not extended. Mr. Richardson has met with NH DOT and they are making Waterstone extend that median. Khan asked about a sign for people coming from the south the property across the street is Waterstones. Zalewski stated they have to be less than 3 square feet and pylon makes a lot more sense. Waterstone is looking at a monument sign not a pylon. Zalewski stated they could go to the ZBA for variance. Morgan asked Eric to explain the landscape and buffer. Eric stated that for the three remaining lots they will have 6 foot high fence tapered at the end. They will also add staggered screening keeping some landscape that is there and adding a diverse mix of evergreen which would give a more long term lasting buffer. The sizes are initially 10-12 feet for trees to be added. Morgan asked if this will address the lighting issues and Richardson stated that it will. Janvrin asked about the property that has a shed and pool which will is on the Waterstone lot. Waterstone will be coming in for a lot line adjustment for lot 6. The pool and shed will remain as is. Richardson has signed agreements with abutters upon this evening's approval. Morgan stated that the existing road will be for emergency use only. The gate can be keyed for the town to be able to open if needed. Friberg thinks gravel is appropriate for that driveway. Richardson stated the 16 foot right of way is to benefit lot 3 and it will be added to the plan. Khan asked if the tree is staying or going. The tree is staying per Mr. Richardson.

Janvrin stated that the mobile home residents had issues. Mr. Green met with the secretary and the plans were distributed and they were much happier with the new proposal. Janvrin asked if any abutters would like to speak. They are all set and much happier with this plan according to the ones present this evening. Eric asked about a waiver request letter regarding the minimum 10ft landscape buffer. A small area is less than 10' but the regulation has been met. They will need a 2ft waiver for the buffer as it will be 8' in some area we also have a letter from lot 6 that they ok with that. Friberg looked at the site which is loam and seed, checked sewer, and storm water, and he has a \$280,000.00 total. Richardson would like to add the buffer first followed by the construction of the project. Zalewski stated as long as we approve and sign the plan the permit will be issued.

Motion:	Hawkins	To Approve the waiver request for the 10' landscape buffer.
Second:	Rabideau	Approved: Hawkins, Janvrin, Khan, Rabideau, Baxter

Motion:	Hawkins	To Approve Case # 2016-12 with the following conditions; 1) Security set at \$280,000.00 as recommended by TEC, 2) Conditions of Approval be placed on C-S, 3) Sheet C3 will be the one that is recorded as a Mylar at the registry, 4) Final Plan must be acceptable to the Town Planner and Engineer, 5) All invoices must be paid prior to the signing of the Plan by the Chair, 6) Add note that the change in the 16' right of way for the benefit of the abutters.
Second:	Janvrin	Approved: Hawkins, Janvrin, Rabideau, Khan, Baxter

Zalewski brought up the dumpster issue he didn't see it on c3. The note is already listed on note 25. Sheet C3 has the storm water maintenance agreement so that will be the recoded sheet per Janvrin. The traffic study will go to the DOT. Morgan and Friberg stated that they met with the DOT on August 11, 2016 and was made aware. He is confident they will fix it. Baxter wants the commitment that is all. Janvrin stated that the amendment to the site plan caused four more abutters to be notified which was done.

Janvrin recessed at 8:16pm until 8:21pm

Baxter excused himself form Case # 2016-19

CASE # 2016-19, 270 Lafayette Road, Site Plan Review, Proposed Ocean State Job Lot, OSJ of Seabrook, LLC, C/O Bohler Engineering, Map #9, Lot #49

Janvrin noted he has a memo with 7 bullet points of things that were changed on the plans. He also has a memo requesting waivers and one regarding exaction fees. Janvrin noted that they also have the minutes from TRC.

John Sokul presented this on behalf of Ocean State Job Lots and with him tonight are Evan Portneau, Frank Bourque, both from Ocean State Job Lots, John Cousic and Nathan Mahonen, both from Bohler Engineering. Mr. Sokul stated they were her for a sub division and a few weeks ago the case was heard and continued until tonight. The subdivision issue was resolved today. Ocean State would like to close in October open for November. Mr. Sokul is happy they are all here tonight and prepared to move forward given the tight time frame since meeting with the TRC the applicant was able to make all the changes. Mr. Sokul stated the goal is to wrap this up tonight and come out of this meeting with an approval on everything.

Nathan Mahonen stated that they went to TRC since the last meeting with the Planning Board and they resubmitted plans with changes. The applicant resubmitted plans with changes which included adding the store hours, adding the restrictions for hours of deliveries for both delivery vehicles and trash pick-up, added operation maintenance plan to the compiled drainage plan that is on the plan set as well as a note that states that Ocean State Job Lots shall maintain the existing system on the lot prior to occupancy of the building, added back flow preventer and a separate external domestic water shut off, and a Bike rack as well as one Elm Tree on site.

They also have minor site waiver request and no site work just a new tenant for the building. The waivers are related to the need to provide building elevations given the fact that only 1/3 of building will be used and they will have no physical changes to the building at this time therefore they feel that providing the building elevations at this time is not necessary. The other waiver is related to the request for a landscape plan signed and sealed by a landscape architect. Again it is an existing site and they will have some minor improvements such as replacing bark mulch and add sea grass, and the installation of an Elm Tree. The final waiver is regarding the lighting specification this is an existing center and all lighting will be reused so we are asking that lighting specification and a photo metric plan be waived. The memo from Morgan mentioned two items that the center is not in compliance with for new regulations, one being the current number of parking spaces that exceeds the maximum allowed on site and the other is the minimum requirement for open space. The site is an existing center that shares parking with lot 1 or lot 2. They will operate with shared access parking between the two lots and there is an agreement in place between the two owners. Reduction of parking would have a negative impact on the current tenants and any future tenants. This site is a preexisting non conformity with respect to regulations. The waivers were requested just in case it is needed. If you have any questions regarding the site Nate will take them now and if not Mr. Sokul will talk about exaction fee.

Janvrin the elevation views the only change is for install of sign on building, parking has a waiver request to leave as is and the elm tree is 400' from Lafayette road. The intent

of the elm is to reintroduce the elm to Route 1 although it is not in the ordinance. Any reason the tree couldn't be placed closer to Route 1. Nate stated that the sheet 2 shows the frontage for lot 1 has a sewer easement and the elm root would interfere with utilities in the future. Janvrin in regards to parking do the parking spaces meet the current regulation of the town. Janvrin stated that the parking spaces are 10'x18'. Nate stated that they have 614 spaces onsite. Morgan stated that the center is over the dimensional requirements. Janvrin stated the old tenant never changed the parking when the new requirement came in. Janvrin stated it is the worst and tightest parking lot to get in and out of and they have had numerous accidents. Janvrin asked if it was brought up to standard would it bring it closer to the 564 which is the maximum allowed under the site plan regulations.

Janvrin stated that the impervious service is huge and the field is huge and he would like to see more landscape added to break up the parking lot and make it sightlier. Janvrin stated that if you took out a few spots and made some islands it would show intent to come closer in compliance with the regulation. Nate stated the ones closer to the store are a little smaller. Adding anything such as islands would go back to the shared lot and would go back to the Brixmor and Wal-Mart agreement instead of just Wal-Mart. It would require more than just the existing tenant to sign off for changes. Janvrin stated circulation on the site the corner of the green house wasn't wide enough for exiting it is a blind spot. This caused collisions to happen often. Khan stated that people cross in that area the same time cars are coming and you cannot see due to blind spot. The Ocean State Job Lots will be using the middle of the building with the sides used for storage at this time. Janvrin stated that the enclosed green house must have better visibility on that corner or widen the turn. Janvrin stated the drainage will be brought into to compliance. Janvrin would like to bring attention to sheet 4 north east corner where the truck loading entrance is, there is a detention pond in that corner. The last rain storm we had 1 ½ feet of standing water in that location which now shows it hasn't been fixed. It now has a gully. The water service connection has a piece where the granite curbing slopes down it also has standing water in that area. It is a very popular cut through for everyone in town and deliveries will be there and it is indicated with water pooling. It is also an ice field in the Winter. Janvrin stated those two items concern him and wondered if there is any plan to changed the pavement in that area. Nate stated that the basin needs to be cleaned out and that will rectify any standing water. The new domestic water shut off he feels it has grown in and no water is flowing into it they need to be cleaned up and noted on note 3. Janvrin noted the canopy area was used for hazardous materials was never approved by the Planning Board or anyone else. The only intent would be a propane tank system in that area Janvrin is talking about. It will be at the front of the store the rear would be abandoned. Mr. Bourque stated that they will follow the Fire Department and State Regulations regarding the propane station and make sure it is safe.

Frank Bourque, manager for construction of planning for Ocean State stated that they are trying to open immediately. They would like to fill in the buildings and have Brixmor fill the buildings on their property. Ocean State will carve out about 40,000 square feet in the middle of the building using the current entrance, 65,000 square feet which we have a very serious tenant and they will need a main entrance. This will take care of the dangerous corner as it will be turned into an entrance when they have a new tenant and

they will add additional area to landscape and islands. They will be back with what will be happening with the future tenants after this case is approved. Brixmor wants this Center to come back to life. The applicant is asking the Board to let them get the store opened as we move into the busy season. They own over 50 shopping centers now across New England and they own some big ones. Recently they revitalized one in Derry and another in Wareham Massachusetts. They revitalized many of the old Wal-Mart's closed stores and made it in to a very nice center. The applicant will be back in about 2 months with two new request keeping in mind they will need two new entrances one for 65,000 square feet and one for 20,000 square feet.

Janvrin would like to address the waivers at this time. Waiver is regarding elevation views of all the buildings. Hawkins would like to grant temporary relief. Hawkins does want this place opened and would like to see the place look nicer. Hawkins made it clear that they are looking for improvements and landscaping is generally a cheap and nice way to do it. Khan stated that when the applicant comes back they will look at the whole parking lot at that time. The applicant doesn't want to do anything with parking to stop the other units from being leased. The applicant wants to improve the center and make it look good long term. They buy old shopping centers and make them look very nice. They will come back with tenants and make improvements.

Mr. Bourque feels the waivers are reasonable and Wal-Mart fills the lots and they hope they will do the same. They do not want to be in a place where they don't meet the parking requirements because they removed them.

The following waivers have been requested;

Janvrin stated 5.020 Elevation views of the buildings. Janvrin will note for the record we have the front entrance and it will remain the color it is.

Motion:	Janvrin	To grant request a waiver for section 5.020, Elevation views of buildings.
Second:	Hawkins	Approved: Rabideau, Hawkins, Khan, Janvrin

Janvrin stated that they will be adding minor landscape such as sea grass which will be nice. Rabideau stated that modifications will not be done until 2017 and new tenants will be coming back in front of us within 2 months so this seems to be a mute point. Hawkins stated the issue what is the plan for improving landscaping and he feels we should grant a temporary waiver to be reviewed again when the applicant comes in with a new tenant.

Motion:	Hawkins	To grant a temporary waiver for section 5.030, The stamp or seal of a Licensed Landscape Architect to be reviewed again when the applicant comes in with a new tenant.
Second:	Khan	Approved: Rabideau, Hawkins, Khan, Janvrin

Janvrin stated that they have never had any complaints with light trespassing will not be changing anything and lighting is compliant.

Motion:	Janvrin	To grant request for waiver section 5.100, Lighting Specifications.
Second:	Rabideau	Approved: Rabideau, Hawkins, Khan, Janvrin

Motion:	Janvrin	To grant temporary relief for waiver section 13.105, Site Landscape Design, to be reviewed again when the applicant comes in with a new tenant.
Second:	Rabideau	Approved: Rabideau, Hawkins, Khan, Janvrin

Janvrin stated that they currently have 614 parking spots allowed a maximum of 564.

Motion:	Hawkins	To grant temporary relief for waiver request section 11-010, regarding parking, to be reviewed again when the applicant comes in with a new tenant.
Second:	Khan	Approved: Rabideau, Hawkins, Khan, Janvrin

Motion:	Janvrin	To grant temporary relief for waiver request section 13.510, to be reviewed again when the applicant comes in with a new tenant.
Second:	Rabideau	Approved: Rabideau, Hawkins, Khan, Janvrin

Janvrin cited the TRC minutes Note #2 on page 4 of the minutes. The applicant would add the dumpster pick up 7am to 7pm and it is on page 3 note #6. Water shut offs are all set and should meet the requirements of the Water Superintendent. Zalewski stated the hydrants haven't been tested. They met with Brixmor and they agreed they would flush hydrants at least their own. The Ocean State Job Lots has 2 hydrants on their lot. They will take care of their hydrants and meet the Fire Department needs. The drainage issue is covered on note # 3 has been addressed. The Elm Tree will not be planted until the spring and the applicant will find a place on Route 1. Friberg stated that because the water issues needs to be fixed before CO will be given he recommends no security for this case. The storm water drainage areas also need to be maintained prior to CO sign off. Janvrin stated that when the trucks are unloading they must close down door and sides. After 7:00pm the doors will be closed for deliveries and traffic. Janvrin wants the parties to be credited for the work done and the treasurer will return the amounts after the work is reviewed.

Janvrin asked if there are any abutters that would like to speak.

Arleigh green is not an abutter but is glad to see that something is going there.

Mr. John Sokul from Hinkley and Allen submitted a memo regarding exaction fees. , Since submitted they have given this more thought. If the store has been closed for more than a year you have to come in for a new site plan review. He feels there is some tension with RSA 674:39 with nothing in there that says what the town says. He feels a fee is not appropriate here they are only adding a few dividers. This is an exaction fee they want to open and he outlined the fact that he feels it is not appropriate. They are not redeveloping and they occupying 1/3 of a space the traffic impacts were done and submitted. The rsa provide they are exempt and the exaction fee is one of them. Again the intent of the fee is for new development along Route 1 and he gets that there should be mitigation for traffic fees along Route 1. They get the upgrades needed along Rt. 1. The traffic will be less form what it was for Wal-Mart. The cross easement to Boyton Lane will be done and the other one is for the easement to help the Rail Trail access remain open. Ocean State Job Lots would do the cross drive and they talked to the contractor is \$28,750.00 to do it right if the Town throws the \$5,000 they have to make sure the cross access is accepted. They want to bring new life into this center. The town has gotten two land donation and willing to make the access happen and is more than fair the Town is also holding as escrow. The site plan regulations and landscaping was very practical and logical under these circumstances and these are minimal impacts for what they are doing. Janvrin doesn't dispute the property statement and he does want to point out that for future needs on US Rt. 1 that are pedestrian friendly and he is hoping the owner starts thinking that way on that site. This intersection doesn't have pedestrian crosswalks as many others on Rt. 1 do have. The community center is across the street and the kids like to cross and they may want to go to other places in that area, may want to gain access to the Rail Trail in the back, and one of things people were concerned about was no pedestrian crossing to the Recreation Center to 270 Lafayette Road. Future improvements from the next two tenants would be appreciated. Janvrin feel that they have made efforts for the betterment of the town. The planning Board gives credits for things done on sites. Mr. Sokul is not saying that he doesn't mean that any other tenants need to pay fees. Ocean State Job Lots feels they met the exaction fee with the easement and access commitments. They would like to put the exaction fee to bed they would like it in the conditions tonight.

Khan asked what if it is a food store. They cannot bring in a food store.

Hawkins is hesitant about taking a number out of thin air. The code you used in a standalone department store, Mr. Sokul asked what the right code is. A shopping center is 820. Hawkins is sensitive that is empty and they don't want it to be empty but he is reluctant and wonders if the amount seems a little high and a small piece pavement \$28,000 seems incredibly high. He understands where they are coming from and he is sensitive. He doesn't believe that this board should vote on an exaction fee ahead of time. Hawkins asked if it is a good idea to waive the exaction. Janvrin stated that what was calculated here, \$50,000 for the rear, \$75,000 for the cross connection, there is work that the board would like to see happen for a pedestrian crossing. If the exaction fee is not spent it is returned after 6 years.

We are trying to fund the things identified and keeping in mind those that are still to be developed. The only one entrance is Job Lots that doesn't have pedestrian cross walk on Route 1. John explains that Ocean State Job Lots wants to open and he keeps going

back to RSA 674; 39. A straight forward approach is what they are taking and they have made an offer. Khan asked Hawkins if we can look into this project at this time and look again when another tenant comes in. Hawkins stated that the board can waive a regulation. In December we talked about amending the exaction ordinance and giving discounts for re-tenanting. The verbiage stated although not acted on was 1-3 years the tenant would pay 25% of the calculated fee. Hawkins is uncomfortable with not having a further review of the RSA. Hawkins stated we can move ahead with what we have to do tonight and sit with applicant to discuss the fees further. Hawkins wasn't sure if this would be ok. Hawkins stated the Board could give you an approval and we would sit down and discuss the fees further. Janvrin stated that he doesn't know that they are exempted from the exaction fee and would like legal to look at it. Mr. Sokul read the statute to the Board. Janvrin stated that if one doesn't pay an exaction fee will the others feel they are not liable to pay.

Janvrin called for a five minute recess at 9:45pm on at 9:52pm

Mr. Sokul would like to learn a little bit more about improvements and what the cost would be. He would like OSJL approval done tonight. The OSJL donated a cross easement that Mr. Sokul feels it is valued at \$75,000.00, and they will supply \$28,750.00 (\$5,000.00 supplied by a prior donation from another party) as for the completion of the access if the town does it cheaper they could have another \$23,750.00 for whatever you choose to do on Rt. 1. Mr. Sokul would like the Board to consider these things in lieu of any exaction fee for Ocean State Job Lots. Mr. Sokul stated it would be the exaction fee. Janvrin asked that Mr. Sokul speak with Mr. Mitchell. Morgan wasn't entirely persuaded by Mr. Sokul's argument. Regarding the exaction fee another state law that was not cited does allow the Planning Board to require offsite improvements. Mr. Sokul stated that this process already went through site plan approval in the 1990's but he feels he has a shopping center that is built. Khan would like to hear from Don about this proposal. The proposal is no different than what is in the letter and Hawkins is uncomfortable with it. Hawkins feels we are opening up a can of worms if we waive exaction fees. Hawkins asked what fair market value of an easement is. Hawkins proposes that we proceed with approval and one of the conditions that we work out an exaction compromise that is suitable to both parties. Janvrin feels moving forward we would have a conference with the Board's attorney and Mr. Sokul let the approval go through and make it a condition that a fee is set at a later date. Hawkins feels that the problem with that is that attorneys have knowledge of the law and he would like to get their opinion on the RSA's. Hawkins feels if it comes down to doing a compromise we would want to have Board Members involved. Janvrin asked if he is proposing that the applicant will install the cross easement whatever it may cost with the \$5000.00 the Town is holding. Janvrin feels the Board needs to have a conference with the Boards Attorney and then have Mr. Sokul meet with the attorney. Janvrin it needs to be, one is equitable and two it is lawful. Mr. Sokul asked what the Board feel he owes for an exaction fee. Hawkins stated he didn't do the calculation and he doesn't agree with your selection of codes. Hawkins stated that we are talking a significant difference and he would like to talk about what each party has in mind regarding the exaction fees. Hawkins stated they can meet this week to discuss this

matter and he would like to get some numbers down on paper and present them. Hawkins is uncomfortable not having a methodology so he could offer to someone else that comes up with the same situation. Hawkins discomfort comes with winging it. His comfort level would come up with a formula that the Board can use with others regarding the fees. The applicant feels that it is fair to speak about the exaction at a later date by both parties prior to the full occupancy not just Ocean State. The applicant would like to have the case approved tonight and leave the fees up for further conversation at a meeting at a later date when they have full occupancy of the Ocean State Lot. Consideration should be granted understanding the value of the easement and they can absolutely tell you it will be \$5000.00 just to rip up the pine trees. Mr. Bourque fees they can demonstrate the value of the work and the easement value. Janvrin wanted to talk about construction time. If we get a decision tonight the cross connection will be done and opened prior to December 1, 2016. Mr. Sokul stated again after the work is done they still expect to be given credit for work done. Janvrin stated that the negotiations with exaction fee will be negotiated and mutual agreed to at a later date. Mr. Bourque stated that it should be prior to the next site plan review. Janvrin want to give credit for work is done and the \$5000.00 held in escrow will be used. The applicant will do it and submit invoices. Friberg and Morgan are fine with it. Janvrin stated that the Verizon site is next door and Friberg will speak with them and let them know these folks will be working on the site. Khan would appreciate it if the company considers hiring residents. Ocean State Job Lots may create 25 full time job openings and some seasonal. Any abutters to be heard hearing none Janvrin made a motion.

	Janvrin	To Approve Case #2016-19 with the following conditions; 1) The cross connection will be completed prior to December 1, 2016, 2) The exaction fee will be negotiated by mutual agreement prior to the next site plan approval for tenant and credit will be given for improvements already made, 3) Placement of an Elm Tree will be under the direction of the Code Enforcement Officer, 4) Security set at zero, 5) All invoices must be paid prior to occupancy, 5) All Water upgrades must meet the requirement of the Water Superintendant, 6) Add dumpster time to sheet 3 note 6 that it is allowed from 7:00am – 7:00pm, 7) The plans must be acceptable to the Town Planner and Town Engineer, 8) Outside tent sales must come back to the Planning Board for approval, 9) The loading dock doors must be closed from 7:00pm – 7:00am.
Second:	Khan	Approved: Hawkins, Janvrin, Rabideau, Khan

Janvrin adjourned the meeting at 10:11pm.

Respectfully Submitted,

Maria Brown, Planning Board Secretary