



Town of Seabrook
Planning Board Minutes
Tuesday August 7, 2018
Seabrook Town Hall, 99 Lafayette Road
Seabrook, NH 03874
603-474-5605

Members Present

Roll Call; Chairman, Michael Rabideau, Vice Chairman, Francis Chase, James Sanborn, Max Abramson, Aboul Khan, Town Planner, Tom Morgan, Acting Secretary, Kelsey Lindgren-Bosco

Absent Members

Forrest Dow Jr.

Chair Rabideau opened the meeting at 6:43pm with the Pledge of Allegiance.

Motion:	Chase	To approve the minutes of June 19th and July 17th.
Second:	Sanborn	Abstain: Abramson Yes: Chase, Rabideau, Khan and Sanborn

Case #2017-01- F.W. Webb, Returning the remaining amount of the security as site plan is complete.

Rick Friberg from TEC voiced that they have complete phase 1 just prior to the winter and portion of the security was reserved to make sure the vegetation took root. Rick went out there in the spring and the vegetation looked good but there were some storm water swale areas that needed to be cleaned up, they have complete that work and Rick recommends releasing the remaining amount.

Motion:	Chase	To release the remaining security amount for case 2017-1.
Second:	Sanborn	Unanimous

Motion:	Chase	To close case 2017-1
Second:	Sanborn	Unanimous

Case #2013-19 – Request by US Foods to release a security retainer of \$38,500 in the regards to a two year warranty process

Rick presented the US Foods proposed to the planning board a fueling station in the Act of Protection District and as part of that, the town reserved 10% of the initial security to make sure it was maintained the right way. Rick went out this week and confirmed everything is being maintained the correct way and he recommends releasing the remaining about of the security.

Motion:	Chase	To release the security amount of \$38,500 plus interest for case 2013-19
Second:	Sanborn	Unanimous

Motion:	Chase	To close case 2013-19
Second:	Sanborn	Unanimous

Case #2003-43 - Chili's Restaurant, returning the security amount of \$5,000

The Planning Board has found the correct party to return the money too and there for are ready to return the remaining security. Rick agreed to return the security.

Motion:	Chase	To release the security amount of \$5,000 plus interest for case 2003-43
Second:	Sanborn	Unanimous

Motion:	Chase	To close case 2003-43
Second:	Sanborn	Unanimous

Rabideau announced that the Planning Board is looking for an alternate member that is to serve as a 3 year term and the Planning Board will now be accepting letters of interest.

Case #2018-9 – Proposal by Waterstone Retail Development to construct a 400 square foot gas kiosk and gas pump station at 570 Lafayette Road, Tax Map 8, Lot 90-4. (Continuance issued for this case from the postponed July 17th meeting.)

Wayne Morrill from Jones and Beach recapped on the projected and presented the new landscape plan by a licensed landscape architect. The landscape plan is stamped and they are no long looking for a landscape waiver approval. The

landscaping is a lot more than what was previously accepted at last meeting. They are still looking for approval for the light trespass waiver, as the lights are going to be spilling over into the rest of the shopping plaza.

Ray D'Amante an Attorney from Concord, NH practicing in land use is representing Waterstone Properties. Attorney D'Amante addressed what constitutes standing before the Planning Board, for someone to get up and object to the project. He expressed the Seabrook Association for private gas stations are not a land use protection oriented body their purpose is trying to protect them from competition. D'Amante voiced that the 4 surrounding gas stations are well over 1,000 and does not break any zoning ordinance. D'Amante expressed that the surrounding gas stations are in a situation where they're motivated to protect themselves.

Attorney Keriann Roman from Mitchell Municipal Group is representing the Planning Board, she has voiced that the public can speak tonight as it is a public hearing but not appropriate for the board talk about the public/property owners standing.

D'Amante brought up the discussion about traffic and hyper marketers, and questioned if the term hyper marketers applies to the traffic analysis. He stated that Giles Ham, Traffic Consultant is not familiar with that term applying to traffic analysis. He went into the topic that nowhere in the town ordinance is there a bylaw that states a limit of 12 gas stations in town. There were some issues regarding wells 250ft from the station, D'Amante stated that this issue does not apply to irrigation wells. He spoke to the issue that not all abutter were notified, he stated that all abutters for the ZBA and Planning Board were notified for all meetings regarding the parcel. Lastly D'Amante spoke on any issues that are raised about the ZBA and questions about their decisions are not the Planning Boards responsibility to answer.

Attorney Keriann Roman asked if someone could talk about the types of variances were granted by the ZBA.

Wayne Morrill, explained the variances that were granted were;

1. A lot with no frontage, because the frontage for this lot was on South Access Road and not on a public street.
2. A lot with zero setbacks for the sides.
3. A lot with zero setbacks for the rear.

He also stated that back in 2004, it received a variance for commercial use and it was industrial.

Giles Ham, Traffic Consultant provided information that the previous approved 32,000 square foot retail building traffic numbers were very close to the expected traffic for the BJ's gas station. Giles did some research for traffic for multiple BJ's gas stations around the area in New Hampshire and Massachusetts, the data did come back slightly higher but the gas stations researched were for members and the public and the one expected in Seabrook is going to be members only. Tom Morgan asked if the exaction fee should be adjusted, Giles suggested no because the numbers are very similar for what was suggested to be there before the gas station and that he suggests there will be the same if not less traffic.

Rick Friberg (TEC, the Town's peer reviewer) agreed with Giles's traffic analysis and talked with the board about the exaction fees, as extra 20 cars is not going to impact the traffic. Rick stated that it's not going to be a huge impact in traffic because most of the people will be at BJ's shopping and they will only have to drive across Route 1 to get to the gas station.

Doug Richardson voiced that some of the tenants he has have less traffic than what was expected when they moved in and he would like to evaluate the entire project and look at the gains and losses and go from there regarding the exaction fee.

Abramson stated that when people need to get gas they're already out driving around, so it's convenient just to get gas when you're already out versus retail is going out of your way and going out to go to that store.

Aboul asked who maintains the signal light on Provident Way, Doug Richardson Voiced that Waterstone maintains the light and pays for the Unitil bill.

Tom Morgan asked about what DES permits are required. Jim Bernadino from Bohler Engineering voiced that the New Hampshire DES will require an underground fuel storage permit. He expressed there is a whole process they have to follow, as they have to submit a fuel dispensing design and designs of the tanks themselves and they will be a reviewed by the DES which is a few month process after site plan approval.

Attorney John Cronin from CBZ Law representing Mabardy, Mitchell and O'Brien, addressed some concerns about the variances and how the ZBA did not know the tenant for the site. He requested that the letter of intent be submitted so it can put to rest of any suspicious that the ZBA didn't know the tenant. He voiced that he has gotten gas at Bj's as member and non member, and is aware that intent for the Bj's located in Seabrook will Members only, but question if that will change down the road. Cronin voiced that if the bored sees fit to approve the plan that the board should make an expressed condition of approval that this now and will always be a member's only facility. Regarding the wells, he would like the plan set to include a reference to any wells in the area and the distance. Cronin brought up the term accessory use, as the gas station with be quit a distance away from Bj's store and it will affect the traffic issues, and if another variance is required for accessory use not being on the same site. He also addressed that this should go in front of the selectman for the lack of frontage on a public street and requires an approval from them if they see fit.

Doug Richardson voiced he doesn't have any issues with it being conditioned as members only for the BJ's use, provided they are allowed to come back for amended site plan approval if they want to request a change.

Chairman Rabideau recessed the meeting at 7:59PM for consultation with legal counsel.

Chairman Rabideau opened the meeting back up at 8:18PM

Chairman Rabideau noted that a waiver was requested and that the Board should deal with that first.

Chase stated that the lights spilling over into the parking lot will benefit everyone in the shopping plaza because it will be a lot safer.

Motion:	Chase	To approve the waiver request from the Town of Seabrook Site Plan Regulations Sections 9, Sub Section 9.025 and because the circumstance of the development or conditions of the land indicate that the waiver will properly carry out the spirit and intent of the regulations.
Second:	Sanborn	Unanimous

Attorney Keriann asked Wayne Morrill about the access, and if this will need to go to the board of selectman for the frontage, Wayne voiced that the entrance for the gas station is located on Provident Way and has a granted easement off the public street to access the gas station.

Chairman Rabideau asked if any of the members had any outstanding questions or comments;

Abramson asked if there was going to be a net gain or a net loss regarding the trees, Doug Richardson stated its going to be a net gain and exceed the town's expectation.

Aboul asked about the 1,000ft regulation and if it meets all requirements, Tom Morgan stated that through GIS he got 1,006ft and Wayne Morrill stated that he had a surveyor survey the field and it was 1,024.5ft to the closest point. Morgan stated that Wayne's number is more accurate.

Chase stated that it seems that there was a lot of discussion and everything was dealt with in an appropriate manner and there's no obstacles besides a few that will be a condition when approved.

Chairman Rabideau recessed the meeting at 8:47PM for a board member to ask a question of the town's legal counsel.

Chairman Rabideau opened the meeting back up at 8:51PM

Chairman Rabideau asked if there was a motion.

Motion:	Chase	To approve case 2018-9 with the follow conditions; 1. Members only for the gas station, and if they want to open it up to the public they are required to come back for site plan amendment. 2. Put all the wells on the site plans that are within 250ft. 3. Any approvals that are required from DES or any other party be obtained.
Second:	Sanborn	Unanimous

Chase would like to take care of the CIP and GIS, and distribute hard and digital copies to review and have a work session meeting on the topics and have Jamie come in and give a presentation on GIS.

Chairman Rabideau adjourned the meeting at 8:57pm.