

**TOWN OF SEABROOK  
BOARD OF ADJUSTMENT  
MINUTES OF JULY 24, 2013**

Members Present: Teresa Thurlow, Henry Therriault, Dr. Robert Lebold, Mike Lowry and John Kelley

Others Present: Paul Garand, Building Inspector, and Jo-Anne Page, Secretary

H. Therriault explained the procedure for the meeting. He stated the meeting had been posted at the Seabrook Town and Seabrook Post Office and in the Newburyport Daily News. He further explained that this meeting is being recorded and available on DVD at the Town Hall.

**OLD BUSINESS:**

Minutes of June 26, 2013 Meeting

Motion: M. Lowry Accept minutes as presented  
 Second: Dr. Lebold  
 Yes: Unanimous

Minutes of June 26, 2013 Meeting accepted as presented.

**NEW BUSINESS:**

**Case #2013-009 Charles W. Frascone, 11 Janvrin Drive, Map 10, Lot 56, Sequence 11 for Special Exception to Section 8, Sub-section 8.200 to Allow Family Apartment in Zone 2R**

Charles Frascone appeared on behalf of his application.

P. Garand stated that the owner asked him to speak on his behalf. He said that the property was purchased by C. Frascone and he would like to use the family apartment that is there. He said that it is approximately 640 square feet in size and meets all requirements.

H. Therriault asked C. Frascone if he was aware of all the regulations for a family apartment.  
 C. Frascone stated he was.

H. Therriault stated that if there were no more questions, concerns or comments, it was time to vote on the application.

	T. Thurlow	H. Therriault	Dr. Lebold	M. Lowry	J. Kelley
A	Yes	Yes	Yes	Yes	Yes
B	Yes	Yes	Yes	Yes	Yes
C	Yes	Yes	Yes	Yes	Yes
D	Yes	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant request based on definition of family apartment and criteria listed  
 Second: M. Lowry in Article 8.200 of the Zoning Ordinance of Seabrook  
 Yes: Unanimous

Request for Special Exception for Family Apartment at 11 Janvrin Drive is granted.

**Case #2013-010 Heirs of Charlotte K. Marshall, 49 Rocks Road, Map 7, Lot 104 for Variance to Section 6 Permitted Land Uses Table and Section 7 Dimension Regs to permit Residential Use per Zone 2R Regulations in Zone 3**

Henry Boyd, Millennium Engineering, appeared on behalf of this application.

T. Thurlow and M. Lowry recused themselves from the table at this point as they are abutters to this property.

H. Boyd stated that Attorney Peter Saari was also in attendance on behalf of this application. He stated that they agreed to go forward with this application with only three board members present.

H. Boyd stated that the Marshall family was in attendance this evening on behalf of this application. He stated that there are two parcels of land involved here and they were asking to make it all residential. He stated that a portion of the property is industrial land.

H. Boyd stated the following:

- The north corner of the property abuts the nuclear power plant
- The power plant has done some land swaps in this area and are in control here
- Site has frontage on Rocks Road
- Power plant can shut down the road if they need to
- Back lot is zoned industrial
- Not sure if the power plant would allow access to this industrial lot
- Rocks Road is difficult now to get out of
- Industrial development on that site would be difficult partly because of access to road
- Industrial use would increase traffic to residential area
- It is logical that the property has use similar to surrounding properties
- This request fits the character of the neighborhood
- There are wetlands on this lot
- Zone 2R extends into part of this lot already
- The power plant has taken some of this property over the years
- This use fits in the neighborhood
- Would still need a variance for industrial use for lot crossing
- They don't want to add industrial traffic to this road
- Without variance the industrial lot is useless

Dr. Lebold asked what would be the difference between this lot and Hanna Foods on Railroad Avenue.

H. Boyd said that it is the same and they would need an industrial variance to allow traffic.

J. Kelley stated this could be sole the same as Hanna Food property was.

H. Boyd said the still needed a variance to have a factory there.

P. Garand stated that the hours of operation had restricted the traffic there.

H. Boyd stated that the truck per day restriction is not a good situation.

J. Kelley asked how many residential lots could be there. He stated that house lots would increase traffic. He asked what he had against delivery trucks.

H. Boyd stated he was unsure but it could possibly be 10. He replied that residential traffic is less impact than industrial traffic. He said he had nothing against delivery trucks.

Dr. Lebold stated that it is a nice small industrial lot.

H. Boyd said it was not and that it relied on the power plant road.

H. Therriault stated that there is a lot of mixed use in this area. He pointed out that there is residential, the power plant and a fireworks factory there. He said that he knows the history of the property on Railroad Avenue and Rocks Road. He said that exiting this road is an issue.

H. Boyd said he would also like more industrial in Seabrook but this piece of property just does not make sense for that.

Dr. Lebold asked about four houses on the front lot.

H. Boyd said that it might fit three houses with the wetlands.

P. Garand stated that they could subdivide down the middle on the front and that would work for four dwellings.

H. Therriault stated that he can see the problems of houses with complaints.

H. Boyd stated that there was nine acres here and they were unsure how many houses would go here.

Dr. Lebold asked if anyone was living in the house now.

H. Boyd stated that they were moving things out now. He said the family was trying for the most logical/feasible use for the property. He said that the current standard is reasonable use of property for a variance.

Attorney Peter Saari, Cassassa & Ryan, 459 Lafayette Road, Hampton, NH, stated that there would be more harm caused here if it was industrial. He said this proposal would keep the current characteristics of the neighborhood. He said this is not suited for industrial use here. He stated that this is a unique situation and houses would be better use than industrial here.

Virginia Anspaugh, 55 Rocks Road, stated that she would like to have the trees kept on the property. She said that the town doesn't need to have any more houses. She pointed out that her house is 10 feet from the property line at 49 Rocks Road. She said this proposal would take away her privacy.

H. Boyd stated that if he lived in this neighborhood he wouldn't want anything there either. He said that houses and residential use would be a much gentler use in the area and less invasive.

J. Kelley stated that industrial use might not be bad.

H. Boyd said that would have too many restrictions on the lot in this location. It would be difficult to get industrial tenants here given possible restrictions.

Alan Ganz, 779 Lafayette Road, stated that industrial use with restrictions might make a tenant seek another location for business.

Mike Lowry, 59 Rocks Road, stated the following:

Residential is best use here

Could have 3 or 4 houses here

There could be an option for access to the power plant road at some point  
Hanna Foods has the same problem and worked it out  
Does not see the hardship  
The property is already under agreement for approximately \$300,000  
Ten to fourteen house lots would add approximately 24 more cars on Rocks Road  
DDR property and power plant have already affected Rocks Road residents

Teresa Thurlow, 42 Rocks Road stated the following:

She understands the situation  
She has one of the newer houses on the road  
This was a quiet/dead end street when she bought her house  
Mall and shooting range area nightmare for the neighborhood  
Fireworks is also a problem  
She lost \$43,000 equity in her home due to the mall  
Can't get in and out of the road as it is  
The road can't handle much more traffic  
She loves that property  
Twelve houses would have an impact on a small street

Alan Ganz, 779 Lafayette Road stated that the purchase and sales agreement is contingent on the variance.

H. Boyd stated that somehow this discussion has led up to 12 to 14 houses on the property. This would only allow partial uses of the property. Access to the power plant north road could be an option. There is 9 acres of land and it could be one acre per house lot. They are willing to work to have as little impact on the property.

Vera Marshall stated the following:

There has been a business at the front house forever  
The business was never dissolved  
Why isn't this commercial property now as it has been used like commercial for years  
The back lot is land locked and they pay property taxes

M. Lowry stated the following:

Not sure how many houses could be there  
Not sure what is designed for the area  
Industrial, commercial, houses, firing range and power plant are all in this area  
It would not be a \$400,000 house  
There should be reasonable use of the land  
Hardship not shown  
Commercial use of 1,000 square feet is allowed here

H. Therriault stated the following:

He is familiar with Rocks Road and Railroad Avenue  
He know of problems with the transfer station traffic  
Has mixed feelings on this  
They are suffering with the mall

The truck traffic has already been reduce on Rocks Road  
New occupant would have complaints about neighborhood  
Can't see not granting as people have the right to use their property

H. Boyd covered the five criteria he felt the applicant met for the granting of the variance. He stated it was in the public's interest, it observed the spirit of the ordinance and that the hardship is that industrial use is not feasible at this location.

Motion: H. Therriault Grant Application

There was no second to this motion.

Motion: Dr. Lebold Deny request for Variance: Precious few industrial sites are available in  
Seabrook; Option of access to the power plant north road has not been  
Second: J. Kelley explored; No hardship – 7-104 with 2+ acres has four housing unit  
potential; Keep 7-104-1 zoned in Industrial; 7-104-1 zoned Industrial has  
direct contact to north access road; Don't need more housing to impact  
the schools, etc. is adjacent to another commercial/industrial activity lot

Yes: Dr. Lebold, J. Kelley

No: H. Therriault

Request for Variance at 49 Rocks Road is denied.

Request for Rehearing for Case #2013-008 Shawn and Laurel McKenna, 27 Foggs Corner Road, Map 7, Lot 4 for Variance to Section 7, Sub-section Dimensional Requirements to permit Two Dwelling Units on less than 30,000 square foot lot in Zone 2R.

H. Therriault stated that he had just received this request and only been able to scan the request.

Motion: Dr. Lebold Discuss the request for rehearing at the August 28, 2013 meeting

Second: T. Rowe

Yes: Unanimous

Request for Rehearing will be discussed at the August 28, 2013 meeting.

Motion: Dr. Lebold Adjourn Meeting

Second: M. Lowry

Yes: Unanimous

Meeting adjourned 8:05 PM



Henry Therriault, Chairman



Date