

**TOWN OF SEABROOK
BOARD OF ADJUSTMENT
SEPTEMBER 23, 2009**

Members Present: Teresa Rowe, Henry Therriault, Dr. Robert Lebold, Lucille Moulton, Robin Fales and Mike Lowry

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

H. Therriault opened the meeting at 7PM. He explained the procedure of the meeting to all in attendance.

OLD BUSINESS:

Minutes of August 26, 2009 Meeting

Motion: Dr. Lebold Accept minutes of August 26, 2009 meeting as presented
Second: L. Moulton
Yes: Dr. Lebold, L. Moulton, R. Fales, T. Rowe and H. Therriault
Abstain: M. Lowry

Minutes of August 26, 2009 meeting accepted as presented.

Case #2005-02 700 Lafayette Road

M. Lowry and T. Rowe stepped down and did not take part in discussion of this case.

H. Therriault stated that this matter was for discussion of an extension of Special Exception from continued from the August 26, 2009 meeting. He said that the board would not be taking comments or questions from the public. He said that discussion would be limited to determine if there was a need for a hearing for the extension of the special exception.

He stated that on January 28, 2005 the board voted to grant a special exception to Venture for all their land at 700 Lafayette Road. He pointed out that then DDR came into the picture. Since that time it is clear to me that DDR has worked hard to obtain the benefits of the special exception. He said that he feel the granting of the special exception would only expire one year after the day DDR abandoned the benefit of the special exception.

Motion: H. Therriault Move that there is no need to hold a hearing for an extension of the special
Second: Dr. Lebold exception
Yes: H. Therriault, Dr. Lebold, R. Fales and L. Moulton

Case #2009-20 Gregory T & Margaret L Brown, 71 Walton Road, Map 10, Lot 39 for Variance to Article VI, Table 2, Paragraph 2 to Permit Two Lots with Reduced Frontage in Zone 2R (CONTINUED FROM AUGUST 26, 2009)

Attorney Mary Ganz appeared on behalf of this application. She stated that a survey had not been done yet and this proposal is for two lots with reduced frontage. She said that the second dwelling would be put on the 45,000 square foot lot for their son. She pointed out that the property has been in the family for 13 generations.

L. Moulton asked where the second dwelling would go.

M. Ganz said it would be up front and will share the driveway that is there now. She then covered the criteria they needed to meet in order to have a variance granted. She said that the hardship on the property is that it is just shy of the required frontage for two lots and it is unique because it is encumbered by railroad tracks, a brook and stone wall on the sides of the property. She said that there is no other way to do this project and it is reasonable use of the property.

P. Garand stated that they are all living there now. They want to be able to keep the family together and this is an admirable thing to do.

H. Therriault stated he was concerned with the frontage. He also suggested if the variance was granted that it be conditional upon a survey being obtained.

M. Ganz stated that there would be approximately 66 feet of frontage for each lot. She said that would be done and they would also need to go before the planning board.

Dr. Lebold said that he had concerns what the traffic. He said that in the future it could be sold and more people move in. He also questioned putting in a family apartment.

M. Ganz stated the property will stay in the family.

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Dr. Lebold stated that he was thinking about control of the population of this lot in the future. He said that this sounds good but that a variance goes with the land not the landowner.

P. Garand said that this is also a financial hardship because of loans and that they want to give their son a parcel. He pointed out that the daughter already lives in the second house there and the son lives with them.

H. Therriault suggested a condition that there is no family apartment at this property in the future.

M. Ganz said the applicant was in agreement with this.

Amy Perkins, 49 Washington Street, stated that this proposal is reasonable and the property is blocked by the railroad tracks. She had questions as to whether or not this could be made into a subdivision with more than just one more house.

H. Therriault said that there was no sufficient frontage to subdivide and that the variance request was for 66 feet and 69 feet.

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

	T. Rowe	R. Fales	L. Moulton	Dr. Lebold	M. Lowry
1	Yes	Yes	Yes	Yes	Yes
2 A/B	Yes	Yes	Yes	No	Yes
3	Yes	Yes	No	Yes	Yes
4	Yes	Yes	No	Yes	Yes
5	Yes	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant request for Variance for reduced road frontage with the following conditions: Only 1
 Second: L. Moulton dwelling unit on small lot and 2 on large lot; No family apartments; and Subject to
 Yes: Unanimous approval by Planning Board

Request for Variance at 71 Walton Road is granted.

NEW BUSINESS:

Case #2009-21 Donna L Jameson Conary, 58 Pine Street, Map 8, Lot 16, Sequence 1 for Special Exception to Article VI, Table 2 to Permit Reduced Side and Rear Setbacks in Zone 2R

Donna Conary appeared on behalf of this application. She stated that the garage is right on the property line. She showed a letter from her brother stating he was in agreement with this request.

H. Therriault asked how this was found.

D. Conary stated the setback issues were found when she went to refinance.

Dr. Lebold pointed out that this was a request for Equitable Waiver of Dimensional Requirements as stated on the application. He also asked how long the garage has been at this location.

D. Conary said the garage had been there for 8 or 9 years and the shed had been there 5 or so years.

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

	L. Moulton	R. Fales	H. Therriault	Dr. Lebold	M. Lowry
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 for Equitable Waiver of Dimensional Requirements for both the shed (4' vs.
 Second: M. Lowry 10') and garage (on property line) with letter of support from abutter (see attached)
 Yes: Unanimous

Request for Equitable Waiver of Dimensional Requirements at 58 Pine Street is granted.

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**Case #2009-22 Kim & Steve Carbone, 287 Lafayette Road, Map 9, Lot 64, Sequence 1 for Variance to Chapter 263,
Article XIII to Permit Consolidation and Rebuilding of Structures Onsite in Zone 2**

Wayne Morrill, Jones & Beach, appeared on behalf of this application. He stated that this property had approximately 15 storage trailers and the Atomic Fireworks store totaling 9,046 square feet. He also said that there is another retail building there that totaled 1,670 square feet. He advised that the total square feet of retail on this property at this moment is 11,094 square feet. He said that the proposal is to tear everything down and build one building using the total of 11,094 square feet which is on the property now. He said the new structure would be sprinkled and the only storage trailers on site would be for the flower tent in the spring.

T. Rowe asked where the flower sales would be.

S. Carbone stated that they would be at the south end of the parking lot.

P. Garand said that there could not be mixed use in fireworks sales. He said that the flower sales would be seasonal and away from the fireworks. He stated that S. Carbone is before the board because the Board of Selectmen instructed Code Enforcement to enforce removal of storage trailers on all property in town back in 2004. He pointed out that this proposal was a result of S. Carbone trying to bring his property into compliance.

L. Moulton asked about the second building on the property.

S. Carbone advised that would be torn down.

P. Garand pointed out that the new fireworks building could have a firewall and another retail area could go there.

Dr. Lebold asked about storage for the flower sales.

S. Carbone said there would be storage there for the flower sales from May until the sales are done. He said that there are items he has to have for the flower end of the business. He said that this proposal would make the property look better with the storage space.

P. Garand said that S. Carbone is trying to bring the property into compliance on not lose what he has there now. He stated that there could be a storage building on the property also.

T. Rowe asked about using the back of the new building for the flower.

P. Garand said that S. Carbone was seeking to change a non-conforming use.

Dr. Lebold asked about the size of the accessory building.

S. Carbone said that it would be approximately 1,500 square feet and he was trying to clean up the property.

W. Morrill said that the new building would be 11,000 square feet.

H. Therriault asked where the flower sales would be set up.

W. Morrill said they would be at the south end of the parking lot. He pointed out that there is more than enough parking proposed and this project will eliminate one of the curb cuts. He also said that the building will have the back side facing the residential area.

S. Carbone said that during flower sales there would be a tent and hanging area.

H. Therriault said that granting this request for variance would allow S. Carbone to continue to do the business he has been doing with a different configuration.

P. Garand said that was correct and it would allow him to go to the Planning Board with the proposal.

H. Therriault asked about storage for the flowers in case of frost.

S. Carbone said the accessory building would be used for that. He said that right now he puts the flowers in the fireworks store.

M. Lowry asked where the accessory building would be placed.

W. Morrill said he was not sure yet and that they have not graded out the site at this time. He said that there might be wetlands issues due to a brook in the area and they are trying to keep costs down.

P. Garand said that the State of NH has specific requirements for the proposed building.

S. Carbone said that there will be a lot of state regulations that have to be looked at for the new building.

Dr. Lebold pointed out that the accessory building could not be used for fireworks.

W. Morrill covered the criteria for granting this request.

M. Lowry asked if the accessory building would mean that there would not be any storage trailers on the property.

P. Garand stated that there could be some during the 4th of July season for deliveries which are allowed. He said that S. Carbone is just trying to clean up the area and bring the property into compliance.

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

	T. Rowe	R. Fales	H. Therriault	Dr. Lebold	L. Moulton
1	Yes	Yes	Yes	Yes	Yes
2 A/B	Yes	Yes	Yes	Yes	Yes
3	Yes	Yes	Yes	Yes	Yes
4	Yes	Yes	Yes	Yes	Yes
5	Yes	Yes	Yes	Yes	Yes

Motion:	Dr. Lebold	Grant request for Variance with the following: Remove all existing structures/trailers
Second:	L. Moulton	reducing the multiple grandfathered structures down to a main building of 11,000 square
Yes:	Unanimous	feet and an accessory building with a maximum size of 2,000 square feet for
		flowers/tables/racks; Accessory building cannot be used for fireworks; No storage trailers
		will be permitted; Delivery trailers will be permitted for unloading purposes

Request for Variance at 287 Lafayette Road is granted.

Rules of Procedure

Motion:	Dr. Lebold	Accept Rules of Procedure and file a signed copy with the Town Clerk's Office
Second:	H. Therriault	
Yes:	Unanimous	

Rules of Procedure are accepted, signed and will be filed with the Town Clerk's Office.

Other Business

October Meeting is currently scheduled on October 28th which coincided with the Law Lecture Series.

Motion:	Dr. Lebold	Move the October ZBA meeting to Tuesday, October 27, 2009 at 7PM
Second:	R. Fales	
Yes:	Unanimous	

October 2009 ZBA meeting will be held on Tuesday, October 27, 2009 at 7PM.

Motion:	Dr. Lebold	Adjourn
Second:	L. Moulton	
Yes:	Unanimous	

Meeting adjourned at 8:10 PM.

Henry Therriault, Chairman
Board of Adjustment

DATED: _____