

**TOWN OF SEABROOK  
BOARD OF ADJUSTMENT  
MINUTES OF SEPTEMBER 25, 2013**

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

Others Present: Jo-Anne Page, Secretary

H. Therriault explained the procedure for the meeting. He stated the meeting had been posted at the Seabrook Town Hall 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 August 28, 2013 Meeting

Motion: Dr. Lebold Accept minutes of August 28, 2013 meeting  
Second: M. Lowry  
Yes: Unanimous

Minutes of August 28, 2013 Meeting accepted as presented.

**NEW BUSINESS:**

**REHEARING for 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**

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

Henry Boyd, Millennium Engineering and Attorney Peter Saari, Cassassa & Ryan, appeared on behalf of this application.

H. Boyd stated that they wanted to proceed with this case with only four members of the ZBA to hear the case.

H. Boyd presented the following information:

- This case is about the back piece of property
- There are 6 acres of property with some of it zoned industrial
- Looking to make all the this property residential
- Lot is not suitable for industrial
- The town uses the NextEra access road for the transfer station
- The access road is gated and locked daily
- This lot has no access to the north access road mainly due to security reasons

Residential is better use of this property

Industrial use with no access to the north access road – traffic like this would not be good for the residential area

A letter was obtained from NextEra stating a denial of access to the north access road  
His letter had requested a denial from NextEra because of the access issues because he was aware of the difficulty for Hannah Foods to get access to that road

The Hannah Foods access was a unique situation with no alternative

Industrial traffic in the residential zone is not a good idea

Residential use would keep this lot more like the rest of the neighborhood

There are significant wetlands on this large parcel

Access from Rocks Road lot would impact all the land

Assessor's card shows that all this property is being taxed as residential

It might be difficult to get a buyer for the industrial piece of the property

Industrial through a residential area is not a good idea

Attorney Sari stated that industrial use in a residential area does not mix. He said that the property is an island unto itself with no reasonable access.

H. Therriault asked if they were familiar with Zoning Regulations specifically Section 3, Sub-section 3.200 stating that the Planning Board can ignore boundary lines.

H. Boyd stated that puts the Planning Board in a difficult spot. He said the ZBA can send this to the Planning Board because of the lot being split zoned. He also stated that this was a variance for industrial issues and could be subdivided.

Attorney Saari stated that this was the first time he had seen that the Planning Board could make this decision. He said the ZBA should take this and not defer it to the Planning Board.

H. Boyd said usually the more restrictive use would apply. A voluntary lot merger would still be split zoned and Rocks Road is not an industrial access way.

J. Kelley asked what the procedure was to change zoning lines.

Dr. Lebold said that the ZBA can do that for the property.

H. Therriault said that could be brought to the vote in March.

Mike Lowry, 59 Rocks Road, spoke about the letter from H. Boyd to NextEra asking for denial of access to the road. He felt this was a rubber stamped letter. He asked how NextEra could deny access when the Town of Seabrook maintains this road. He stated that houses will add traffic to Rocks Road. He pointed out that the power plant could shut off the access road and the transfer station would have to us Rocks Road again.

Teresa Thurlow, 42 Rocks Road, stated that 2 ½ acres of this property is zoned residential and they could just develop that. She said that Rocks Road is disastrous already with the hotel and store there. She suggested going for a smaller development instead of a large residential development. She pointed out that it is difficult to get off from Rocks Road.

H. Boyd stated that M. Lowry could have read the letter out loud if he wanted. He said that M. Lowry could contact NextEra and he felt M. Lowry did not trust him. He also stated to T. Rowe that industrial use would create heavy traffic on Rocks Road and that they weren't sure how many houses could go into a subdivision. He said that the application met all the requirements to grant this application. The property has been in the family for over 100 years. He said homes would be less impact than industrial use on this property. He stated he is not trying to hide anything and this proposal is the best use for the property.

Dr. Lebold questioned the accuracy of the fence on the property. He also asked about this being stick built single family homes.

H. Boyd stated it was partially accurate and that the heavy black line on the drawing is the property line. He said they could agree to stick built single family homes.

M. Lowry stated that they don't want access to north access road. He said that H. Boyd asked NextEra for a denial. He went on to say that 12 houses would be there and that would mean more maintenance for the town.

H. Boyd stated they don't want access to that and they want to use the entire property as residential. He said that there would be a cul-de-sac here.

T. Thurlow said that she hated to keep harping on this but her family has also been on Rocks Road for a long time. She just wanted to know why it had to be such a big development.

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

	R. Fales	H. Therriault	Dr. Lebold	J. Kelley
1	Yes	Yes	Yes	Yes
2	Yes	Yes	Yes	Yes
3	Yes	Yes	Yes	Yes
4	Yes	Yes	Yes	No
5	Yes	Yes	Yes	Yes

Motion: Dr. Lebold With the new information from NextEra denying now and future  
 Second: H. Therriault access to this property from the north access road rendering this industrial parcel essentially landlocked, move to grant the applicant's request to use both parcels for residential use with the following conditions: Single Family Homes, Stick Built Homes and Only Access to Both Parcels from Rocks Road. (See also attached letter of denial from NextEra)

Yes: Dr. Lebold, H. Therriault and R. Fales  
 Present: J. Kelley

Case #2013-10 request for Variance at 49 Rocks Road is granted.

**Case #2013-14 Dennis Testagrossa, 72 New Zealand Road, Map 7, Lot 55 for Variance to Section 6 To Sales Wholesale-Resale-Auction of Automobiles in Zone 2R**

Dennis Testagrossa, 33 Cypress Avenue, Manchester, NH appeared on behalf of this application.

H. Therriault pointed out that he was not the owner of the property and that the ZBA needed a letter in order to present this application.

D. Testagrossa stated he thought it was with the application.

Dr. Lebold stated that this was a request for a Variance and the applicant had he had answered the questions for Special Exception.

D. Testagrossa said there is approximately 7 acres there and 5 acres is paved. He is looking to get a dealer's license and auction of vehicles. He said right now he only wanted to use front office space there. He said he is working on a lease option for this property. He wants to do retail there first.

M. Lowry stated that the vehicles have to be able to be stored for the retail license. He asked about test driving vehicles.

D. Testagrossa stated that he wanted a dealer's license and be allowed to auction vehicles at this location. He said is a licensed auctioneer in NH. He said these would be retail ready cars without stickers. He wants something similar to what he does in Salem, NH.

H. Therriault asked if this would be a change in use. He pointed out that this request, even with a variance, would have to go to the Planning Board. He asked how many vehicles.

D. Testagrossa said that it would be. He stated that there was approximately 5 acres of blacktop.

T. Thurlow stated that auctions usually have 100 plus cars.

H. Therriault asked who buys these vehicles.

D. Testagrossa stated that usually people from Boston or NY City come to these auctions. He said that this property was grandfathered use.

H. Therriault asked if there was a recycling company there now.

D. Testagrossa said that ¾ of the property is used right now. He said he would like to purchase and use the building for parking or remove it.

H. Therriault asked how many employees would be there.

D. Testagrossa said 10 to 15 full and part-time employees plus outside contractors. He pointed out that 25% of the sales are done online.

J. Kelley asked about the layout of the building and there being trees on one side.

D. Testagrossa stated there are trees and he would try to utilize what is there now.

There was discussion about continuing this application to October so that the applicant could get all the paperwork needed.


D. Testagrossa said he would like to continue to the October meeting.

Motion: Dr. Lebold Continue case to October 23, 2013 at the request of the applicant.  
Second: M. Lowry  
Yes: Unanimous

Case #2013-14 request for Variance is continued to October 23, 2013 at 7PM.

Motion: Dr. Lebold Adjourn Meeting  
Second: H. Therriault  
Yes: Unanimous

Meeting adjourned at 8:15 PM.

  
Henry Therriault, Chairman

  
Date

# Millennium Engineering, Inc.

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P.O. Box 745  
Exeter, NH 03833

Tel: 603.778.0528  
Fax: 603.772.0689

August 01, 2013

Nextera Energy Seabrook, LLC  
Attention: Mr. Steven Coes  
Seabrook Station  
P.O. Box 300  
Seabrook, NH 03874

**RECEIVED**

**AUG 28 2013**

**BUILDING & HEALTH**

Re: Access to Marshall property from North Access Road.

Dear Steve,

Last week I appeared before the Seabrook Zoning Board of Adjustment on behalf of the Marshall family to seek a variance to allow a residential use on Map 7 Lot 104-1. This lot is owned by the Marshalls and is currently zoned Industrial.

We were hoping that the Zoning Board would see the wisdom in allowing this property to share the same use as the abutting parcel that the Marshalls own at 49 Rocks Road. I knew, having dealt closely with other access issues with Nextera, that access from the North Access Road was probably not going to be a possibility and conveyed that to the Board. Our idea was to subdivide the entire property into residential lots that would be accessed from the current frontage on Rocks Road. As you are aware, the town has desperately sought to remove heavy trucks from Rocks Road and have mostly done so with the accommodation of the new transfer station access road allowed by Nextera.

Needless to say, the Zoning Board denied our request for the variance. They challenged us saying that we hadn't even sought permission to access the property from Nextera's North Access Road. I need a letter from Nextera that would prove that such access to this property is not a possibility.

The Marshall family and I thank you for your assistance in this matter. Please call me if you have any questions for me.

Sincerely,

Henry H. Boyd, Jr., LLS  
Executive Vice President



August 26, 2013

Millennium Engineering, Inc.  
Attn: Mr. Henry H. Boyd, Jr., LLS  
Executive Vice President  
P.O. Box 745  
Exeter, NH 03833

Delivery via email: [HBoyd@Mei-NH.com](mailto:HBoyd@Mei-NH.com)

Re: Request to Access Marshall Property from NextEra Energy Seabrook, LLC's North Access Road  
(August 1, 2013 letter from Mr. Henry Boyd, Jr., Millennium Engineering, Inc. to Mr. Steve  
Coes, NextEra Energy Seabrook, LLC)

Dear Mr. Boyd,

NextEra Energy Seabrook, LLC (NextEra) has carefully reviewed and considered your request on behalf of the Marshall's to utilize NextEra's North Access Road for purposes of providing additional access to the Marshall's property shown on Seabrook Map 7 as Lot 104-1. Unfortunately, due to the nature of Seabrook Stations' operations, NextEra cannot provide permission for the Marshall's and/or other third parties to utilize NextEra's North Access Road in order to access the Marshall property more specifically identified on Seabrook Map 7 as Lot 104-1, which request is therefore denied.

Please feel free to call me at 561-304-5920 if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Alan Smith". The signature is written in a cursive, flowing style.

Alan Smith  
Director, Business Management