

**TOWN OF SEABROOK  
BOARD OF ADJUSTMENT  
May 23, 2007**

**Members Present:** Dr. Peter Fowler, Dr. Robert Lebold, Henry Therriault and Robin Fales

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

Dr. Fowler called the meeting to order at 7PM and a roll call of the members was taken.

**OLD BUSINESS:**

Minutes of April 25, 2007 Meeting

Motion: Dr. Lebold Accept minutes of April 25, 2007 meeting as presented  
Second: R. Fales  
Yes: Unanimous

Minutes of April 25, 2007 accepted as presented.

Dr. Fowler explained the procedure for the meeting.

J. Page read the legal notice that was posted for this meeting.

**NEW BUSINESS:**

Sue Foote, Conservation Commission & Planning Board Chairwoman, appeared to speak on behalf of the Variance requests for wetlands cutting. She stated that this was a 2002 Planning Amendment that was proposed to help maintain well-vegetated wetland areas. She explained that this was to help prevent developers from cutting more than 50% of the area without permission along with the DES Wetlands Permit. She pointed out that this was not as strict as the shoreline protection act but it was a density issue.

Peter Evans, 9 Border Winds Avenue, said that the intent of this was to preserve the density of forested areas in the wetlands.

S. Foote went on to explain that a variance would be needed for a developer to clear-cut a swath of wetlands. She said that a Dredge & Fill application would have to be obtained by the State of NH but this way the Town could protect the forests and wetlands.

P. Garand stated that a Dredge and Fill application should be in place before going to the ZBA. He pointed out that usually an application before the ZBA for this type of variance would be for a developer to clear-cut the area.

S. Foote stated that a lot of the wetlands feed the brooks and streams in town. She pointed out that the requests before the ZBA tonight were did not involve high quality wetlands areas.

**Case #2007-12 Border Winds Development, LLC, London Lane, Map 5, Lot 8, for Variance to Article XV, Paragraph D to permit More Than 50% of trees, saplings or shrubs to be removed from Wetlands in Zone 3**

Attorney Mary Ganz, along with Wayne Morrill of Jones and Beach appeared on behalf of this application.

Attorney Ganz stated that this request was due to the fact hta the construction of London Lane had created a wetland area due to construction vehicles. She handed the board a copy of the Dredge & Fill that had been filed with the State of NH. She covered the criteria for granting this variance under Simplex and said that the intent of this request was to place an industrial building.

Dr. Lebold asked about the impact to the wetlands.

S. Foote said that this would be extremely low impact as this wetlands was created during construction by construction vehicles making ruts.

P. Evans stated that when London Lane was created there was to be no further impact on the entire parcel. He stated that he was concerned with the brook on the backside of his property that drains towards the detention pond. He said that further development of this area would impact the flow of water.

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S. Foote pointed out that the first DES permit stated that, however this wetland area was man made during construction of London Lane. She said that this wetlands area is well into the area and away from that.

W. Morrill stated that the request was to impact a man made creation, which was a new wetland.

P. Evans stated that this was not the intended spirit of the ordinance. He said that this should not be a guarantee pass by the ZBA and the wetlands are a valuable asset to the town, which should be protected. He felt that the environmental issues needed to be looked at.

P. Garand said that this small area of wetlands which was man made would make the lot unbuildable.

Dr. Fowler stated that if there was no more discussion on this application it was time to vote on the application.

	H. Therriault	Dr. Fowler	Dr. Lebold	R. Fales
1	Yes	Yes	Yes	Yes
2 A/B/C	Yes	Yes	Yes	Yes
3	Yes	Yes	Yes	Yes
4	Yes	Yes	Yes	Yes
5	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant request for Variance as this wetland was probably created by creating the road  
 Second: H. Therriault and is essentially man made and does not provide drainage with the condition that a  
 Yes: Unanimous DES Permit be obtained by the State of NH

Request for Variance at, London Lane, Map 5, Lot 8 is granted.

**Case #2007-13 11 Railroad Avenue Realty Trust, 11 Railroad Avenue, Map 8, Lot 107 for Special Exception to Article V, Table 1 to allow Mixed Use in Zone 2**

Will Simmons appeared on behalf of this application. He stated that this request was for a caretaker's apartment over his business on Railroad Avenue. He said that he and his wife would like to live there because of the amount of time that he already spends there.

H. Therriault asked if they were already living there.

W. Simmons stated that he had done some of the construction and they were staying there.

Dr. Lebold asked what size this would be.

W. Simmons said it would be approximately 1,600 square feet with a living room, bathroom, kitchen and two bedrooms.

H. Therriault pointed out that this apartment could be rented out if W. Simmons vacated it.

W. Simmons stated he was planning on living over his company for a while and did not intend to rent it out.

Dr. Fowler said that on a busy day they were very tight on parking.

W. Simmons stated that there would not be any more vehicles added to the property. He said now there is only his business in the building and did not intend to rent any portion of the building out to other business again.

Lita Randall, 15A Railroad Avenue, stated that the trucks often come in way too fast and the driveway should be paved.

W. Simmons said that he had taken care of the speeding issue and he would like to pave the drive but there was an open space issue. He advised that he would like to come back before the ZBA if he could to get permission to pave the driveway.

Dr. Fowler stated that if there was no more discussion on this application it was time to vote on the application.

	H. Therriault	Dr. Fowler	Dr. Lebold	R. Fales
A	Yes	Yes	Yes	Yes
B	Yes	Yes	Yes	No
C	Yes	Yes	Yes	Yes
D	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant request for Variance with the conditions: 1) Building stay as one business building;  
 Second: H. Therriault 2) Stay as owner's residence; 3) Apartment meet State Building & Fire regulations and

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Yes: Unanimous requirements and 4) Application for an occupancy permit be obtained

Request for Special Exception at 11 Railroad Avenue, Map 8, Lot 107 is granted.

**Case #2007-14 Griffey Seabrook LLC, Lafayette Road, Map 9, Lot 63 for Variance to Article XV, Paragraph D & E to permit More Than 50% of trees, saplings or shrubs to be removed from Wetlands in Zone 2 & 2R**

Attorney Mary Ganz, along with Wayne Morrill of Jones and Beach and Adele Fiorillo, NH Soils Scientist, appeared on behalf of this application.

A. Fiorillo stated that this area is all natural wetlands. She stated that this was Phase II of a project that has been in the works for a number of years. She pointed out that this is an isolated wooded wetland area and that some was filled in during the Lowe's project. She said that no removal of vegetation was needed, as there was no vegetation in this area. She stated that this area is a low functioning value for wetlands. She said they would still be working to protect Mary's Brook and the water quality of the brook.

Dr. Lebold asked where the drainage would be going.

W. Morrill explained the proposal for drainage and creation of a vegetated area. He advised that there would be another detention pond and underground work.

S. Foote stated that there would be constant monitoring of the water quality.

A. Fiorillo said that the cutting would be 17 feet into the buffer zone.

Dr. Fowler stated that no structure would be built into the buffer.

Dr. Fowler stated that if there was no more discussion on this application it was time to vote on the application.

	H. Therriault	Dr. Fowler	Dr. Lebold	R. Fales
1	Yes	Yes	Yes	Yes
2 A/B/C	Yes	Yes	Yes	Yes
3	Yes	Yes	Yes	Yes
4	Yes	Yes	Yes	Yes
5	Yes	Yes	Yes	Yes

Motion: Dr. Lebold Grant request for Variance for wetland fill based on this being a low impact wetland

Second: H. Therriault area and condition that a DES Permit be obtained by the State of NH

Yes: Unanimous

Request for Variance on Lafayette Road, Map 9, Lot 63 is granted.

**Election of Officers**

Motion: Dr. Lebold Dr. Fowler as Chairman, Howard Page, III as Vice-Chairman and Teresa Rowe as Clerk

Second: H. Therriault

Yes: Unanimous

Motion: Dr. Lebold Adjourn

Second: H. Therriault

Yes: Unanimous

Meeting adjourned at 8:25PM.

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Dr. Peter Fowler  
Board of Adjustment Chairman

DATED: \_\_\_\_\_