

# **PLANNING BOARD MINUTES**

**August 17, 2010**

**Board members present:**

**Arthur Weber, Chairman Ron Wolanski, Town Planner**

**Jan Eckhart, Vice Chairman Frank Holbrook, Assistant Town Solicitor**

**Audrey Rearick Russ Jackson, Assistant Town Solicitor**

**Richard Adams**

**Betty Jane Owen**

**Charlene Rose-Cirillo**

**Gladys Lavine**

**The meeting was called to order at 6:30 pm.**

**• Approval of the minutes of the July 14, 2010 regular Planning Board meeting – Mr. Weber requested that the motion in the minutes regarding Seguin Realty indicate that the board requested a “written” opinion from the solicitor. Motion by Ms. Rearick, seconded by Ms. Owen, to approve the July 14, 2010 minutes subject to the requested revision. Vote: 7-0-0.**

**New Business**

**1. Request of the Zoning Board of Review for an advisory opinion on a Special Use Permit Application for a Wind Turbine – Luise Strauss, 485 Paradise Ave., Plat 121, Lots 14, 17B, 23.**

**Mr. Weber described the process that will be used to review the**

application, including the need for the board to engage a consultant to assist with the review of application materials. Once the matter is officially referred by the Zoning Board of Review for Planning Board review, and a consultant has been hired, a special Planning Board meeting will be scheduled specifically for discussion of this application.

Mr. Weber invited the applicant to address the board.

Attorney Richard Sherman, representing the applicant, summarized the purpose and scope of the project, and described the contents of the application package. He noted that FAA review of the project is underway and documentation will be provided shortly. The project size is limited by FAA requirements. He indicated that the proposal will include a flashing red beacon, rather than a white strobe, to meet FAA requirements. He stated that the turbine is expected to operate at 40% efficiency. The turbine will operate only at wind speeds between 8 mph and 45mph. He stated that environmental studies completed indicate that there will be adverse impacts, and the proposal is consistent with the town's Comprehensive Plan.

By consensus of the Board the matter was continued to the September 8, 2010 regular Planning Board meeting. A Planning Board site visit was scheduled for Friday, August 27, 2010 at 9am.

### **Old Business**

2. Public Hearing – Peter Gallipeau, Proposed 14 lot Major Subdivision, Bailey Ave. & Sachuest Drive, Plat 126, Lots 4, 217, 218, 219 Request for Preliminary Plan Approval.

Mr. Holbrook recused himself from the discussion of this matter. Mr.

**Jackson served as solicitor.**

**Mr. Wolanski stated that the applicant had submitted a letter agreeing to an additional continuance to September 8, 2010. The required special use permit applications to allow development in Zone 1 of the Watershed Protection District are under review before the Zoning Board of review.**

**Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the September 8, 2010 regular Planning Board meeting. Vote: 7-0-0.**

**3. Request of the Zoning Board of Review for an advisory recommendation pursuant to Section 1106 of the Zoning Ordinance regarding a request for approval for residential development within Zone 1 of the Watershed Protection District. Peter Gallipeau, Proposed Lot 9 of the Saltwood Farm 14-lot Subdivision, Bailey Ave. & Sachuest Drive, Plat 126, Lot 4.**

**Mr. Holbrook recused himself from the discussion of this matter. Mr. Jackson served as solicitor.**

**Attorney David Martland represented the applicant. He stated that the proposal is similar the application recently reviewed by the board for proposed lot 10.**

**Attorney Vernon Gorton, representing the Paradise Valley Homeowners Association, stated his objection to the permit request. He cited the subdivision plan and the town's subdivision regulations which he claimed requires that areas of Zone 1/hydric soils be contained in the designated open space.**

**Mr. Wolanski referenced his memo to the Board dated August 4, 2010**

and the Planning Board's decision and conditions regarding the application for Lot 10.

Motion by Ms. Owen, seconded by Ms. Rearick, to forward a positive recommendation on the application to the Zoning Board of Review, subject to the following conditions:

- The applicant shall be required to connect to the public sewer.
- At the time of development, the builder will be required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.
- The use of lawn chemicals and other chemicals with the potential to adversely impact ground and surface water quality shall be limited.
- The recommended conditions of the Conservation Commission, contained in its letter to the Building/Zoning Official dated August 12, 2010, should be applied as conditions of approval.
- Discuss proposed revisions to the subdivision regulations regarding the completion of infrastructure prior to issuance of building permits.

Vote: 7-0-0.

4. Seguin Realty, LLC. (Toyota of Newport), Request for Development Plan Review approval to alter the exterior façade of an existing commercial building. 285 East Main Rd., Plat 113, Lot 20-A.

Mr. Weber stated that the Board had received a letter from the applicant's attorney requesting a continuance.

**Motion by Ms. Rearick, seconded by Ms. Owen, to continue the matter to the September 8, 2010 Planning Board meeting. Vote: 7-0-0.**

**5. Review of potential amendments to Zoning Ordinance Article 25A Wind Turbines regarding viewshed & historic landscape protection.**

**Mr. Weber stated that he would like the board to again consider proposed amendments to the wind turbine ordinance, as presented on the latest draft from the Town Solicitor's office and reviewed at the last July 14th meeting.**

**Mr. Adams stated that he feels that the amendments should be considered by the Town Council.**

**Motion by Mr. Adams, seconded Ms. Rearick, to forward the proposed amendments to Town Council with a recommendation in favor of adoption. Vote: 7-0-0.**

**6. Discuss proposed revisions to the subdivision regulations regarding the completion of infrastructure prior to issuance of building permits.**

**Mr. Weber stated that the Town Engineer is continuing to research practices in other communities regarding this issue.**

**By consensus the matter was continued to the September 8, 2010 Planning Board meeting.**

**7. Update on Comprehensive Community Plan 5-year update process**

**Mr. Weber stated that the Comprehensive Plan Update Committee continues its review of the Land Use Element. The next meeting will be held on September 2, 2010 .**

**New Business**

**8. Thomas & Victoria Settle, Proposed 2-lot subdivision, Greene Lane,**

**Plat 105, Lot 652, Request for combined preliminary & final approval.**

**Mr. Settle described the proposal.**

**Mr. Wolanski reviewed the recommended conditions of approval as contained in his memo to the Board dated August 4, 2010.**

**Some Board members stated that they had visited the site and had no concerns with the proposal.**

**Motion by Ms. Owen, seconded by Ms. Cirillo, to grant combined preliminary and final subdivision approval subject to the following conditions:**

**1. Prior to recording, the proposed sewer infrastructure necessary to serve the proposed lots must be installed. Alternatively, the applicant is required to post surety for the installation of all proposed and required facilities in accordance with Article 7 of the Middletown Subdivision Rules and Regulations. The form of surety must be approved by the Finance Director. Security in the amount of \$51,875 must be posted prior to recording of the final plan.**

**2. As described in the DPW Director's memo of July 23, 2010, the maintenance of the proposed sewer infrastructure extending from proposed sewer manhole 2 to the proposed structures, including sewer laterals and proposed sewer manhole 1 will be the responsibility of the properties owners. Prior to recording the plan a sewer maintenance agreement to this effect, subject to the approval of the DPW director, must be executed.**

**3. Prior to recording, the applicant must provide the Planning Department an electronic copy (AutoCAD) of the approved plan.**

**4. Prior to construction the applicant is responsible for securing all**

necessary permits from the Rhode Island Department of Transportation relating to the proposed access to the lots and utilities work within the state road.

5. At the time of development the applicant will be required to comply with all applicable provisions of town's construction site runoff and erosion control ordinance (Town Code chapter 151) and the storm water management ordinance (chapter 153).

Vote 7-0-0.

9. David P. Leys, Jr., Request for extension of subdivision approval. 268 Tuckerman Ave., Plat 116SE, Lot 109

Mr. Leys stated that he is working to comply with the conditions of the subdivision approval, but requires additional time.

Motion by Ms. Rearick, seconded by Mr. Adams, to approval a 90-day extension of the subdivision approval. Vote: 7-0-0.

10. Request of the Zoning Board of Review for an advisory opinion on a Special Use Permit Application for a Wireless telecommunications facility – City of Newport Water Department/New Cingular Wireless, LLC by AT&T Mobility Corp., Reservoir Rd., Plat 121NW, Lot 73.

Attorney David Martland, and co-counsel Mike Davis represented the applicant. The result of the project will be an increase of the diameter of the sheath surrounding the antennae at the top of the existing tower from the current 18 inches to 24 inches.

Mr. Martland presented photo representations which depict existing and proposed conditions from several vantage points.

Several board members indicated that they had no concerns with the proposal.

**Motion by Ms. Rearick, seconded by Ms. Owen, to forward a positive recommendation on the application to the Zoning Board of Review.**

**Vote: 7-0-0.**

**11. Request of the Zoning Board of Review for an advisory opinion on a Special Use Permit Application for alteration to an existing multifamily dwelling project – Picerne Real Estate Group, East Bay Village clubhouse expansion, West Main Rd, Plat 106, Lot 142**

**Ms. Owen recused herself, stating that she had received notice as an abutter from the Zoning Board of Review.**

**Attorney David Martland represented the applicant.**

**Mr. Wolanski stated that most items in Article 15 – Multi-family dwellings, are not applicable to this proposal since no new dwelling units are proposed.**

**Motion by Ms. Rearick, seconded by Mr. Adams, to forward a positive recommendation on the application to the Zoning Board of Review.**

**Vote: 6-0-0.**

**12. Request of the Zoning Board of Review for an advisory opinion on a Special Use Permit Application for development in Zone 1 of the Watershed Protection District – Picerne Real Estate Group, East Bay Village clubhouse expansion, West Main Rd, Plat 106, Lot 142.**

**Ms. Owen recused herself, stating that she had received notice as an abutter from the Zoning Board of Review.**

**Attorney David Martland represented the applicant. He described the proposal, including the attempt to limit possible impacts on the watershed by removing pavement in another area of the property.**

**Mr. Wolanski referred to his memo to the Board dated August 4, 2010**

**and the recommended conditions of approval.**

**There was also discussion of the recommended conditions provided to the Zoning Board of Review by the Conservation Commission. The Board agreed that their recommendation should reference the Conservation Commission's comments.**

**Motion by Mr. Adams, seconded by Ms. Rearick, to forward a positive recommendation on the application to the Zoning Board of Review.**

**1. At the time of development, the builder will be required to comply with the provisions of the town's storm water management ordinance (Chapter 153), and construction site runoff and erosion control (Chapter 151). The use of pervious paving and other methods to promote infiltration of storm runoff should be considered as means of meeting the requirements of Chapter 153.**

**2. The recommended conditions of the Conservation Commission, contained in its letter to the Building/Zoning Official dated August 12, 2010, should be applied as conditions of approval.**

**Vote: 6-0-0.**

**13. Request of the Zoning Board of Review for an advisory opinion on a Special Use Permit Application for development in Zone 2 of the Watershed Protection District – EMK Beacon R., 278 West Main Rd., Plat 108NW, Lot 195, to allow the installation of one 1,990 gallon above ground propane dispensing station.**

**Brad Messenger of Bemers represented the applicant. He stated that in response to concerns expressed by the Conservation Commission the proposal has been change to an underground storage tank. He distributed a photo of a similar installation including the above**

**ground filling station.**

**Mr. Adams asked about the safety requirements that the installation would be subject to.**

**Ms. Owen asked if landscaping could be installed to screen the site.**

**Mr. Messenger stated that combustible materials must be kept a certain distance from the project.**

**Mr. Wolanski was asked if issues such as safety and appearance are within the prevue of the special use permit application for the watershed protection district.**

**Mr. Wolanski stated that such issues typically are not considered in reviewing such applications. Given that the proposed use is propane storage, it appears that there would be no adverse impact to the watershed.**

**Motion by Ms. Rearick, seconded by Ms. Cirillo, to forward a positive recommendation on the application to the Zoning Board of Review, subject to the tank being installed underground. Vote: 7-0-0.**

**Motion by Ms. Owen, seconded by Ms. Rearick to adjourn. Vote: 7-0-0**

**The meeting adjourned at 7:30 pm**

**Respectfully submitted:**

**Ronald M. Wolanski**

**Town Planner**