

SPECIAL MEETING NORTH SMITHFIELD TOWN COUNCIL

JANUARY 27, 2014

KENDALL-DEAN SCHOOL AUDITORIUM

7:00 P.M.

The meeting began at 7:00 P.M. with the prayer and the pledge to the flag. Council members present were Ms. Alves, Mr. McGee, Mr. Yazbak, Mr. Zwolenski and Mr. Flaherty. Town Administrator Hamilton and Town Solicitor Lombardi were also in attendance.

SCHOOL DEPARTMENT DEFICIT

A large crowd of high school students and parents was in attendance to complain about the looming school department deficit and the resulting cuts to programs and personnel that may have to be made.

Because there was no open forum scheduled this evening nor was the matter listed as part of the agenda, MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to allow fifteen minutes for some of those in the audience to speak.

Since the number of people in attendance exceeded the number allowed in the room per the fire department, MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on an aye vote to recess at 7:06 P.M. until a head count could be taken.

The meeting resumed at 7:24 P.M.

Several students spoke who were upset that proposed budget cuts would be taking away their graduation ceremony, proms, middle and high school spring sports and various other activities.

A couple of parents who spoke were very angry and strongly urged the Council to meet with the School Committee and work together to get this funding straightened out.

MOTION by Mr. Yazbak, seconded by Mr. Zwolenski, and voted unanimously on an aye vote at 7:45 P.M. to take a five-minute recess.

MOTION by Ms. Alves, seconded by Mr. Zwolenski, and voted unanimously on an aye vote to return to the agenda items at 7:49 P.M.

**PUBLIC HEARING RE: ZONE CHANGE FOR BENOIT REALTY LLC
(ANCHOR SUBARU)**

This public hearing is for a petition by Benoit Realty LLC to rezone property described as Assessor's Plat 17, Lot 14, located off Eddie Dowling Highway from Residential Suburban (RS) to Business Highway (BH).

Attorney David Iglizzi, representing the applicant, presented the following amendment to the petition based upon several meetings that have been conducted:

I. Limitations, Conditions and Restrictions:

- 1. No additional noise shall be created by use of outdoor speakers.**
- 2. The photometric plan (lighting plan) will make every attempt to minimize “spillage” onto the abutter’s properties.**

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- 3. The access road shall be gated and restricted to emergency access only.**
- 4. There shall be no increase in storm water runoff to any abutting properties.**
- 5. There shall be a no cut buffer and conservation easement, landscape grading area, and no commercial building area as provided in that certain site plan prepared by Joe Casali Engineering, Inc. dated: January 2014**

Mr. Joe Casali, a registered professional engineer, gave a power point presentation. The proposed building is two stories, the footprint is a little less than 30,000 square feet and the entire square footage of the building is a little less than 34,000 square feet. At the present time there are no plans going forward but there is a potential for expansion for 10,000 to 24,000 square feet.

As part of an agreement with abutters, the applicant has stipulated to a 35-foot no cut buffer conservation easement and habitat preserve. On top of that is an additional 25-foot buffer needed for grading and that will be remediated with landscaping. There is another 25-foot

buffer area where no type of commercial structures will be allowed.

A goal is to have no light post or top of building break the grade of what the residents see.

There is a 25-foot wide gated access proposed for emergency vehicles. Mr. Casali sees some type of breakaway gate being positioned there.

The Benois are also looking for a building, approximately 10,000 to 15,000 square feet, for equipment storage, mainly for snow removal.

The plans include a proposed playground and dog park.

In terms of engineering there will be best management practices to comply with DEM regulations, such as swales, catch basins, etc. There will be stormwater management areas that will eventually go into the existing catch basin and under the culvert of Route 146. All of this will be subject to review by the Planning Board and the Department of Environmental Management.

In terms of septic, they would like to have a community type system.

Mr. Casali anticipates the fire chief will want a cistern on the property as a first defense.

Mr. Zwolenski questioned if the landscaping and vegetation area would be tall enough to block the view of the building from the abutters.

Mr. Casali responded that there will be a good solid landscaped area. Initially the applicants thought about putting high berms in the buffer area. It was determined the only effective way to screen the neighbors is to infill.

The positioning of the building was a very difficult portion to design because it was necessary that it be in an area where they would not be exceeding a ten percent slope.

When asked if there are any plans to ask for an exception to a thirty-foot height building, Mr. Casali responded there is not.

In response to another question, Mr. Casali stated the applicant may have to seek a special use permit from the zoning board. The material is not good bank run gravel that is a commodity that could be sold. He is looking for other possible uses for that stone, i.e. as sub-base or to be used in the walls.

Mr. Zwolenski asked if a sunset clause could be built into the zone change if approved and was told by Mr. Lombardi that it could.

Town Planner Robert Ericson commented that the Planning Board

has unanimously found this project to be consistent with the Comprehensive Plan; however he has had some concerns with the cut and fill and has expressed some thoughts on how to modify the buffer area.

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Attorney Mark Krieger was present to represent Ms. Gail Christie of 158 Sayles Hill Road. He has contacted Mr. Iglizzi and brought up some concerns he has heard from some of the neighbors. The original plan showed a ninety-foot access at the top of Sayles Hill Road but a revised plan shows the applicant has no intent to open that up to commercial traffic. There have been concerns with the visual impact. Mr. Krieger believes the Benoit team has addressed this through the landscape plan. Neighbors are concerned with spillage from the lighting system onto their property. He feels it should be directed onto the applicant's property. The Benois have agreed there will be no additional speakers. Mr. Krieger hopes that if the zone change is granted, restrictions negotiated with the neighbors will be incorporated into the motion and a separate document be recorded in the land evidence records.

There was a question regarding blasting and how it will affect the neighboring properties. Mr. Casali expects to encounter ledge and will seek a permit from the state fire marshal and there will be a solid pre-blast survey. This survey will document the well conditions, the septic systems, foundations and any cracks in the houses.

Landscape artist Diane Soule explained the plants and greenery she envisioned being placed on the property.

Mr. Michael Thompson asked about the noise from moving vehicles in that area. Would there be certain time constraints?

Mr. Benoit explained that the intent for that area is for excess storage. The primary retail operations will remain in the lower section. If a car needs to be moved, an internal person would bring it down to the showrooms and they are currently open until 8:00 p.m.

Several of the neighbors would like to see the buffer zone increased to one hundred feet or at least sixty-five feet before a cut.

Mr. Paul Soares worried there is a well-worn deer path and they will be displaced.

Mr. Patrick Murray wondered if this addition will affect his property value.

Real Estate Broker Donald Morash, Jr. commented that, based on the plans, there would be no negative effect on property values.

There was a concern about increased traffic and Mr. Benoit acknowledged that he would be speaking with the Department of

Transportation. Mr. Zwolenski added that the Planning Board would be doing a traffic review.

Scott Rabideau, a professional scientist, assesses wildlife habitat. With the proposed plan about six out of the ten acres will be lost. If the project does not go through, it is still a residentially-zoned large piece of property. Eventually you could see residential development. His assessment includes 2900 acres of virtually undeveloped area. This is a phenomenal amount of habitat just west of the project area and losing the six acres is a very minor amount of disturbance.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to continue the public hearing to March 3, 2014.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to consider this as a first reading.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote at 9:50 P.M. to extend the meeting to 10:30 P.M.

PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT SECTION 6-5 FENCES, WALLS AND HEDGES IN RESIDENTIAL DISTRICTS

Ms. Hamilton stated that Building Inspector Robert Benoit was unable to attend the meeting this evening.

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MOTION by Mr. Yazbak and seconded by Mr. Zwolenski to continue this public hearing to March 3, 2014.

Because there were a couple of people who wished to speak about this matter, Mr. Yazbak withdrew his motion and Mr. Zwolenski withdrew his second.

Mr. Paul Soares was unsure about the purpose of this proposed ordinance. The twenty-five foot setback from a front lot line is nonsensical and he thought the whole ordinance should be thrown out.

Mr. Ericson thinks when this was originally written, it was for visibility and line of site for vehicles coming out of driveways or open spaces.

MOTION by Mr. McGee, seconded by Mr. Zwolenski, and voted unanimously on a roll call vote to reject the amendment as presented.

PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT SECTION 5-7 GROUND-MOUNTED SOLAR PHOTOVOLTAIC INSTALLATIONS

This ordinance is meant to establish a site plan review for solar farms. The Planning Board has found it to be consistent with the Comprehensive Plan.

Mr. Yazbak felt that Section (g)(3) should read it is the responsibility of the owner of the real estate underneath the installation who is responsible for the removal of it.

Mr. Zwolenski suggested adding the language of Section (d)(8) to Section (g)(4) as well. He also had a question on Section (d)(2) regarding “potential shading from nearby structures or vegetation”.

Mr. Gary Ezovski asked if the language will have an impact on the use table in the current ordinance.

Mr. Ericson responded that this will be under site plan review after obtaining a special use permit.

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to continue the public hearing to March 3, 2014.

MOTION by Mr. Zwolenski, seconded by Mr. McGee, and voted unanimously on a roll call vote to consider this a first reading.

PUBLIC HEARING RE: ZONING ORDINANCE AMENDMENT SECTION 5.5.3 LAND UNSUITABLE FOR DEVELOPMENT

Mr. Ericson stated this ordinance was thought to have been passed in 2006 but it had not been voted on.

Mr. Philip Godfrin believes this proposed ordinance to be inequitable, unnecessary and discriminatory. There is already plenty of protection provided by existing law through DEM. Every time one of these ordinances is proposed, it adds to a burdensome cost of housing. It refers to residential property only and he wondered why it was not imposed on commercial or industrial property as well.

Mr. Ericson added that many subdivisions since 2006 have been based on this ordinance.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to continue this public hearing to March 3, 2014.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted 3 to 2 on a roll call vote (Mr. McGee and Mr. Yazbak voted no) to consider this as a first reading.

MOTION by Mr. Zwolenski, seconded by Mr. Flaherty, and voted unanimously on a roll call vote at 10:25 P.M. to continue the meeting to 11:00 P.M.

PUBLIC HEARING RE: CHARTER AMENDMENTS

Once again the proposed charter amendments were reviewed.

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Mr. Yazbak commented regarding Article III, Section 5 (Submission of budget to the Council). He did not think it would be feasible for the Budget Committee to complete its consideration of the budget as late as the first Monday in June. That date historically has been set aside as the date for the Council's public hearing on the budget and that needs to be advertised. The third week in May might be more suitable.

Article IV, Section 9 (Procedures) changes the number of days from five to fifteen when an ordinance that has been passed would be advertised in a newspaper. Mr. Yazbak has heard there may be legislation upcoming that would not require advertisement in a newspaper but rather on the internet or some state clearing house. He suggested leaving this open ended.

Mr. Yazbak recommended adding two sections pertaining to a modification and ratification process of collective bargaining agreements. In response to a question, Mr. Yazbak explained this proposal would not take away from the negotiating process with the School Committee; but following a preliminary agreement, the bargaining agreement would come before the Town Council for a public hearing and ratification.

After hearing discussion on the proposed charter amendments, Mr. Michael Rapko felt the town's website does not adequately provide

the whole intent of the amendments.

There was a recommendation that wording pertaining to certain personnel appointments be changed from “shall” be appointed/hired to “may” be appointed/hired. The reasoning was that at some point in time positions could be consolidated with another town and this would provide flexibility in having one person in a position.

A change to Article VI, Section 1 (Town Solicitor) would allow for a Town Solicitor to serve as solicitor until duly replaced by a town council.

MOTION by Mr. Zwolenski, seconded by Mr. Flaherty, and voted unanimously on a roll call vote at 11:00 P.M. to continue the hearing to 11:30 P.M.

Article VII Sec. 2.1 Debt Limitation - This would increase the amount of bonded indebtedness allowed in one fiscal year from \$200,000 to an amount equal to three percent of the full assessed value of the taxable property within the town.

Mr. Yazbak pointed out that a literal interpretation of that number would mean a debt limitation of \$46 million. If the percentage has to be tied to taxable property, as suggested in state law, then it would probably need to be a very small percentage.

There were suggestions for changes to the powers and duties of the Public Works Department and the School Department as far as maintenance of buildings and grounds. There was a concern for a loss of state aid to the schools if the maintenance was done by town workers. The comment was also made that maintenance of public schools lies with a school department per state law.

The Town Administrator proposed changing the membership of the school committee by having three members elected at large and the other two appointed, one by the Town Council and one by the Town Administrator. There were three people who spoke against this proposal.

MOTION by Mr. Zwolenski, seconded by Ms. Alves, and voted unanimously on a roll call vote to continue this public hearing to March 3, 2014.

AWARD OF BID FOR PURCHASE OF REPLACEMENT PUMP FOR THE GRAHAM DRIVE WATER PUMP STATION

MOTION by Mr. Yazbak, seconded by Mr. McGee, and voted unanimously on a roll call vote to approve the bid of Industrial Pump and Sales Service for a Cornell pump in the amount of \$5,865.00 based upon the recommendations of the Finance Director and the Town Administrator. Installation will be done by the Sewer & Water Department.

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STONE ARCH BRIDGE

Mr. Flaherty said Town Planner Robert Ericson confirmed with the Department of Transportation that they will not be prepared to repair the bridge until 2015.

TOWN COUNCIL MINUTES OF DECEMBER 16, 2013

MOTION by Mr. Zwolenski, seconded by Mr. Yazbak, and voted unanimously on an aye vote to approve the minutes of December 16, 2013 as amended. The Town Clerk had confirmed with Mr. Zwolenski that an easement for the Nebiker property had been recorded in 2012.

EXECUTIVE SESSION

MOTION by Mr. McGee, seconded by Ms. Alves, and voted unanimously on a roll call vote to enter into executive session at 11:26 P.M. pursuant to RIGL 42-46-5(A)(2) Sessions pertaining to collective bargaining or litigation or work sessions pertaining to collective bargaining or litigation to discuss Kaczorowski vs. Town of North Smithfield.

MOTION by Mr. McGee, seconded by Mr. Yazbak, and voted unanimously on a roll call vote to come out of executive session at 11:29 P.M. and to seal the minutes. No motions were made and no votes were taken.

MOTION by Mr. McGee, seconded by Ms. Alves, and voted

unanimously on an aye vote to adjourn at 11:30 P.M.

Respectfully submitted,

Debra A. Todd, Town Clerk