

North Smithfield Zoning Board

August 19, 2008

Kendall Dean School

83 Greene Street, Slatersville, RI

The Chair called the meeting to order at 7:13 pm.

I. Roll call

Present: Vincent Marcantonio, Bill Jühr, Steven Scarpelli, Stephen Kearns, Guy Denizard and Mario DiNunzio. Also present were Building Official Bob Benoit, Assistant Solicitor Bob Rossi, and court stenographer Shelly Deming from Allied Court Reporters.

The Chair disclosed that the Board receives no compensation or pension credits for there service.

II. Approval of Minutes—August 5, 2008

Mr. Kearns made a motion to approve the minutes of August 5, 2008.

Mr. Denizard seconded the motion, with all in favor.

III. Continued application of Joe Jenks (owner Mary Zurowski), requesting to construct a building to be used as a religious institution, which requires a Special Use Permit, per section 5.4.4, subsection 5. Locus is 1054 Victory Highway, Plat 1, Lots 141 & 151.

The Chair read a letter he had written to the North Smithfield Public Safety Commission into the record and gave copies of the letter, dated August 15, 2008 to the attorneys for both the applicant and the abutter, Mr. Sudol. The letter asks the Public Safety Commission to

give their opinion on the safety issues relating to this application to the Zoning Board.

Mr. Kearns made a motion to request that the North Smithfield Public Safety Commission provide the Zoning Board of Review with their opinion on the public safety in North Smithfield with regard to the above-referenced application, as requested in a letter dated August 15, 2008 from Vincent Marcantonio to the North Smithfield Public Safety Commission. Mr. Scarpelli seconded the motion. Zoning Board vote was as follows: AYE: Mr. Jühr, Mr. Marcantonio, Mr. Kearns, Mr. Scarpelli, Mr. Denizard. Motion passed unanimously.

Mr. Kearns also made a motion that the applicant provides a peer traffic study from an independent consultant that is agreeable to both the applicant and the town. Mr. Scarpelli seconded the motion. Zoning Board vote was as follows: AYE: Mr. Jühr, Mr. Marcantonio, Mr. Kearns, Mr. Scarpelli, Mr. Denizard. Motion passed unanimously.

Mr. Shekarchi, attorney for the applicant, stated that this requirement posed an undue burden, and is unconventional. He stated that the applicant had provided a study way ahead of the first meeting. Mr. Rossi stated that the Board's intent is to obtain a peer review for the applicant's traffic study. Mr. Shekarchi said he has never seen such a request in his career and feels that it is unreasonable that the cost should be borne by the applicant. He suggested that the town pays for the peer review of the traffic study. Mr. Jühr stated that some information in the traffic study seems unbelievable, and he would like

it to be reviewed by another party. Mr. Shekarchi stated that it would be difficult to continue this evening without the requested information. Mr. Juhr agreed with Shekarchi. Mr. Rossi stated that the peer review study requires all profiles, calculations, and photos used in study. Mr. Shekarchi asked if the Board would provide a list of what they needed to conduct the peer review. Mr. Rossi stated that they need all the information that their engineer used in the submitted traffic study. Mr. Kearns added that this information includes the road profile with elevations where rise in road may interfere with driver's sight distance, and that the engineer's drawings are needed. Mr. Kearns also requested some mitigation solutions to make the traffic more tenable, and make the situation less problematic. Mr. Juhr stated that the information needed for the peer review would include all material the applicant's expert (Mr. Desmond) used to come up with his conclusions, so that another engineer can analyze it. The peer review would require exact numbers, how the work was performed, and recommendations. Mr. Reilly, attorney for the abutter, stated that because it is on a state road, the DOT needs to approve curb cuts. Mr. Juhr said that factors into it, because the ingress and egress points are necessary to come up with what in his opinion is the most important mathematical number, the sight distance. Mr. Shekarchi stated that in the applicant's last presentation, they made it clear that the DOT will need to review the traffic study.

The Board also requested that a road profile be included with the traffic study information. Mr. Denizard stated that a road profile

exists; the DOT has this. Mr. Shekarchi clarified that the existing plan would be modified to show profiles in order for the new engineer to review. Mr. Rossi suggested using PARE Engineering for the peer review. Mr. Shekarchi agreed that PARE would be acceptable. The Chair stated that he wants to have a discussion on possible engineering firms to use for a peer review. Mr. Juhr suggested that they take a couple of days to get a list of possible engineering firms to recommend. Mr. Rossi stated that choosing an engineer before the next meeting would be violating the Open Meetings laws.

The Chair stated that he had more questions regarding the safety issues involved with the application. He stated that he and Mr. Denizard had visited the site to measure the sight distance. Based on their measurements, from the property line to a distance of 400 ft., they couldn't see oncoming traffic. Mr. Desmond was sworn in by the court stenographer. Mr. Juhr asked exactly how the measurements were taken. Mr. Desmond stated that he and some assistants measured the distance. One person stood at the center of the proposed driveway. Another person took a measurement wheel and went into the travel lane and walked as far as they could and still see the location of where a vehicle would be waiting to exit the property. Mr. Kearns stated that having a road profile would help the Board to answer some of their questions. Mr. Desmond said that if the road profile is available from the DOT, it would be fairly easy to obtain a copy, but otherwise, it would need to be surveyed, which would be expensive.

Mr. Scarpelli stated that if the DOT moves the driveway, there would be potentially not enough sight distance, depending on curb cut. Mr. Desmond replied that the DOT will look at all of these things, and won't allow something unsafe. Mr. Desmond stated that the DOT's review should be the independent study. Mr. Scarpelli asked why this has not already been done. Mr. Shekarchi stated that it is pending; it has been submitted. Mr. Denizard stated that since the curb cut exists, the DOT application won't be for a new curb cut. Mr. Desmond replied that when the use of a property is changed, different regulations apply. Mr. Denizard stated that since there is an existing curb cut, and drainage, sewer, and water exists, this is not a major application for a new curb cut. Mr. Jühr told the applicant that if the Special Use Permit is granted, the Board can't take it back. Mr. Desmond stated that he had previously served on the Planning Commission in South Kingstown, so he understands the Board's concerns, but reiterated that any approval is contingent on DOT approval. In the case of DOT not granting approval, it would not be a matter of taking the permit back, it simply won't be approved.

Mr. Kearns asked when they expected to hear from DOT. Engineer Eric Bazett was sworn in by the court stenographer. He stated that he has been working on the drainage for the property, and the DOT has submitted minor comments pertaining to the physical alteration permit. These comments include rounding of curbing and shifting the driveway 5-6 feet. The applicant hasn't resubmitted revised plans

yet and is probably within a month of submission.

The Chair asked Mr. Desmond if he was aware that the Federal Highway Association conducts road safety analyses. Mr. Desmond stated that he is aware of them, but they have they not done any for him. The Chair stated that he is looking for something like the road safety analysis conducted by the FHA. Mr. Jühr asked if the Chair is seeking that analysis in addition to the peer traffic study review. The Chair stated that he wanted to contact the DOT to have a road safety analysis conducted. Mr. Desmond stated that he could not request one, but that if the town asked they might do it. Mr. Shekarchi stated that they are about a month to 6 weeks away from getting a response on the application from DOT. Mr. Jühr stated he prefers a peer review to the DOT approval. He said he is in favor of asking the state to conduct a road safety audit so the Board can learn as much as possible. Mr. Jühr state that the lot is borderline as far as size and that driveway location is very important to consider. Mr. Kearns stated that by the time the peer review is completed, the applicant should have heard from DOT, so all the issues of the Board will be addressed.

The Chair stated that he is having trouble seeing how an increase in traffic can result in no reduction in safety. He stated that statistically there has to be an effect. The Chair stated that there will be a reduction in safety. Mr. Jühr suggested that the Board submit a letter to Public Safety Commission, asking them to request a road safety

audit. Mr. Juhr made a motion for a letter to be sent to the Public Safety Commission chair, requesting that the commission contact the state to consider that a road safety audit (via the Federal Highway Administration) be conducted for this application. Mr. Scarpelli seconded the motion. Zoning Board vote was as follows: AYE: Mr. Juhr, Mr. Marcantonio, Mr. Kearns, Mr. Scarpelli, Mr. Denizard. Motion passed unanimously.

Mr. Scarpelli stated that the Board still needs the peer review of the traffic study, and asked the applicant to provide all necessary data and information by the next meeting, at which point the Board can choose the engineering firm and transfer all information to the peer reviewer. Mr. Scarpelli made a motion that the Board requires a peer review of the applicant's traffic study. At the next meeting the petitioner will provide all documentation needed and the Board will make a determination of who will be used as a peer reviewer. Mr. Juhr asked that the applicant also submit a road profile. Mr. DiNunzio suggested the following modification to the motion: that the applicant will submit all documentation for a peer review, including a road profile and appropriate information concerning safety issues be presented at the next meeting, at which the Board and applicant will agree on a peer reviewer. Mr. Scarpelli stated that he amends his motion to accept Mr. DiNunzio's modification. Mr. Kearns seconded the motion. The Board also asked the Chair to report back from the Public Safety Commission regarding the requests for their opinion and a road safety analysis by the FHA. Mr. Kearns also asked the

applicant to provide mitigating measures to make the safety component seem more viable and to reduce any perceived safety issues. Mr. Denizard stated that the road profile should include the vertical curve in road. Zoning Board vote was as follows: AYE: Mr. Jühr, Mr. Marcantonio, Mr. Kearns, Mr. Scarpelli, Mr. Denizard. Motion passed unanimously.

Mr. Kearns suggested continuing the hearing to a date certain since any additional testimony from the applicant may have bearing on what the abutters want to present. Mr. Reilly asked Mr. Desmond if he could get a copy of the traffic accident report.

Mr. Scarpelli added the following exhibits into the record: Exhibit B1 (Board 1)--letter to the North Smithfield Public Safety Commission, dated August 15, 2008 from the Chair; exhibit P13—Traffic Incident Reports; exhibit P14--resume or Eric Bazett.

The Chair asked if the incident reports in P13 included information on the grade of the road. Mr. Desmond stated that they do not.

Mr. Scarpelli made a motion to continue the application to September 16, 2008. Mr. Desmond stated that if the DOT has the road profile available, they will submit it, if not, they will have to conduct a survey.

Mr. Rossi stated that at the September 16 meeting there will be no testimony. The applicant will appear, submit requested information, and get a recommendation on the peer review. There is no need for

witnesses to attend. Mr. Kearns seconded the motion, with all in favor.

The Chair called a recess at 8:35 pm. The meeting was called back to order at 9:04 pm.

IV. Continued application of Ryan Brouillette, requesting to remove earth material (gravel), which will require the granting of a Special Use Permit, per section 5.6.3.5. Locus is 1028 Providence Pike, Plat 11, Lot 48.

Mr. Scarpelli made a motion to continue the application to September 16, 2008. Mr. Jühr asked if the Board had received any communication from the applicant. Mr. Benoit stated that he had not heard from Mr. Brouillette. Mr. Scarpelli said that he had spoken to him, and he is in the process of getting re-engineering completed for the application. Mr. Jühr seconded the motion, with all in favor. Mr. Benoit stated that he will inform the applicant of the new date.

The Board took a 5-minute recess.

V. Continued application of Pound Hill Office & Building Park, LLC, requesting to open and operate a daycare center and an indoor and outdoor commercial recreational facility, which will require the granting of a Special Use Permit, per sections 5.4.4 (2A)-Day Care, 5.4.5(1.2)-Other Outdoor Commercial Recreation and 5.4.6 (7)-Indoor

Commercial Recreation. Locus is 621 Pound Hill Road, Plat 8, Lot 299.

Chris O'Connor, attorney for the applicant, addressed the Board. He submitted a traffic report prepared by RAB, dated June 26, 2008, which was marked exhibit P4. Mr. Scarpelli asked if the applicant wished to bifurcate the requests and concentrate on the day care portion, as was suggested at the August 5 meeting. Mr. O'Connor stated that he is prepared to go forward with both, since the common thread is traffic issues. Mr. Jühr stated that he would prefer to consider both requests together. Mr. O'Connor told the Board that he had many people present at the meeting to testify with regard to the application. There were: property owner Peter Sangermano, engineers who had worked on the project, a surveyor, Dr. Maryann Shallcross from Dr. Daycare, and Dan Fowcet, potential owner of the proposed recreational facility.

Mr. Sangermano was sworn in by the court stenographer. He addressed the Board, to present an overview of the plan. The Site Plan (no. 2122P003B-001, consisting of 9 sheets) was labeled exhibit P5. Mr. Sangermano pointed out the two playgrounds on the plan and explained that DCYF requires 75 ft. of playground area per child. He stated that one of the playgrounds is accessible through the classroom. The second playground is located across the driveway and will be used sparingly. He stated that in order to access the second playground, safety provisions, as recommended by the

Planning Board, have been added to the plan. These provisions include a raised area of the driveway and a crosswalk. Classroom space has been proposed for 120 children, but DCYF will determine the final capacity. Drop off will take place between 6:30 and 9:00 am. There will be 3 designated spaces for parent drop off directly in front of the building. Pick up will be between 3:30 and 6:00 pm. He submitted the proposed layout of the daycare center, a single sheet (FA-2, dated 7-17-08), which was marked as exhibit P6.

Mr. Sangermano stated that the state fire marshal will have to approve the plans, but added that the facility is fully sprinklered. Mr. Jühr asked about the construction of the building. Mr. Sangermano stated that it is a metal building with brick veneer on the side and front. The building has insulation, with metal studs and sheet rock. He added that the parking in the back of the building is reserved for staff, so there will not be a lot of in and out traffic while the children are in the building. That parking area is not for parents.

Maryann Shallcross was sworn in by the court stenographer. She testified that she is the owner of 24 centers, has 36 years experience in day care, and a doctorate in education. She stated that she is the director of all the facilities. She reviewed drop off procedures with the Board, stating that it usually takes 7-10 min from the time a parent parks the car, walks the child into the building, and back to the car. Pick up procedures are the same. Mr. Kearns pointed out the car route for parents, as well as the parking area. He asked if she thought

there was enough parking available. Dr. Shallcross replied that the available parking is more than sufficient. She stated that the parents will be required to park in a space and will have to walk the child into the building. No one will be parking in front of the building and having the child run into the building while the parent waits in the car.

Mr. Kearns asked about other potential tenants and the number of staff for the daycare, with regard to having enough parking for all tenants that may be using the building in the future. Dr. Shallcross stated that there will be approximately 17 staff members but that their arrival and departure times will be staggered; not all staff will be working during all the hours that the facility is open. Mr. Sangermano replied that the parking area is designed to provide enough parking for all potential tenants. He added that potential tenants will know ahead of time what is available to them. Mr. Scarpelli asked about other daycare facilities that Dr. Shallcross runs and asked if they have similar capacity for parking. Dr. Shallcross referred to facilities in Lincoln and Pawtucket and stated they are in similar areas (office parks) and they all have similar parking available and in fact, some have even fewer parking spaces available.

Mr. O'Connor asked if there is a need for daycare in North Smithfield. Dr. Shallcross replied that yes, there are 2 home daycares, 1 preschool, and the ASK (afterschool program) in town. She submitted a fact sheet, which was entered into the record as exhibit P7. The information included in that fact sheet outlines Dr. Shallcross's testimony. Mr. Jühr clarified that the business is a

12-hour operation. Dr. Shallcross stated that it is a 12-hour operation, plus occasional staff meetings. Mr. Jühr asked if the traffic during recreation use will be competing for parking spaces, or will impact the safety of daycare children. Mr. Sangermano stated that the proposed recreational facility operates starting about 5:00-6:00 pm, so there will be a very small time period of overlap. Most children are gone from the daycare by 5:00 pm. Dr. Shallcross referred to the final page of P7 to review safety procedures used in crossing the parking lot. She stated that these measures are used in the other facilities and they have never had an incident. She added that DCYF regulates the business in every aspect, otherwise no license is issued. In response to the Board's questions, Dr. Shallcross stated that she has no safety or traffic concerns. She reiterated that DCYF works through the entire process and is very hands-on in their review of facilities.

Mr. Jühr asked what the difference was between a day care and a preschool. Dr. Shallcross stated there is no difference. She stated that the DCYF mandates a specific education component in both. Mr. Jühr stated that he was under impression that the two were different. He stated that the applicant is asking for a school in a manufacturing zone. Dr. Shallcross stated that the term "preschool" refers to children aged 3-5. Mr. O'Connor stated that daycare is not a prohibited use and is included in uses permitted by special use. Mr. Jühr asked Dr. Shallcross if the facilities provide education. Dr. Shallcross stated that included in the care for children (daycare,

preschool, early childhood center), the DCYF mandates an educational component. There is no difference between a daycare and a preschool. Mr. Jühr stated that the proposed facility is a form of a school and a manufacturing zone is not designed for this use. Mr. Jühr asked what Mr. Sangermano originally proposed to do with the property. Mr. Sangermano stated that it was designed as a business park, but has not gotten as much interest as was predicted.

Mr. Jühr stated that the applicant is here seeking a Special Use Permit because his original plan didn't work out. Mr. Sangermano stated that even if used as a business park, some uses would have required a special use permit. Mr. Jühr stated that he is concerned that Mr. Sangermano will be before the Board again 6 months from now seeking more special use permits. Mr. Sangermano stated that he may need to, depending on potential tenants. Mr. Jühr stated that Mr. Sangermano had a clear understanding of what was permitted when he bought the property. He asked if he had sold part of the property. Mr. Sangermano stated that 18 acres of the property is being used, and the other 18 is currently up for sale. Mr. Jühr asked about the O'Donnell farmhouse and what was planned for that part of the property. Mr. Sangermano stated that Mrs. O'Donnell has life tenancy; provisions have been made for relocating the home after that.

Engineer Paul Bannon was sworn in by the court stenographer. He submitted his resume, which was marked exhibit P8. He stated that he has testified many times in this town and others. Mr. O'Connor

asked the Board to accept Mr. Bannon as an expert witness. Mr. Kearns made a motion to accept Mr. Bannon as an expert witness in traffic engineering. Mr. Scarpelli seconded the motion, with all in favor. Mr. Bannon explained that traffic operations are ranked from level of service A-F, with regard to the function of volume on the main roadway. Delays are calculated for vehicles trying to get out of the driveway. He stated that his original study of traffic included the use of the property as a business park, which would result in more peaking of traffic. He stated that the current project would result in more staggered entering and exiting. He stated that the soccer facility is not a morning use, and the traffic would be much more highly distributed. During the worst-case situation, in late afternoons, there would be 2-3 cars waiting to exit. The original proposal was for an 88,000 sq. ft. office park, which would result in 169 trips in morning, but with this proposal, there would be 127 total trips. In the morning, during a 1-hour period, there would be 51 trips. The Chair asked for total tips in a 3-hr. time period. Mr. Bannon stated that in conducting traffic studies, engineers look at 1-hr. windows using worst-case conditions.

Mr. Bannon stated that the worst hour for traffic will be between 7 and 8 am, when the road traffic goes from 150 up to 500 cars per hour. The staff will come in between 6:00-6:15 am, and on a given day, some students are home sick and some families have more than 1 child. It is estimated that half of the children will be arriving there in a one-hour period. The peak level traffic will be about 600 cars per

hour, then will gradually decrease to the mid-300's after 9 am, and continue at this level throughout the day. The Chair asked about the depth of vision in taking a left out of the property. Mr. Bannon stated the sight distance will be 425 ft. when cleared, as has been recommended by the traffic study. The requirement is 350 ft. for the posted speed limit, but the 425 ft. is based on actual speeds (43 mph) Minimum requirement based on speed him. Mr. Bannon stated that there is adequate safe access for the proposed uses, with the improvement suggested in the original application. There will be no adverse impacts or detriments in the safety in the area.

Mr. Scarpelli made a motion to extend the meeting to 10:10 pm. Mr. Kearns seconded the motion, with all in favor.

Mr. Jühr asked if the traffic study took into account trailer trucks. Mr. Bannon stated that they did consider truck traffic and coordinated the study with truck traffic from CVS, but the highest level of trailer truck traffic is between 12:00-4:00 am. Mr. Bannon stated that he analyzed the intersection and found that eastbound there is unlimited sight distance. Coming off the highway, trucks travel at a slow speed and have at least 500 ft. of sight distance. He had analyzed accident data and there is no history of a problem in that area. Mr. Jühr pointed out that while the trucks are traveling at slow speeds, they are trying to accelerate as they will be approaching the entrance of the property and asked if that was taken into account. Mr. Bannon stated that this is accounted for and they made recommendations based on this. He

stated that there is no need for a traffic signal. Mr. Denizard stated that the bridge in Slatersville may soon be closed for repair, and asked if they considered additional traffic this may cause. Mr. Sangermano stated that there was no consideration of that.

Dan Fowcet was sworn in by the stenographer. He stated that he is the current owner of RI Sports Center (hockey rink on 146), and that this facility is somewhat similar in that it is seasonal, with peak hours, and is slower in summertime and daytime. He stated that the peak season for use will be November through March or mid-April. Mr. Fowcet stated that soccer and lacrosse teams want to practice outdoors on full size fields, so when the weather is nice, the facility's use will decrease. He stated that the proposed hours of operation are from 5 pm to about 11 pm for men's recreational leagues. Weekend hours will be from 8 am-9 pm (seasonally). He testified that he has researched similar facilities in Massachusetts (Canton, Bedford, and Norfolk). He estimated traffic using numbers of 10 players per team, 2 coaches, and parents. There will be much less traffic for adult leagues. Mr. Kearns asked about the capacity of the facility. Mr. Fowcet said he does not know exactly, with regard to fire codes, but he estimates about 80 players, and 2 coaches per team (96), plus 20 parents inside. There will also be about 2 staff members, since it is a low maintenance business. At worst-case scenario, with the facility running at full capacity, there will be 160 cars, doubled 80 players (in case of cars entering and exiting at the same time).

The Chair asked if there are oil/water separators in the parking lot. Mr. Sangermano stated that the drainage system is done, and there are oil/water separators. He consulted the plan and stated that the plans call for 10, and 8 have been installed. The Chair also asked about the wetlands. Mr. Sangermano stated that the retaining wall has been erected, and all site work has been completed.

Mr. Kearns made a motion to continue the application to September 16, 2008. Mr. Scarpelli seconded the motion, with all in favor.

Mr. Scarpelli made a motion to adjourn at 10:16 pm. Mr. Kearns seconded the motion, with all in favor.