

North Smithfield Zoning Board of Review

July 28, 2009, 7:00 pm

Kendall Dean School

83 Greene Street, Slatersville

The Chair called the meeting to order at 7:00 pm.

1. Roll Call

Present: Vin Marcantonio, Bill Jühr, Steven Scarpelli, Stephen Kearns, Guy Denizard, Paul Pasquariello. Absent: Mario DiNunzio. Also present were Building Official Bob Benoit, Assistant Town Solicitor Bill Savastano, and a stenographer from Allied Court Reporters.

2. Disclosure of no compensation or pension credits received by the board members.

3. Application of Jeffrey Piette, requesting a dimensional variance from Section 5.5.1 (front and side building setbacks). Locus is Annette Ave., Plat 9, Lot 191. (Zoning RU-20).

The Chair announced that the Board had received a letter from the applicant's attorney, requesting a continuation to August 25, 2009, in order to give the applicant a chance to appear before the Planning Board for a recommendation.

4. Application of Lees Farm Commons, Inc, requesting a dimensional variance from Section 5.5.1 (frontage requirements) and a variance from Section 6.2 (Street access to buildings). Locus is Log Road, North Smithfield, Plat 18, Lot 32 (Zoning RA-65).

The following exhibits were entered into the record for this application:

P1 Deed of Easement (right-of-way), dated July 10, 2009

P2 Letter from Brian Gartland, North Smithfield Fire Marshal (re: emergency services)

P3 Letter from Doreen Anella, Contract Manager, First Student (re: school bus stop)

P4 Resume of William DePasquale, Certified Land Use Planner

P5 Comprehensive Plan and Zoning Analysis report, prepared by Mr. DePasquale

P6 Map showing actual boundary of property (includes area of previous discrepancy)

Attorney John Shekarchi was present for applicant. Mr. Shekarchi gave a brief summary of the applicant's requests. He stated that the applicant is seeking approval to construct a single family residence on 32.8 acres of lot, accessed by a 50-ft. right of way (200-ft. are required). The applicant is also seeking relief from section 6.2, which requires that buildings are erected on a lot abutting an improved public street. The lot abuts the Laurel Woods Estates, which are

located in the Town of Smithfield. There is an approved 50-ft. wide deeded right-of-way (P1).

Mr. Shekarchi submitted the resume of Certified Land Use Planner William DePasquale. Mr. DePasquale was sworn in by the stenographer. Mr. Scarpelli stated that the Board will accept Mr. DePasquale's resume and listen to his testimony, but will not accept him as an expert witness. It will be the Board's practice not to accept any person as an expert witness, but his testimony will be accepted. Mr. DePasquale stated that he has been to the site, reviewed all the plans, and has prepared a report summarizing his findings. This report (P5) was submitted to the Board. Mr. Juhr stated that the report should have been submitted at least a week before the hearing in order to give the Board members time to read it. Mr. DePasquale read pages 1-5 of this report as his testimony. (For full text of report, please see exhibit P5, available in the Building Official's office at the Town Hall.) The conclusion of Mr. DePasquale's report was that the granting the dimensional variances would not alter the general character of the surrounding area or impair the intent and purpose of the Comprehensive Plan and Zoning Ordinance.

Mr. Kearns asked about access to the lot and which community will come to aid in case of an emergency. He also asked if there have been similar situations in the past. Mr. Shekarchi stated that there are no subdivisions on the property; it is a grandfathered lot of record. He stated that there are several lots with the same complication,

stating that he is aware of several in Lincoln. He stated that there is no access available from North Smithfield, therefore the applicant has no choice but to access the lot from Smithfield. As for the question of emergency services, he stated that there is a mutual aid agreement, and if for any reason North Smithfield cannot provide emergency services, neighboring towns will come to aid.

Mr. Denizard stated that he had reviewed the records in the Town Hall and noticed that the same owner also owns contiguous property in Smithfield. With reference to the deeded right of way, he suggested that the applicant go before the Planning Board to see what is recorded in Smithfield and that the Planning Boards of North Smithfield and Smithfield may get together to deal with the access issue. Mr. Shekarchi stated that the Town of Smithfield has approved the access and there is no need to go to Planning.

Mr. Denizard also stated that he discovered a discrepancy in the land area. Mr. Shekarchi stated that the discrepancy has been corrected. The discrepancy was due to a mistake made by the land surveyor. The mistake was discovered and has been corrected. John Mulhearn was sworn in by the stenographer. He stated that in the development of the Laurel Woods subdivision, some land in North Smithfield was transferred as part of the same deed. The parcel in North Smithfield, according to the assessor's map, had 20.7 acres. This information was incorrect. The correct area is 32.8 acres, which has been corrected. He submitted exhibit P6, and showed on the Board the

area of discrepancy, which is shown on the map as a shaded area. He also stated that the developer intentionally did not include this area in Laurel Woods subdivision because it would have been highly complicated to include area in parts of two towns in the same subdivision.

Mr. Scarpelli asked if the road could have been extended from the subdivision in Smithfield to the property in question. Mr. Mulhearn stated that the cul-de-sac cannot be extended into another town without a complicated process. Brian Thalmann, licensed PE, was sworn in by the stenographer. He stated that the parcel was purchased in 2002, and the subdivision process began in 2002. The application worked with Smithfield's Planning Board through several submissions. This process continued through 2006, and during the process, the applicant was in contact with North Smithfield's Planning Department. At the time, the Town Planner, Michael Phillips indicated resistance to subdividing the property due to wetlands constraints. He suggested that the best use of the property was one buildable lot and asked for an easement for access to the landlocked parcel. Mr. Thalmann also stated that there are no issues with access for utilities and public safety, and added that there is a fire hydrant at the entrance to the Laurel Woods subdivision with sufficient capacity.

Mr. Kearns asked who would answer a 911 call. Mr. Thalmann stated that North Smithfield would answer that call.

Mr. Jühr asked if Laurelwood Drive is a public road and who plows

the road. Mr. Thalmann stated that the road is maintained by Smithfield Public Works.

Mr. Kearns stated that the shape of the lot on P6 is entirely different from the assessor's map. Mr. Shekarchi responded that the Plat Map is for reference only. The Class 1 survey is legal. Mr. Scarpelli asked if the different maps had any bearing on anything to do with this application. Mr. Kearns stated that it may affect the abutters list. Mr. Shekarchi stated that the radius map is prepared for town tax purposes and the Class 1 is for title conveyance. Both maps were checked and it was determined that the abutters are the same, therefore proper notice was given.

Mr. Benoit informed the Board that the closest fire station to the property is Primrose, but that the neighboring towns all have a mutual aid agreement. He also stated that there are other areas in town in which Smithfield responds in emergencies if they are closer to the property.

Mr. Pasquariello asked if a school bus stop would be added or if any children who might live in the dwelling on the property would be brought to an existing stop. Mr. Thalmann stated that the existing bus route will not be altered. Mr. Denizard stated that he did not read exhibit P3 that way, and asked if it could be recorded in the land evidence records that children will be transported from the home to the bus stop (Nipsachuck Estates/Indigo Farm Road).

Mr. Kearns asked if all the taxes for the property will go to North Smithfield and if Smithfield had any issues with servicing the road to the easement. The applicant responded that yes, all taxes are paid to North Smithfield and there are no road maintenance issues with Smithfield. Mr. Kearns asked if it would be an acceptable condition that no other homes will be built. The applicant agreed to that.

The Chair asked if there were any members of the public present to speak for or against the application. There was no one who addressed the Board.

Mr. Kearns made a motion to approve the application of Lees Farm Commons, Inc, requesting a dimensional variance from Section 5.5.1 (frontage requirements) and a variance from Section 6.2 (Street access to buildings). (Locus: Log Road, North Smithfield, Plat 18, Lot 32, Zoning RA-65) with the stipulations that: 1) access to the right-of-way be used only for this one lot and one dwelling and 2) that the school bus route already in place not altered and that children in the house be brought to closest bus stop already in North Smithfield. Mr. Scarpelli seconded the motion. Mr. Denizard stated that the school bus issue is a legal issue and asked the Mr. Savastano about issues with busing for special needs students. Mr. Savastano stated that the Zoning Board had no jurisdiction over the school bus routes. The Board is relying upon the letter in exhibit P3, but the bus company could still change the route. Mr. Kearns amended his

motion to strike the second condition. Mr. Scarpelli seconded the amended motion. Zoning Board vote was as follows: YES: Mr. Marcantonio, Mr. Juhr, Mr. Kearns, Mr. Scarpelli. NO: Mr. Denizard. Motion passed, with a vote of 4-1.

Mr. Scarpelli made a motion to adjourn at 8:19 pm. Mr. Kearns seconded the motion, with all in favor.