

Town of North Smithfield Zoning Board

Scouters' Hall, 13 Main Street

Tuesday, July 6, 2010, 7:00 PM

The meeting was called to order at 7:06 pm.

1. Roll Call

Present: Chair Vin Marcantonio, Stephen Kearns, Steven Scarpelli, Bill Juhr, Guy Denizard, Mario DiNunzio, Paul Pasquariello. Building Official Bob Benoit, Town Solicitor Rick Nadeau and court stenographer Shelley Deming from Allied Court Reporters were also present.

Members of the Planning Board present were: Chair Scott Gibbs, Dean Naylor, Stephen Vowels, Art Bassett. Absent: Gene Simone, Alex Biliouris, Joe Cardello. Also present were Town Planner Bob Ericson.

2. Dowling Village: Discussion with Zoning Board of Review concerning proposed wind turbine/conservation changes to replace 76 residential condo units in Dowling Village Phase IV.

Mr. Gibbs gave an overview of the issue to be discussed. The applicant is seeking to modify the Special Use Permit previously granted by the Zoning Board for Dowling Village, to allow

construction of a wind turbine in place of the 76 condominium units. The remaining land will be purchased by the Land Trust for use as conservation land. Mr. Ericson stated that a mixed-use zone needs to have at least 2 uses, but that residential use is not mandated. The request will be for conditional modification of the Special Use Permit, and if the wind turbine is not built due to the applicant not meeting requirements of other agencies (i.e. DEM, FAA) or does not meet other deadlines (federal grant money), the Special Use Permit will revert to the current one, which allows for the construction of the condominium units.

Mr. Gibbs explained that the land to be used for Phase IV of Dowling Village can be purchased by the Land Trust with the help of \$400,000 in grant money from Rhode Island DEM. The purchase price will be negotiated, with the Town using open space money for the remainder. The lease income (estimated at \$40,000 per year) from the wind turbine will be used to pay the Town's debt. Mr. Ericson explained the technical specifications of the proposed turbine and explained that construction must begin by the end of 2010 in order to qualify for 30% of the project being paid for through federal money set aside for renewable energy project. The purchase agreement needs to be in place by early September in order to obtain the DEM grant. This deadline has already been extended once. If the financial deadlines are not met, the project is not feasible.

Mr. Denizard asked for details on a proposed wind ordinance that was

listed on a recent Town Council agenda. Mr. Ericson stated that the ordinance is a separate issue and has not yet been approved by the Town Council.

Some members of the Zoning Board asked about income from the wind turbine project compared to that of the condos. Mr. Gibbs referred to a spreadsheet prepared by Mr. Ericson, but pointed out that Planning Board decisions cannot be based on financial impact to the Town.

Mr. Denizard expressed concerns with the location and stated that the FAA will have to approve the plans. Mr. Ericson explained that the applicant is well-versed in the FAA approval process, as they are aware of all approvals required by other agencies. This will all be addressed in the public hearings and planning process at future Planning Board meetings. The issue to be determined by the Zoning Board is whether or not to modify the existing Special Use Permit. Because it will be a conditional approval, if the requirements normally addressed during the planning approval process are not met, the project will not move forward.

The group also discussed that the condos may not ever be built, as the developer is under no obligation to complete Phase IV, and it will be at least 5 years before construction will start if they do build the condos. The wind turbine project will be under construction by the end of 2010.

Mr. Jühr asked about a letter from National Grid and a narrative written by Eric Offenbergh that were submitted to the members of the Planning and Zoning Boards. Mr. Ericson stated that the letter will be addressed during the public hearing to follow this discussion.

Mr. Kearns asked about the details of the sale of the land. Mr. Ericson stated that RAM Investment partners hold the title to the land and that Bucci Development holds the right of first refusal, but they have agreed to waive this right if the Land Trust wants to purchase the land. In response to Mr. Kearns' concern that the land is purchased but the wind turbine is not built, Mr. Ericson stated that the Town Council would be very unwilling to access the open space bond without a means of revenue. The purchase and sales agreement needs to be in place by September in order to receive DEM money, but the closing does not have to occur for another year. This will provide time for the applicant to obtain all other necessary approvals (from Planning Board, DEM, FAA, etc.).

Mr. Pasquariello asked why the turbine had to be built in lieu of condos, instead of constructing both. Mr. Ericson stated that due to fall zone requirements, the property is not big enough for both.

Mr. Kearns expressed concern about the time constraints on this project and questioned whether all approvals could be obtained in the short window before the September deadline. Mr. Ericson stated that

the burden of gathering the needed information and approvals is on the applicant. Mr. Gibbs added that the Town has been presented with an issue, which in some people's opinion is a great opportunity. He stated that if the public perceives it that way, then hopefully the Town can do what it can to give the applicant a chance to gather the information and approvals that it needs.

Mr. Denizard asked when the Planning Board first found out about this proposal. Mr. Gibbs replied that it was discussed at the June 17, 2010 Planning Board meeting.

Mr. Jühr stated that the applicant is asking for a Special Use Permit without providing clear information on the details of the project. Mr. Gibbs stated that the Planning Board will review all plans before granting any approvals. Mr. Naylor stated that the issue at hand is that if the Zoning Board does not grant an approval on the modification of the Special Use Permit, then the process stops. If the Zoning Board grants the modification conditionally, it allows the Planning Board to go forward with its regular process of development plan review. He added that he is in complete agreement that there are many details remaining before the Planning Board will approve any changes and if the plans are not satisfactory, then the Special Use Permit will revert to what is currently approved.

Mr. Scarpelli agreed that the applicant has a right to a hearing and that amending the Special Use Permit conditionally allows the

process to go forward but protects the existing agreement if conditions cannot be met.

Mr. DiNunzio asked what is more desirable from a planning perspective—open space or condos. Mr. Gibbs stated that there is no formal position on the big picture, but that the plan will be looked at in great detail. He pointed out again that the developer has no obligation to ever build the condos, and he added that he has a major issue with the applicant asking to change the use, as it seems that they are trying to get out of the residential obligation. He stated that the Planning Board remains open-minded and is willing to hear the applicant's proposal.

Mr. Kearns pointed out that the existing Special Use Permit has no specifics on the condos and that they could all be 3-bedroom condos, which usually is not a financial benefit to a town.

Mr. Scarpelli made a motion at 8:00 pm that the Zoning Board take a 5-minute recess. Mr. Kearns seconded the motion, with all in favor. The Planning Board remained in session to address agenda item #3.

Reconvene as Zoning Board of Review

- 1. Disclosure of no compensation or pension credits received by the board members.**

2. Application of Bucci Development, LLC, seeks conditional modification of a special use permit to allow the development of conservation land and a wind turbine in lieu of 76 residential housing units. The affected lot is AP 13, Lot 133, formerly listed as Lot 18 on the Dowling Village Final Plan.

****See attached transcript prepared by Allied Court Reporters.**

Mr. Scarpelli made a motion to adjourn at 10:25 pm. Mr. Kearns seconded the motion, with all in favor.

TRANSCRIPT COULD NOT BE UPLOADED. IT IS AVAILABLE AT NORTH SMITHFIELD TOWN CLERK'S OFFICE.