

North Smithfield Zoning Board of Review
July 14, 2015, 7:00 pm
Kendall Dean School
83 Green Street, Slatersville, RI

The Chair called the meeting to order at 7:08 pm.

1. Roll Call

Present: Chair William Juhr, Paul Pasquariello, Mario DiNunzio, Vincent Marcantonio and Robert Najarian. Also present was Asst. Town Solicitor Stephen Archambault, Building and Zoning Official, James Cambio, and Zoning Inspector, Carl Johnson. Absent: Steve Scarpelli, and Scott Martin.

2. Mr. Juhr made disclosure of no compensation or pension credits are received by the board members.

3. Approval of minutes, June 9, 2015.

Mr. Pasquariello made a motion to approve the minutes of June 9, 2015. Mr. DiNunzio seconded the motion, with all in favor.

4. Vote to approve the written decision for the application of Richard Gentes, (DBA Road Runner Auto Sales) requesting a use variance to sell 10 cars from his property located at 445 St. Paul St., North Smithfield, AP 3, Lot 164, Zoning District: LC (Limited Commercial) from Section 5.4.7 subsection 9.

Mr. Pasquariello made a motion to approve the minutes of June 9, 2015. Mr. DiNunzio seconded the motion, with all in favor.

5. Continuation of the application for Sol Bright Renewable Energy, LLC as amended requesting a special use permit and/or use variance to install and operate a 1,249 kilowatt DC nameplate solar photovoltaic system on the property of Lyn & Michael Spinella identified as Brookside Equestrian located at 90 Tiff Rd, North Smithfield, AP 4, Lots 49, 319, 397, Zoning District: RRC from Section 5.7. For the purpose of the Zoning Ordinance, Zoning District RRC shall be synonymous with the previous names REA and REA -120.

Ryan Black from SolBright Renewable Energy was sworn in at the last meeting. After consulting with Mr. Robert Ericson, Town Planner, they are resubmitting an amended application for the purpose of the Zoning Ordinance, Zoning District RRC shall be synonymous with the previous names REA asking for a special use permit. Mr. Juhr stated the proposal can only go in a commercial zone with a special use permit and therefore requesting relief from RRC Zone as a result also needs a use variance.

Mr. Juhr reviewed the Exhibits.

P1) Town of North Smithfield Application for Certificate of Zoning Compliance, Amended Application No ZC-2015-04, 1 page, date issued 6/22/2015, Zoning District RRC (REA and REA120), Plat 4, Lot 49, 319, 397.

P2) Application for Hearing before Zoning Board of Review, Amended Application No ZC-2015-04, filled out by the applicant dated 6/22/2015, Zone: RRC (REA and REA 120)1 page.

P3) Town of North Smithfield letterhead, Amended Application No ZC-2015-04 (Amended), dated 6/22/2015, Zoning District RRC (REA and REA 120), this document acknowledges that the applicant knows all of the requirements he is putting before the board, 1 page.

P4) Letterhead of SolBright Renewable Energy, dated May 11, 2015 to Town of North Smithfield Re: Section 5.7, (d) 5. Proposed System Installer & Applicant, Andrew Streit, SolBright Renewable Energy, Land Owner, Michael and Lyn Spinella, 90 Tiff Rd, N. Smithfield, RI, Financing Company, Jack Hachmann, Manager Commercial Assets, WGL Energy Systems.

P5) Copy of Section 5.7 Ground-mounted solar photovoltaic installations, from Town Ordinance, 3 pages.

P6) Letterhead of SolBright Renewable Energy, dated May 12, 2015, to Mr. Jim Cambio, Building/Zoning Inspector, subject Letter of Intent, signed by Ryan Black, SolBright Renewable Energy.

P7) The continuation of this meeting was re-advertised for two weeks in the Valley Breeze. The certified mail green cards have been received after the re-advertisement of this meeting verified by Mr. Cambio. Abutter's List from the original notification, SolBright Renewal Energy letterhead, Property Owners within 200 feet of Plat 4, Lots 49, 319 and 397.

P8) 200' Radius Map Photovoltaic (PV) System at Brookside Equestrian Center, 90 Tiff Road, AP 4, Lots 49, 319 & 397 stamped by Nathan D. Lauder, Professional Land Surveyor, dated May 14, 2015 from Cherenzia & Associates, Ltd, Job No: 215022.

P9) Enlarged Site Plan, Construction Engineering Group consulting engineers, David E. Alley, PE, RI Professional Engineer, dated 05-04-14, Project No 140276, Drawing No PVE-2.0.

P10) Drawing signed by Nathan D. Lauder, Professional Land Surveyor, Existing Conditions Plan Topographic Survey Prepared for Sol Bright, dated May 8, 2015, Job No 215022.

P11) BB&T Insurance Services letterhead, dated April 29, 2015, Proof of surety-for reference purposes, the names are blacked out, subject SolBright Renewable Energy, LLC it does not exist yet.

P12) Certificate of Liability Insurance, two-sided document, Producer BB&T Insurance Services, Inc., Insured SolBright Renewable Energy LLC, dated 5/4/2015.

P13) Certificate of Liability Insurance, back side of document labeled P12, Producer Lloyd Pro Group Inc, Insurer A: Hartford Casualty Insurance Co, Insured SolBright Renewable Energy LLC, dated 10/31/2014.

P14) Exhibit G – Interconnection Service Agreement, 12 pages., Agreement dated May 6, 2015, top right corner R.I.P.U.C. No. 2078, bottom left corner Application Number: 16721813, each page has customer initials.

P15) SolBright Renewable Energy, Operations and Maintenance Proposal for BEC, 7 pages, no date, not signed.

P16) SolBright Renewable Energy, Decommissioning Overview, 5 pages, no date, not signed.

P17) Document was received in latest packet, copy of the Town map which reflects REA Zone, printed on 6/23/2015, last update 10/1/2014, GIS parcel lines 7/1/2014. The Town Planner and Building Official are working to get the maps rectified. Landowners are the Spinella's,

At 7:40 p.m., Mr. DiNunzio made a motion to Recess for 10 minutes to review the minutes of the June 18, 2015 Planning Board meeting, seconded by Mr. Marcantonio, with all in favor. Back in session at 7:46 p.m.

P18) Minutes for Town of North Smithfield Planning Board held on June 18, 2015, item 6.

Ryan Black stated RI Legislature passed legislation which requires the utility company, National Grid, and the State of RI to procure a certain amount of renewable energy that is considered low emissions or zero emissions and solar is a big part of that. SolBright won the bid for the contract with the utility company (interconnection agreement) to sell electricity from the property. They would pay the landowner as a lease for the land in a 20 year power purchase agreement. There is an optional renewal at the end of that period.

SolBright would like to build and operate a 1,249 kilowatt solar photovoltaic installation covering roughly eight acres on the property. The solar panels sit on the land in rows and take the electricity off the farm and send to National Grid utility poles.

Discussion at the Planning Board meeting: there would be no noise coming from the panels; the glass on the panels are made of non-reflective material reducing any glare; SolBright would provide appropriate visual evergreen vegetative buffer as a condition to the properties on the southern area of the lot.

Mr. Black stated that the landowner contacted SolBright after seeing the East Providence project in the paper. One of the conditions for the application with National Grid is to have site control and enter into a letter of content. Under the panels will be grass.

Mr. Juhr mentioned SolBright would receive financial gains from National Grid and in return the landowner would receive financial gains. Mr. Black stated the project would generate tax revenue to the town as tangible assets. Part of the conversation with the Town Council was because solar was considered a new asset class and the state legislature in RI effectively passed on the authority to the local level. The Town Council decided about a year ago on the annual payment instead of percentage of the asset value. A negotiated pilot payment was brought before the Town Council. Roseann Nadeau, Town Councilor, stated that a request for tax abatement in lieu of taxes, the pilot program, was before the Town Council. Mr. Black stated that \$20,000 per year was negotiated with the Town Council. Mr. Black stated this is over 2 million dollar project and after discussions with Town Council they lowered the abatement.

Mr. Black stated the panel field will be located on southern location Lot 49 and a line from Lot 49 through Lot 319 would be transmission line bringing the solar panels to the Grid (the utility company will have 3 poles and SolBright will have 3 poles) and Lot 397 would have poles to get to the street where National Grid poles are located – have to cross all three lots.

Mr. Juhr asked what road is used to access the site and has the Fire Marshall approved this project for ingress and egress. Mr. Archambault stated that the applicant does not have an attorney and Mr. Igliazzi's memo covers the two issues for use variance and special use permit. Mr. Archambault stated that there are two relevant issues which the Board should first consider the use variance and tests under Ordinance 9.3.1 and 9.3.2 and then the special use permit where the Fire Marshall falls under. Mr. Black said they access the site through Tiff Road.

Mr. Juhr stated he looks at every project and considers the safety of the residents and how it impacts the neighborhood.

Mr. Najarian questioned, what is the hardship that SolBright is seeking relief pertaining to 9.3.1. The owner must show there is hardship and ask the Zoning Board for relief. Mr. Black stated he is an advocate for this technology and promoting low emissions or zero emission.

Mr. Archambault reviewed Section 9.3.1, Subsection (b) that the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain. The applicant has not taken prior action and getting financial gain and is not in (b). Both sentences have to be read together conjunctively. All property has a use and value. Mr. Archambault stated the applicant has a lease with the owner and acts as the owner of the property. Recommendation by Mr. Archambault to consider the use variance first, go through all the elements and then consider the special use permit then make any findings conditional solely upon this applicant.

Mr. Juhr asked Mr. Black if he looked at any other property – Mr. Black stated he was contacted by the Spinelli's to look at the property but uses Google maps to look at other commercial property.

Mr. DiNunzio stated there are benefits to this project and minimal disturbances; he would like to hear from the abutters and put some conditions on the project.

Mr. Jühr discussed Use Variance test criteria, Section 9.3.1.

- (a) Already discussed;
- (b) Already discussed;
- (c) Mr. Black stated this project will preserve the land there will be no major land movements and a way to keep rural land. This is a modest financial gain for the landowner;
- (d) N/A
- (e) This is a commercial project;
- (f) Improvement to the land

Special Use Permit test criteria, Sec. 9.2

- (1) Fire Department has access by Tiff Rd to Lot 49 (ingress and egress). No public road for access. Mr. Jühr said the project needs Fire Marshall sign off. Mr. Cambio stated after Zoning Board approval, the applicant will then request a building permit which triggers the plan review and then need approval by the Fire Marshall;
- (2) The inverter produced a slight hum – Planning Board approval in compliance with Town’s noise ordinance, no odor and no glare.
- (3) Access via Tiff Rd, public road, to allow fire truck if fire or explosion;
- (4) N/A;
- (5) Screening, trees to help with glare along the southern border;
- (6) Minimal signs, a security fence around the solar panels; they will bury the line down to 35’ utility pole, there will be 3 poles SolBright owns and 3 poles National Grid owns;
- (7) N/A;
- (8) Preservation of rural landscapes in New England

Mr. Black stated the property is 70 plus acres and road frontage is on 90 Tiff Road. Mr. Jühr stressed his concern if there was ever a catastrophic emergency at the site and its close proximity to the L&RR Superfund site and wants to protect the town’s liability and the town residents in the area. Mr. Pasquariello went to inspect the property when he received the application packet and the driveway is more than adequate for fire trucks. Mr. Jühr wants to stipulate the Fire Marshall sign off on ingress and egress of the property for public safety of the town.

Public input (8:50 p.m.)

Stephen Bator was sworn in.

Mr. Bator’s wife and family (Stones) have owned 8 acres since 1953 which abuts the farm. Two reasons against the project: (1) Industrial property being built in primarily residential area; (2) location of project is close to Stone’s property line. The project will be an eyesore with a prison on one side and pristine farm on the other. Mr. Bator mentioned an article on 6/2/2015 in the Woonsocket Call discussing solar farms being built on landfill sites.

Mr. Jühr reviewed the Abutter’s Exhibits

A1) Email from Mark Kimball to Steve Bator, dated June 22, 2015 8:19 am

A2) Color print out of an example of a solar farm comparable to the proposal

A3) Color print out of the same solar farm comparable to the proposal

Mr. Bator is concerned with noise and interference with radio stations. Mr. Bator would like to see this project in a landfill location. Mr. Bator stated the equestrian center has not been a good neighbor to the abutters - they put boulders on the road so they cannot get to their property for 8 years unless by boat or hike around. Old Tiff Rd and Old Oxford Rd, public roads, are blocked and no longer accessible. Mr. Bator stated this is in litigation in Superior Court. Ms. Paulette Hamilton has taken more of an interest and looking into it.

Mr. Bator stated his property borders the property of the proposed solar panels. Mr. Cambio stated Mr. Bator's property is land locked and not buildable unless they have a right of way. Lot 12 would have to deed him a piece of property to access.

A4) North Smithfield ZBR minutes dated June 15, 1999 at 7:00 PM, 6 pages, members present: Messrs. Halliwell, Dubois, Drainville, Dowling, Dube, Becker and Mrs. Keene. The Building and Zoning Inspector, Robert Benoit was also present as well as the clerk.

Mr. Bator highlighted pages indicate the land was to be used for farming, boarding stable for horses, a substantial portion of the property was designated to grow hay land, in order to qualify for farming status there would need to be five acres or \$2,500. In order to continue to operate the horse farm she would have to remove the gravel and level land. No crops, livestock or hay grown on land.

A5) Picture of sand and gravel operation, 60' deep, dated Nov. 2012

A6) Picture of sand and gravel operation, dated July 2015

A7) Picture of the road going into the area, dated July 2015

A8) Portrait printout, two pictures on the same page, top picture same road as A7 and bottom picture same road as A6

Mr. Bator stated two abutters told him they saw four flat bed trailers going down Tiff Rd to Brook Equestrian Center and delivered 75-100, 4' x 4' x 4' pallets of equipment.

Mr. Bator feels the owner is in violation of previous decisions and abutters are angry.

Mr. Cambio stated he met with Mr. Bator regarding Old Tiff and Old Oxford Rd being blocked off and in litigation – spoke with Town Solicitor and trying to get a title search. Mr. Cambio does not know why the roads are blocked off. Mr. Cambio is trying to identify ownership.

A9) Pictures of a red barn with fencing and hundreds of crates 10' x 5' x 5'

A10) Picture of same group of crates on the property – no picture of the red barn

Mr. Black said they had to take delivery of the panels to be on deadline with National Grid. Mr. Najarian stated it is disrespectful to the Board to order the panels and deliver to the site assuming

the project would be approved. SolBright could have sent the panels to a storage warehouse to play by the rules.

Mr. Bator is disappointed the Town has not monitored this more closely from 1999 forward. Request the application be denied because there is no hardship on behalf of the applicant and SolBright find another location.

Peter J. Mancini was sworn in.

Mr. Mancini has lived at 68 Tiff Rd for 20 years – disgust with sand on the roof of his house, sand in pool – had Town Administrators at his house. He saw four trailer trucks going down Tiff Road crossing a bridge with 10,000 pound limit. If there was ever a fire down the end of Tiff Road, people would be trapped. The Spinelli's blocked off the road and opened the road for their convenience.

Mr. Cambio has been out to the site a few times and asked the Fire Marshall – could not get trucks in there because not Town approved roads. Right near the house and barn are where the solar farm will be located. The ground is level where the proposed solar farm is going. Not relevant to the solar farm installation.

Mr. Archambault early on suggested to the board that they look at both the use variance and special use permit. Solicitor, David Iglizzi, was at the last meeting and prepared a Memorandum that answers question 2, What is the proper application request and standard to be applied. A use variance or a special use permit? No testimony by this applicant with respect on RRC for the record that there was a commercial zone. The board should focus on the use variance. Mr. Archambault suggested a stipulation that any condition of approval or disapproval for use variance only be granted solely to this applicant. Mr. Archambault stated the board should run through the testimony of a use variance and special use permit to see whether or not the applicant would testify this was a general commercial zone. At this juncture, after the abutters and applicant has not heard testimony that says this is a general commercial zone district. Apply the use variance test on the record and the board should consider the use variance.

Cheryl Stone Bator was sworn in.

She asked Mr. Cambio if he received a statement from Mr. King. Mr. Archambault suggested that Mr. Cambio submit Mr. King's email after the last abutter speaks. Mr. King is in Florida and could not attend. Ms. Hamilton walked the property with them. Lynn Spinelli asked sand and gravel to put boulders on the road. Mrs. Bator's great grandfather built the roads in Slatersville back in the 1800's.

At 10:00 p.m., Mr. Pasquariello made a motion to extend the meeting for 5 minutes to enter the email from Mr. King, seconded by Mr. DiNunzio.

A11) Email from Mr. Bill King, dated Monday, June 22, 2015 5:14 AM subject Road Closing.

Mr. Jühr asked the Building Official to send out copies of all the Abutter's Exhibits to the board members to review for the next meeting.

The meeting will be continued to July 28, 2015.

6. Adjourn

Mr. Pasquariello made a motion to adjourn at 10:05 p.m. Mr. DiNunzio seconded the motion, with all in favor.

Submitted by Diane Agostini