

North Smithfield Zoning Board of Review  
July 28, 2015, 7:00 pm  
North Smithfield Middle School  
1850 Providence Pike, North Smithfield, RI

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

1. Roll Call

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

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

3. Approval of minutes, July 14, 2015.

Mr. Jühr stated there was a typo on the minutes regarding the date and page 4, third paragraph, should read "Ordinance 9.3.1 and 9.3.2." Mr. DiNunzio made a motion to approve the July 14, 2015 minutes as amended. Mr. Pasquariello seconded the motion, with all in favor.

4. 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.

Patrick Hassell was sworn in.

Mr. Jühr submitted the following Exhibit from the Board.

B1) Memorandum dated July 7, 2015, sent by Town Solicitor David Igliozi to Asst. Town Solicitor Stephen Archambault, 2 pages, three questions on the document.

Mr. Jühr asked if any abutters would like to comment then the board would deliberate.

Stephen Bator, stated he was at the last meeting and wanted to recap some remarks and comments. The family is not in favor of the applicant's proposal at Brookside Equestrian; it will be an eyesore and does not blend in the area. It violates the zoning laws. "Section 5.7 Ground-mounted solar photovoltaic installations. (a) Purpose. The purpose of this section is to promote the creation of new ground-mounted solar installations by providing standards for the placement, design, construction, operation, monitoring, modification and removal of such installations that address public safety, minimize impacts on scenic, natural and historic resources, are compatible

with the general neighborhood in which they are located and are compatible with Comprehensive Plan of the Town of North Smithfield.” This will have an impact on their property, and it is not minimal, it is the size of three football fields. Mr. Bator commends the town for being proactive but it appears the project is rubber stamped to go forward. Two weeks ago in the Valley Breeze, mentions two solar projects and mentions Brookside Equestrian is under works. The benefit is to the applicant and property owners not to the Town. Another solar project in North Smithfield will have a benefit going to the Town. There is no hardship and the project is best suited elsewhere in Town. Mr. Bator hopes the board will deny the application.

Colleen Lanoie was sworn in.

Ms. Lanoie stated she lives directly across from both sandpits and equipment is running all night. There have been 4-5 tractor trailers going to the property last week; police were called no one came. The abutters received offers in the mail last week to buy their houses from a Newport real estate address. Ms. Lanoie contacted Paulette Hamilton and she did not help. The By Laws stated the operations should operate 8:00 a.m. – 4:00 p.m. The gate opens and closes day and night at all hours. Very few horses on the farm now, there is too much sand. There is noise from the horse farm - something runs all night long. In Exhibit A4, 1999 minutes, they were granted relief to grow hay and to remove a hill of sand. No hay was grown in the past 16 years.

Mr. Jühr submitted the following Exhibit from the Board.

B2) Picture taken by Mr. Jühr on June 8, 2015 of Tiff Road.

Mr. Jühr is concerned with public safety. A solar farm is a good use but needs to be done in accordance with Town Ordinances and rules. Zoning Ordinance Section 5.7.2(c) – (2) Location. Ground-mounted solar photovoltaic installations with a minimum nameplate capacity of 250 kilowatt direct current (kW DC) shall only be allowed in the general commercial zoning district by special use permit. Mr. Jühr feels this should go to the Town Council to decide.

Mr. Jühr asked Mr. Cambio to contact the Fire Marshall about ingress/egress.

Mr. Jühr submitted the following Exhibit.

B3) Letter from North Smithfield Fire & Rescue Services, Inc., from the Office of Fire Prevention to Mr. Cambio, dated July 23, 2015 signed by Brian Gartland, Fire Marshal.

B4) Attachment letter from North Smithfield Fire & Rescue Services, Inc., from North Smithfield Fire Marshal dated July 23, 2015 Subject – Plan-Review.

Mr. Igliazzi stated there is no prohibition under state law or case law preventing an applicant from seeking multiple reliefs. Spot zoning is a function of the Town Council. An applicant could have a use variance and can get a different use variance on the same lot. Mr. Igliazzi stated the in the Zoning Code, the definition of applicant is the landowner or authorized agent who files the application with the landowner’s signature. Relief follows the land; change of ownership does

not terminate a use variance. RIGL § 45-24-43 General provisions – Special conditions can impose with conditions end with the lease.

Mr. Marcantonio reviewed the North Smithfield Zoning Board of Review minutes dated June 15, 1999. There were three special use permits so far. Mr. Cambio said Bob Benoit was made aware of complaints about gravel extraction violations and ordered a cease and desists and the order was lifted by the Town Council after deemed acceptable.

Town Administrator Paulette D. Hamilton was sworn in.

Ms. Hamilton stated she recalls there was a rescinding of the cease and desists and that the “Reclamation Plan” is still what they are working from with the intention to do reclamation of the land.

Patrick Hassell, Managing Director of SolBright. The landowner contacted SolBright when they were doing the Forbes Street Landfill in East Providence. They have an interconnection agreement with National Grid for this site. They have observed the site and are comfortable with the dust and debris.

Mr. Jühr said it will be beneficial if the board could visit the site to see how far away the solar panels will be to L319, and L397. Why are they asking for relief on three lots when the bulk of the solar panels will be located on 8 acres on the southern part of Lot 49. Mr. Jühr stated that greater than 250 watts has to be in a commercial zone by special use permit and is not allowed in RRC zone.

Mr. Hassell said there are economic and environmental benefits. Mr. Jühr stated this is a two million dollar project and they want to pay the minimum tax to the Town. That site already has three special uses.

Mr. Scarpelli stated the owner receives a benefit from this use variance – the owner and agent are creating the hardship by taking this piece of property.

Mr. Hassell stated he went to Mr. Ericson a year ago and gathered his support for this project.

Mr. Jühr stated there are a lot of issues with this property – concerns with ingress/egress. Mr. Jühr has questions for the landowner as they are going to be the beneficiary of this project. A site visit will help answer questions and they request to have the landowner present.

Mr. Igliazzi stated the board must have a scheduled site visit to ask questions but cannot discuss amongst each board member or come to conclusions.

Paul Zwolenski, Town Council member was sworn in.

Mr. Zwolenski stated when the Town was interested in purchasing land at Dowling Village the Council scheduled a site visit for all interested parties and they asked questions but did not deliberate. The public was also invited. Mr. Igliazzi stated the public would have to sign

releases to walk on the property. Questions could be asked by the Board but not the public and no deliberations. Mr. Hassell stated he would arrange a site visit after speaking with the landowner and will contact Mr. Cambio. Mr. Iglizzi said a 48 hour posting requirement would have to be made for the site visit.

Mr. Bator stated the largest landowner of Lot 49, Mr. King, sent an email which was not read at the last meeting. Mr. Bator read Exhibit A11 into the record. Email dated June 22, 2015 5:14 AM, Subject- Road Closing. Hi Jim, would like to go on record as to my objections of the closing of Tiff Rd & Old Oxford Rd by Holliston Sand. It is unbelievable how anyone could have the conscience to close off someone's ability to get to their land. Also how the town council would allow this to happen? You can bet your life that they would never allow this to happen on their roads. On the meeting concerning the variance on the horse farm: I am totally against any such action of Spinella's trying to get a foot in on solar panels. I do not trust her as her past history shows. 15 years ago she duped the town fathers into allowing her to remove sand from her land so her horses wouldn't slip on the rough terrain. She called it landscaping as the town ordinance would not let her remove any sand from her land. The town council and building inspector should have stopped her. Now after removing more than 4 million yards of sand and 4 million dollars richer my property has lost its value and I can't even get to it. Again I am totally against any further issues that will destroy the value of my property. Thank you, Bill King.

A motion was made by Mr. Scarpelli to continue the meeting to August 25, 2015, seconded by Mr. Marcantonio, with all in favor.

At 8:30 p.m. a 10 minute recess.

At 8:44 p.m. back in session.

5) Application for AMERCO Real Estate Company, requesting a special use permit to install and operate a 1,100 gallon propane filling station from Section 5.4.3, #22 located at 408 Eddie Dowling Highway, North Smithfield, AP 13, Lot 150. Zoning District: Business Highway (BH).

Sandra J. Gardner was sworn in.

Mr. Juhr submitted the following Exhibit.

Mr. Cambio discovered an error on his paperwork and P1 and P2 were amended to read "A special use permit under Section 5.4.7, #22."

P1) Application for a Certificate of Zoning Compliance, Application No: ZC-15-28, dated 6/24/15, Zoning District: BH.

P2) Application for Hearing before Zoning Board of Review, Application No: ZC-15-28, dated 6/24/15, Zoning District: BH.

P3) Letterhead Town of North Smithfield, Office of the Building and Zoning Official, Application No: ZC-15-28, Plat 13, Lot 150.

P4) Abutters List on letterhead of National Land Surveyors-Developers, Inc., 15 abutters.

P5) Full size map, Architectural Site Plan, 796028, date 4/14/15, Robert V. Nangia, Registered Professional Engineer.

Sandra Gardner stated they are trying to transform the building to a full U-Haul Center. Currently they rent trucks out of the front of the building the rest of the building is not used. They have permission to have an end result showroom in the back and would like to have propane tank in the back for customers to keep their existing tanks and pay for what they get. There are propane tanks currently on the property for heating – three, 1,000 tanks.

Christopher Hague was sworn in.

Christopher Hague, Branch Manager for Osterman Propane. The propane tank will be a vertical tank, 1,100 gallon filling station with all proper fencing and secured with automatic shut off valves inside the building. This will be the 4<sup>th</sup> tank. The closest neighbor is Walmart closest to the tank and over 500' away from the residential property.

Sandra Gardner stated they would like everything to be done in the back and not use the front of the building. The rear of the building will be used like the front of a building. Cannot circle the building, no signage is needed for the propane; no buffer is needed, similar to adjacent property. There will be ample parking.

Mr. Cambio stated the U-Haul plans are being revised because of the issue with the fire suppression system. They have been given permission to do some interior build out but cannot occupy the showroom until they submit an approved fire plan.

No public input – the meeting was closed to the public at 9:05 p.m.

A motion was made by Mr. Scarpelli to approve the application, seconded by Mr. Pasquariello, with all in favor. Roll call vote was as follows: YES: Mr. Scarpelli, Mr. Pasquariello, Mr. Martin, Mr. DiNunzio, and Mr. Jühr. Motion passed unanimously, with a vote of 5-0.

6) Application for Michael McAlister, requesting a use variance to operate a used car lot with inventory not to exceed 20 vehicles from Section 5.4.7, Subsection (9) Automotive Sales located at 104 Greenville Road, AP 12, Lot 089. Zoning District: Business Neighborhood (BN).

Michael A. McAlister and Michael R. McAlister were sworn in.

Mr. Scarpelli submitted the following Exhibits.

P1) Application for a Certificate of Zoning Compliance, Application No: ZC-15-14, dated 4/1/2015, location 104 Greenville Rd, Owner: Gaby LLC.

P2) Application for Hearing before Zoning Board of Review, Application No: ZC-15-14, dated 6/24/2015, Zone: BN, Plat 12, Lot 089.

P3) Town of North Smithfield letterhead, acknowledgement that the applicant is aware of what is required, Application No: ZC-15-14, dated 6/24/2015.

P4) Abutters List, 19 abutters, dated 6/24/2015.

P5) Picture of a structure with a sign Alanac Fashion Jewelry on front door.

P6) Picture of a structure taken from the west side of the building.

P7) Radius Plan, Holland E. Shaw Professional Land Surveyor, stamped June 5, 2015, 104 Greenville Road.

Attorney for the applicant, Stephen Miller, stated the McAlister's have owned and operated North Smithfield Automotive which is the repair shop for 10 years located at 106 Greenville Rd. The present use is that cars cannot be sold on the property so they need a use variance. They have entered into a Purchase and Sales Agreement. The property is vacant so this is the hardship.

Michael R. McAlister stated they have a good reputation as mechanics so would like to offer to their customer's good used vehicles to purchase as a good investment. The current location does not meet the requirements for square footage and the repairs take up most of the lot. The garage does not have space for a used car lot so this is the hardship. Michael A. McAlister will get the sales business off the ground and they would have to hire a new team to handle the car sales. Repairs will not be done on the property only car sales.

Mr. Miller stated there will be no more than 20 cars on the lot.

Michael A. McAlister stated they will not change the character of the building only a facelift. There will be some lighting until 1:00 a.m. to keep vandalism down. Replace the signage that is there. The back property is fenced and no fence will be placed near the road. Cars will not be washed on the property only in a car wash.

Mr. Igliazzi stated a condition should be made that they comply with all state requirements and limit to 20 cars. A stipulation should also be made that cars will not be washed on the site.

Arthur Gilbert was sworn in.

Mr. Gilbert lives directly across the street from the mechanic shop and stated the McAlister's are an asset to the neighborhood and community.

A motion was made by Mr. DiNunzio, to approve the application based on the following stipulations: no more than 20 vehicles on the property; no vehicles will be washed on the property; and that all state requirements are met. Mr. Martin seconded the motion with all in favor. Roll call vote was as follows: YES: Mr. Scarpelli, Mr. Pasquariello, Mr. Martin, Mr. DiNunzio, and Mr. Juhr. Motion passed unanimously, with a vote of 5-0.

7. Adjourn

Mr. Martin made a motion to adjourn at 9:30 p.m. Mr. Scarpelli seconded the motion, with all in favor.

Submitted by Diane Agostini