

North Smithfield Zoning Board of Review  
August 25, 2015, 7:00 pm  
Kendall Dean School  
83 Green Street, Slatersville, RI

The Chair called the meeting to order at 7:05 pm.

1. Roll Call

Present: Chair William Juhr, Steven Scarpelli, Scott Martin, 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: Paul Pasquariello,

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

3. Approval of minutes, July 28, 2015.

Mr. Scarpelli made a motion to approve the July 28, 2015 minutes. Mr. Marcantonio seconded the motion, with all in favor.

4. Vote to approve the written decision for the application of 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).

Mr. Martin made a motion to approve the written decision, seconded by Mr. Scarpelli, with all in favor.

5. Vote to approve the written decision for the application of 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).

Mr. Scarpelli made a motion to approve the written decision, seconded by Mr. Martin, with all in favor.

6. 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.

Mr. Jühr stated the applicant is challenging the Zoning Ordinance with a lawsuit seeking a stay and declaratory judgment based on the Town Ordinance. Nothing is going to happen with this application until the judge makes a decision. Mr. Archambault suggested the meeting be continued to Tuesday, October 13, 2015.

A motion was made by Mr. Scarpelli to continue the meeting to October 13, 2015, seconded by Mr. Martin, with all in favor.

7. Application for Victoria Hueston, requesting a special use permit to operate a sports medicine & physical therapy business from section 5.4.7, (1) Health & Fitness Facility, at 445 St. Paul Street, AP 03, Lot 164, Zoning District: Limited Commercial (LC).

Victoria Hueston was sworn in.

Mr. Jühr submitted the following Exhibits.

P1) Application for a Certificate of Zoning Compliance, Application No: ZC-15-32, owner, Rick Gentes, and applicant, Victoria Hueston, dated 7/7/15, Zoning District: LC.

P2) Application for Hearing before Zoning Board of Review, Application No: ZC-15-32, dated 7/14/15, Zoning District: LC.

Applicant is seeking a Special Use Permit but completed the application under use variance and drew a line to Special Use Permit application.

P3) Letterhead Town of North Smithfield, Office of the Building and Zoning Official, signed by the applicant, Application No: ZC-15-32, dated 7/14/15.

P4) Plat map, MainStreetGIA, LLC, printed on 8/12/2015, Last update: 10/1/2014, GIS parcel lines 7/1/2014

P5) Abutters List, 7 abutters, handwritten is State of RI DOT.

P6) Overview of Sports Strength and Conditioning, Matrix Sports Medicine and Physical Therapy, 176 Eddie Dowling Hwy, Suite 102.

P7) Sport Specific Training is fitness and performance training designed specifically for athletic performance.

Victoria Hueston is the owner of Matrix Sports Medicine and Physical Therapy in North Smithfield. The current location is 1000 sq. ft and she wants to expand. Currently, Ms. Hueston is the only Physical Therapist and Athletic Trainer in the area. Ms. Hueston only wants a portion of the building for her business. The owner of the property is not in attendance.

Mr. Cambio stated the property is owned by Mr. Gentes for his excavating business and recently requested a use variance for a used car lot.

Mr. Najarian suggested the application reflect the correct request for a Special Use Permit. Mr. Jühr corrected the Exhibits.

P1) Under Intended Use - requesting a special use permit not a variance.

P2) Everything under Use Variance should go under Special Use Permit as indicated with an arrow.

Mr. Najarian has a concern regarding safety for Ms. Hueston's clients between the site equipment and used car lot. Ms. Hueston would have two entrances to the left of the building and would not have a safety issue. Ms. Hueston will be using 4,000 sq. ft. Ms. Hueston and another staff member would work with groups under 15 at a time. Parking will be ok. Used car lot will be on the right side of the building.

Mr. Jühr stated the landowner is the benefactor and has two other uses on his property. Mr. Archambault stated the landowner does not have to be the applicant. The Board has the discretion under RI State Zoning Law and Town Zoning Ordinance to make the Special Use Permit run with the applicant. If the Board approves the application they could make a stipulation that the special use permit expire with the applicant.

Signage has not yet been addressed and Ms. Hueston does not advertise to the public. No changes to outside lighting. Hours of operation will be 6:00 a.m. to 7:30 p.m. There are no striped parking spaces and Ms. Hueston would have 12-15 cars in the area. Mr. Cambio stated the applicant would need a building permit if she wanted a sign in the front.

No public input – the meeting was closed to the public.

Mr. DiNunzio made a motion to approve the application with the stipulation that the Special Use Permit will be coterminous with the lease of the applicant, seconded by Mr. Scarpelli. Discussion about parking spaces. Mr. DiNunzio made an Amendment to the approval of the application with the understanding that the Special Use Permit be coterminous with the lease of the applicant and on the condition that a minimum of 20 parking spaces be clearly delimited, seconded by Mr. Scarpelli, with all in favor. Roll call vote was as follows: YES: Mr. Scarpelli, Mr. Martin, Mr. DiNunzio, Mr. Marcantonio and Mr. Jühr. Motion passed unanimously, with a vote of 5-0.

8. Application for DAS Contracting Corporation requesting a Dimensional Variance to construct a 120-unit assisted living/age restricted (55+) adult, active community complex consisting of four (4) separate structures located at 1118-1156 Victory Highway, AP 1, Lots 127, 134, 330, Zoning District: RU-20 from Section 5.5.1, Section 5.6.3.7 and Section 6.19.10.

Mr. Jühr submitted the following Exhibits.

P1) Application for a Certificate of Zoning Compliance, Application No: ZC-15-36, dated 7/28/2015, location 1118, 1152, 1156 Victory Hwy for Dimension Variance. Attachment has Joe Casali Engineering, Inc., letterhead identified as Attachment #1, 4 pages.

P2) Town of North Smithfield letterhead, acknowledgement that the applicant is aware of what is required, Application No: ZC-15-36, dated 7/28/2015.

P3) Abutters List on Joe Casali Engineering, Inc., letterhead, labeled 200' Radius Map & List of Abutters, 3 pages.

P4) 200' Radius Map, designed by WMLJR, drawn by WMLJR, dated 7/28/2015, Project No. 10-39, 1 page.

P5) Zoning Site Plan, designed by JMM, drawn by JMM, dated 7/27/2015, Project No. 10-39, Registered Professional Engineer stamp, Joseph A. Casali, handwritten date 7/29/2015, 1 page.

John O'Hearne, Architect was sworn in.

Joseph Casali, Engineer, was sworn in.

Attorney for the applicant, Richard Kirby, stated the applicant is seeking to build a 120-unit assisted adult active 55 and over community on this unique parcel of land. They have been before the Planning Board a number of times and received master plan approval for a major land development subject to certain conditions. Maximum height permitted is 30 ft and the relief requested is 6 ft for 36 ft for gable style roofs with architectural shingles.

Mr. Casali, Professional Engineer, provided a power point presentation. The applicant is requesting a Dimensional Variance on three parcels of land comprising of 7-1/2 acres of land. The zone was changed to RU-20 in April 2012. Requesting three dimensional variances for Slater Village, Victory Highway: height relief of 6 ft. for the gable style roof; length of the building not to exceed 150 ft. square asking for buildings up to 253 ft. at a maximum of 103 ft. and gables will face east to west; project is two dimensional in nature - drainage maximum impervious area is permitted 25% requesting 25% for proposed 50%. The Planning Board gave their approval for this project on 3/12/2015.

The entrance would be at 102 Victory Hwy an optimal area to have an entrance. Silver Pines Phase I and II are not related to this project. Two stipulations in the decision: no construction access from Main Street everything comes off of RT-102 and first thing is to put in a landscape buffer on the western property line.

Mr. Juhr stated Silver Pines Phase II is adjacent to this property. Mr. Casali stated their will be a temporary Phase 2 access road with a permanent only for emergency access easement. Mr. Casali said there will be 206 parking spaces.

Mr. O'Hearne discussed the architecture of the buildings to fit in with the natural character of the existing residential dwellings in the area.

Mr. Cambio stated they have not received building plans so no Fire Marshall approval for this project. Mr. Marcantonio is concerned with a ladder truck to the height of the buildings.

Mr. DiNunzio asked about the 54 units and the 36 units option 54 units on the Zoning Site Plan. Mr. O’Hearne said this is driven by marketing. Two bedrooms in the large building would be 36 units and one bedroom would be 54 units. Mr. O’Hearne is familiar with the surrounding area and the Zoning Ordinance and Planning Regulations and stated the applicant is seeking the least relief necessary and there are no health, safety or welfare issues for the public.

Mr. Najarian asked about the 103 ft. relief requested for Bldg. D. Mr. O’Hearne said they would have to split it to look like two buildings. Mr. Casali stated relief for the overall impervious area is being requested out of an abundance of caution and can be alleviated through the use of porous pavement which is dependent on the underlying soils. Mr. Kirby stated the comprehensive plan provides the least relief. Mr. Kirby stated the residents of Silver Pines may raise issues which are not relative to this plan. Phase I will not be utilized to build out Phase II or Slater Village.

The four (4) public attendees who testify were asked to sign in.

Mr. Kirby discussed the letter dated August 25, 2015 presented at this meeting by the Silver Pines Condominium Association. Mr. Kirby stated the letter is factually incorrect – the last two paragraphs. The three separate parcels of land were never part of Silver Pines and were acquired after Silver Pines Phase I and Phase II – Lots 127, 134 and 330. The last paragraph Silver Pines Phase II is not the property of Silver Pines Condominium Association.

Mr. Jühr submitted the following Exhibit:

A1) Letter dated August 25, 2015 from the abutters submitted by Judith Wright, President, Silver Pines Condo Association – second to last paragraph is incorrect Lots 127, 134 and 330 were not part of Silver Pines and acquired after Silver Pines Phase I and Phase II and the last paragraph Silver Pines Phase II is not the property of Silver Pines Condominium Association.

Thomas Butler was sworn in.

Mr. Butler stated he lives at 1160 Victory Highway right next to the property in his back yard. Discussed the stream on his property line and concerns where snow and salt are going and the increased traffic especially ambulances coming and going to assisted living facilities. Mr. Butler is concerned about his land value dropping.

Mr. Casali stated snow removal will be part of the permit and fresh water application. Traffic and site distance will be addressed with Dept of Transportation. The stream has 100’ setback on either side of it. Drilled wells are 500’ below the ground and they will test the wells for the abutters now and post construction.

Mr. Jühr stated the Zoning Board is here to rule on the dimensional variance and cannot help with issues on his own home and needs to go to the Planning Board.

Joseph Demayo was sworn in.

Mr. Demayo has lived at Silver Pines for the last 10 years and received certified letter from the Town as an abutter and this is the first time he has seen the letter presented by the Silver Pines Condo Association – he is speaking for himself as an abutter. Asked how they would buffer Slater Village against Phase II with trees.

Mr. Casali said the wooded area would be left natural and no trees are proposed. The buildings are lower than Silver Pines and will not be visible.

Judith Wright was sworn in.

Ms. Wright stated the points in the letter are relevant. There is a lawsuit pending that the land in dispute belongs to the condo association. The condo association attorney said Phase I and Phase II belong to the condo association. Ms. Wright discussed the letter she submitted to the board – there are alternatives to the variances the applicant is requesting and asked if the Board would request any evidence of what Attorney Kirby said is true (if the property in question was all one parcel).

Mr. Casali said the lots have not been cut up they just purchased them. The applicant did not create the hardship and not seeking financial gain.

Mr. Kirby stated the Planner was looking at the deeds and Phase I and II were acquired after.

Mr. Scarpelli referred to the Zoning Site Plan – note on the bottom “Temporary Phase II Construction Access Road/Permanent Emergency Access Easement”. It will be a recorded easement and run with the land.

Arthur Harnois was sworn in.

Mr. Harnois stated Silver Pines I and II was a project and they never had the developer post a bond. He would like to have a significant large bond posted to protect the people in the town. Mr. Kirby will make a note of this.

Ms. Wright said they may have created their own problem. Mr. Scarpelli stated dimensional variances don’t go with the size of the lot, the number of lots or who owned it.

Mr. Najarian stated he is not a voting member but it is the responsibility of the board to inquire why it would or would not work if relief was not granted. The applicant has not provided another drawing. The Planning Board does not look at variances or any zoning issues.

Mr. Kirby stated the applicant has gone before the Planning Board 3-4 times addressing those issues before voting on the master plan. The Planning Board has endorsed this plan.

Mr. Casali stated the applicant has shown the Planning Board each and every dimensional relief and received a positive recommendation.

Mr. Juhr closed the public meeting at 9:10 p.m.

Mr. Marcantonio would like a stipulation that we contact the Fire Marshall regarding the height of the building.

Mr. DiNunzio made a motion to approve the application subject to conformity with all state and town regulations regarding public safety, the environment and subject to approval of the Town Fire Marshall of all building heights. Mr. DiNunzio said it is uncomfortable to hear legitimate complaints from abutters and feel sympathy for the abutters because they have legitimate arguments, but those arguments don't apply to the powers of the zoning board. Mr. Marcantonio seconded the motion, with all in favor. Roll call vote was as follows: YES: Mr. Scarpelli, Mr. Martin, Mr. DiNunzio, Mr. Marcantonio and Mr. Jühr. Motion passed unanimously, with a vote of 5-0.

## 9. Adjourn

Mr. Martin made a motion to adjourn at 9:15 p.m. Mr. Scarpelli seconded the motion, with all in favor.

Submitted by Diane Agostini