

## **Town of North Smithfield Planning Board Meeting**

**Kendall-Dean School, 83 Greene Street**

**Thursday, September 17, 2009, 7:00 PM**

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

### **I. Roll Call**

**Present: Chair Joe Cardello, Dean Naylor, Scott Gibbs, Bruce Santa Anna (left after Dowling Village hearing), Gene Simone, Stephen Vowels. Absent: Alex Biliouris. Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.**

### **II. Approval of Minutes - none**

### **III. Liz Development – Vincent Mesoella**

**Planning Board consideration for pulling Phase I & II bonds**

**Request to reduce Phase I bond**

**Request to reduce Phase II bond**

**Request to extend time to record Phase II final plan**

**The Chair recused from this discussion, due to a business relationship with the applicant.**

**Attorney Matthew Shaw addressed the Board, requesting that the bond for Phase I be released and that the bond for Phase II be**

reduced. He also asked that the request to extend the time to record the Phase II final plan be continued to October 1, 2009.

Mr. Ericson informed the Board that the bond for Phase I can be released, because the Phase II bond can be used to complete the improvements needed on Elizabeth Avenue. He recommended reducing the Phase II bond to \$131,494. Mr. Nadeau told the Board that he has been involved in negotiations with Mr. Mesolella and his attorney and he has no problem with releasing the bond for Phase I and reducing the amount of the Phase II bond.

Mr. Santa Anna made a motion to table the request to extend the time to record Phase II final plan to October 1, 2009. Mr. Simone seconded the motion, with all in favor. (Mr. Simone voted in place of Mr. Biliouris and Mr. Vowels voted in place of Mr. Cardello.)

Mr. Gibbs asked about the Phase I bond. Mr. Ericson stated that the bond was for sewer improvements and is irrelevant to the issue of improving the roads or any other improvements in the subdivision. He stated that any improvements needed on Elizabeth Avenue are attached to the bond for Phase II. The sewers have been inspected and accepted by the Town. Mr. Nadeau stated that the developer will have to agree to complete the necessary improvements or the Planning Board will pull the bond in order to get the work done. All improvements to correct the crowning issues on Elizabeth Ave are included in the \$131,454 figure, which includes “wiggle room” for

sufficient coverage of remaining repairs. Mr. Ericson stated that Kim Weigand, PE made the estimate for the work and 5% was added for contingency.

Mr. Vowels asked for details on how the improvements to the road would be performed. Mr. Ericson stated that they would be carried out per the agreement reached in August 2008.

Mr. Simone made a motion to release the bond for Phase I. Mr. Gibbs seconded the motion. Planning Board vote was as follows: YES: Mr. Naylor, Mr. Gibbs, Mr. Simone, Mr. Vowels. NO: Mr. Santa Anna. Motion passed, with a vote of 4-1.

Mr. Santa Anna asked if there is a timeframe specified for the repairs to Elizabeth Avenue. He also asked if there will be a maintenance bond if the bond is called, and if not, can one be added. Mr. Ericson stated that the work should be done this fall, but if the bond is pulled, this may not happen. It may be a long process in getting the work performed, as the bonding company will need to negotiate the process (who completes the work, etc.). There will be no maintenance bond, as it is not included in the terms of the bond for Phase II. Mr. Nadeau stated that the process with the bonding company can be complicated, as they can choose to do the work, but they may fight it.

Mr. Vowels stated that he is not inclined to release any of the bond,

since the negotiations have not concluded. He suggested waiting until October 1 to get an update on the status of the negotiations before deciding whether to reduce the Phase II bond. Mr. Nadeau responded that the Board cannot pull more than the estimate of what the work will cost. He also asked the Board to be aware that the Town is in the midst of negotiations with the developer and as part of these negotiations, the Town said they would try to get the bond reduced. The \$131,454 more than covers the cost of the repairs, and reducing the bond will show that the Town has acted in good faith. He also stated that after repairs are completed, the Town still has to inspect and accept the work, and there are remedies available if the bond company pays for unacceptable work.

Mr. Simone made a motion to reduce the amount of the Phase II bond to the amount of \$131,454. Mr. Santa Anna seconded the motion. Mr. Gibbs asked if the motion could include that the bond will be pulled on October 1, 2009 if an agreement has not been reached. The Board did not feel it was necessary to include this. Mr. Naylor stated that this issue has been a long-standing problem, which the Town has tried to resolve. He added that the developer has a responsibility and has not fulfilled it, which has caused a lot of harm to many people. Planning Board vote was as follows: YES: Mr. Naylor, Mr. Gibbs, Mr. Simone, Mr. Vowels. NO: Mr. Santa Anna. Motion passed, with a vote of 4-1.

#### **IV. Dowling Village Phase II & III – Preliminary Plan Public Hearing**

## **Major Land Development Project- Site Plan Review**

**Also Reviewing project impacts for the whole project, Phases I-IV**

**Applicant: Bucci Development, Inc. - Brian Bucci**

**Location: 120 Eddie Dowling Highway/ 146A**

**Assessor's Plat 13 lots 18, 20, 21, 44, 53, 76, 111, 112, 123 & 143 and Plat 21 lots 25, 26, 29, 30, 31, 32, 50, 58, 61, & 71**

**Zoning: Professional Services (PS), Business Highway (BH), & Rural Agricultural (RA)**

**(Continued from Jan. 8, & 15; Feb. 12, & 26; Mar. 12, & 19; April 9, 23 & 30; May 14; June 4, 11 & 25; July 2, 16 & 23; Aug. 13, Sep 3, 2009)**

**Attorney Matthew Shaw informed the Board that the applicant is still waiting for their DEM permit. He requested to continue the hearing to October 1, 2009 and to extend the clock on the project to October 16, 2009. He stated that the applicant has received favorable comment from the DEM on the permit application and has submitted a response.**

**Mr. Santa Anna made a motion to extend the clock to October 16, 2009. Mr. Naylor seconded the motion, with all in favor. The Chair told Mr. Shaw that he will be expecting to extend the clock again in order to give the Board enough time to hear all testimony related to the project.**

**Mr. Naylor made a motion to continue the hearing to October 1, 2009.**

**Mr. Vowels seconded the motion, with all in favor.**

**Mr. Santa Anna left the meeting after the Dowling Village hearing.**

**V. Development Plan Review**

**Applicant: Jehovah's Witnesses**

**Location: 1054 Victory Highway, Assessor's Plat 1, Lot 151**

**Zoning: Rural Agricultural (RA-65)**

**Attorney John Shekarchi addressed the Board for the applicant. He stated that they have received necessary approvals from both the DEM and DOT. The Zoning Board has granted a Special Use Permit. Although this is not a public hearing, Mr. Shekarchi informed the Board that they have agreed to have some abutters address the Board with their concerns, if the Board would like to hear from them. Mr. Ericson stated that Kent Brand, an abutter to the property, sent a letter to the Planning Department outlining some of his concerns with screening and landscaping. The letter was forwarded to the landscape architect and project engineer, who have responded. Both are present to address the Board.**

**Landscape architect Tim Gerrish explained his landscape design, specifically with regard to screening of abutting properties to the Board. He stated that the plan calls for screening by way of native plantings and a stockade fence. There will be a large white ash with**

dense branching, in addition to Leyland cypress, which are not native, but are extremely fast-growing. They will be 5'-7' when planted and will grow 2'-3' per year. They are about 15'-20' wide and can be trimmed into a hedge. Mr. Naylor questioned why the neighbor had to be responsible for the maintenance of the screening plants. The Chair expressed concerns that the plants could grow too much and effect the traffic safety sight distances. Mr. Shekarchi stated that the applicant will work with the neighbors to work out an agreement in which the applicant will do the trimming for the abutter.

Mr. Brand, who lives at 1068 Victory Highway, stated that his biggest concern is that the trees won't screen the parking lot. His backyard will have a direct view of the parking lot of the Kingdom Hall. He also said that he is fine with trimming and maintaining any plantings put in as part of the landscape plan. He stated that his backyard, in the area that will be abutting the parking lot, has a natural screening of dense vines. The proposed 6' fence will not provide the same screening. He also asked if ground lighting could be used in the parking lot to reduce the glare into his yard. He expressed concern about noise from the air conditioning unit.

Engineer Eric Bazzett responded that he does not recommend ground lighting due to safety issues. He added that the lighting on the plan calls for 15' poles, but it is cutoff lighting that will shield the light from leaving the property. He did suggest increasing the height of the

**fence around the air conditioning unit from 4' to 6' and said that adding an additional fence around the air conditioning unit.**

**The Chair stated that any agreement on maintenance of landscaping or planting any additional screening in Mr. Brand's yard are between the applicant and the abutter and cannot be included as a condition of approval. Mr. Shekarchi stated that he will work with Mr. Brand on these concerns.**

**The Chair asked how the noise from the air conditioning compared with the traffic noise in the area. Mr. Bazzett stated that the ambient noise level is pretty high, due to traffic on 102, but he will work on additional buffering for the air conditioning. Mr. Brand said that he realizes that 102 is very noisy and that is why he is trying to limit any additional noise in the vicinity of his home.**

**Abutter Brad Sudol, who lives at 1030 Victory Highway, asked why there was no fence on the other side of the parking lot. He would like buffering on his side of the property for noise associated with the cars entering and exiting the property on Sundays. Mr. Gerrish replied that due to the wetlands, there really is no way to install a fence around that side of the parking lot. He said that the existing vegetation will be maintained which will provide buffering and screening.**

**Mr. Sudol also expressed concerns about drainage and runoff going**

to his property. Mr. Bazzett stated that the drainage system is designed with grading to send all runoff away from Mr. Sudol's property. Mr. Bazzett said that when the DEM application was filed, the neighbors were invited to submit comment at that time. Katie Sudol stated that she had received notice of the DEM application, but she thought the proper process was to go to the Town first. The Chair responded that the DEM permit is based on the plans before the Board and that the Board cannot require anything that is in conflict with the DEM application. He pointed out that due to the development of the property, the existing cesspool will be removed per DEM regulations and a cistern will be installed for fire-fighting, both of which will benefit the neighbors.

The Chair made a motion to approve the development plan review, with one condition that the fence around the air conditioning unit be revised to 6' in height. Mr. Simone seconded the motion. Planning Board vote was as follows: YES: Mr. Cardello, Mr. Simone, Mr. Naylor. NO: Mr. Gibbs, Mr. Vowels. Motion passed, with a vote of 3-2.

Mr. Ericson asked if the Board would allow the final approval to be handled administratively, but the Board stated that they would like the applicant to appear before the Board for final approval.

## **VI. Rocky Hill Estates – Final Plan Approval**

**Plat 16, Lot 29**

**Mr. Ericson gave each Board member copies of the revised plan. He told the Board that he and the Public Works Director had been to the site for inspection and found the detention pond in need of modification to match the amended plan. The bay was not graded properly, but the applicant's engineer agreed to remedy the problem and was already underway. Mr. Ericson told the Board that they could vote for conditional approval of the Final Plan, pending inspection of the plan modification.**

**Joe Casali, PE, stated that he had been to the site, but it was too dark to perform a proper inspection. He will return to the site on September 18 in order to inspect the construction of the modification.**

**The Chair asked Mr. Ericson if the work to be done could reasonably be accomplished in a day. Mr. Ericson stated that this is a very well-done project, with a very good construction supervisor, and that the problem could easily be fixed within four hours.**

**Mr. Simone made a motion to accept the plan modification. The Chair seconded the motion, with all in favor. The Chair made a motion to approve the modified final plan and to delegate administrative approval of the final plan to the Town Planner, with the following stipulations: 1) that construction to plan modification with the inspection and written approval of the DPW Director, 2) posting of maintenance surety in the amount of \$12,500 suitable to the finance director, 3) an allowance for either the name Denny Court or Isabel Road on the plan and 4) the completion of the sediment forebay on**

**the north end of the detention pond, and all improvements show on the plan are implemented.**

**Mr. Vowels seconded the motion, with all in favor. Motion passed, with a vote of 5-0.**

**Mr. Gibbs made a motion to adjourn at 8:57 pm. Mr. Simone seconded the motion, with all in favor.**