

Town of North Smithfield Planning Board

Kendall Dean School, 83 Green Street

Thursday, June 17, 2010, 7:00 PM

The Chair called the meeting to order at 7:02 pm.

1. Roll Call

Present: Chair Scott Gibbs, Alex Biliouris, Dean Naylor, Gene Simone, Joe Cardello. Absent: Steve Vowels, Art Bassett. Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.

2. Approval of Minutes: June 3, 2010

Mr. Biliouris made a motion to approve the minutes of June 3, 2010. Mr. Naylor seconded the motion, with all in favor.

3. The Blunders-Preliminary discussion of modification of Final Plan--Major Subdivision

Applicant: Frank Iannucci, Twin Realty, Inc.

Location: Between 629 and 679 Greenville Road; Assessor's Plat 14, Lot 23 and Plat 15, Lots 16, 19 and 190; Zoning: Rural Agricultural (RA-65)

Mr. Ericson explained to the Board that the Final Plan was approved prematurely, according to state law, since surety was not provided. The Final Plan was never recorded. To solve that problem, the time to record was extended in two steps. Now DiPrete Engineering believes that changes in DEM on-site waste treatment systems (OWTS) regulations make 17 lots feasible, as in the Master Plan. The Final Plan was approved for 14 lots.

Chris Duhamel, professional engineer and surveyor, from DiPrete Engineering, addressed the Board. He stated that with the new DEM regulations, there is the potential to go back to the Master Plan, which was for 17 lots. He stated that with this configuration and the new regulations, there will be greater flexibility on where to locate the septic systems. He said the applicant will review the site, then go back to DEM for approval, then come back to the Planning Board with a Preliminary Plan.

The Chair asked Mr. Nadeau for his opinion on what could be done in this situation. Mr. Nadeau stated that the applicant could go back to Preliminary Plan stage if they agree to abandon their Final Plan. Mr. Duhamel stated that they are not yet ready to do that, as they would like to hear from DEM first to see if they agree with the septic suitability. Mr. Nadeau stated that there cannot be two Final Plans on record, so if they decide to go back to the original Master Plan, they will need to abandon the Final Plan, then go back and follow the regular procedure.

Mr. Cardello asked which regulations they would use to review the new plans. Mr. Duhamel stated that he did not think they should have to follow the 2006 regulations. Mr. Nadeau stated that he will have to check on that. He said he believes that the Board can insist on using the 2006 regulations. Mr. Duhamel stated that the applicant would like to use the new DEM regulations, but the existing Master Plan with the old regulations. Mr. Cardello stated that they should not be able to pick and choose which regulations to use.

Mr. Biliouris asked if the applicant was sure that the 17 lot configuration could work with the current DEM regulations. Mr. Duhamel stated that he is not 100% certain, but that he is very confident that it will work. Mr. Naylor asked if construction has begun. Mr. Duhamel stated that some utility and infrastructure work has commenced. Mr. Nadeau stated that he believes that if they go back and start over at Preliminary Plan stage, they will need to use the 2006 regulations. Mr. Duhamel stated that if that is the case, this will not work.

Mr. Nadeau stated that he is fairly confident that no case law exists on this precise situation. He will have to research it. He said that the applicant has no right to demand that the Board allow it to withdraw and go back to Master Plan phase; it can only be done with the Board's indulgence.

The Chair advised the applicant to sit down with the Planner to see what's possible, and then file the plan and figure out where to go from there. Mr. Nadeau will also research the law and get back to Mr. Ericson with his findings.

4. Dowling Village Phase IV – Preliminary discussion of modification of Phase IV Master Plan-- Major Land Development

Applicant: Bucci Development, Inc.

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)

Mr. Biliouris recused from the discussion, as he was recused from the Dowling Village application.

The Chair pointed out to the Board that the applicant is here for a preliminary discussion only. Mr. Ericson stated that the Board had been given plans for the area, which consists of 42 acres, and the proposed 427'-high wind turbine system. They have also received information on how it would fall, relative to the development and a sheet explaining different options for the site with possible tax yields (condos vs. turbine).

Len Bradley, project engineer from DiPrete Engineering, addressed

the Board. He explained that the proposed wind turbine would be on the site of Phase IV of Dowling Village, which sits on the easterly portion of the project. The wind turbine is proposed at one of the highest points of the project, which is centrally located on what would be the site of the previously proposed condominiums. The Board was given plans and color aerial photographs to review. Mr. Bradley stated that the applicant already has a valid DEM permit for the entire site. They would go in for a permit modification, which he stated is doable, and then could go forward at a relatively swift pace.

The Chair stated that the proposed wind turbine requires a whole feasibility study, which involves a process that the applicant must go through. He also asked if it is legal to use open space money for commercial purposes. Mr. Ericson stated that DEM will not allow turbines on any land funded by state or federal money, but that the town could carve out an acre of land to be used for the turbine. He has spoken with the DEM about this.

The Chair stated that the deviation from the Master Plan of Dowling Village makes him feel that the developers did not intend to build Phase IV and used the mixed-use zone as a ruse to get the retail portion through. He added that he is bothered by this. Mr. Bradley stated that he has spoken with Mr. Bucci and that Mr. Bucci always intended to build Phase IV, but that the economy has impacted Phase IV from being built in the foreseeable future. He added that Mr. Bucci has stated that the site can still be used for both the turbine and the

condos, unless the Town decides to buy it as open space. The Chair questioned how that would be possible, when considering the fall zone that will be necessary. Mr. Bradley stated that they would have to look at it, but there is still quite a bit of property available.

Mr. Cardello stated that he is not opposed to getting rid of the residential component of Dowling Village, but that it would require a modification to the Special Use Permit, and that the process involved in getting all this done will not be quick. He also stated that he would not send a favorable recommendation on the modification to the Zoning Board unless he is assured that if the modification is granted, the turbine will be built. Mr. Nadeau stated that the Zoning Board could give conditional relief, based on the wind turbine being built; if the wind turbine is not built, then the Special Use Permit will revert back to condos. Mr. Bradley agreed with that. Mr. Cardello requested a joint meeting between the Planning Board and the Zoning Board to discuss this issue.

Mr. Simone asked if there is adequate wind for the turbine to actually work. Eric Offenber, developing partner with Wind Energy, explained to the Board that they look at the wind resources, who will use the power generated, and how the energy will be distributed, when determining whether a turbine is feasible at a given site. More detailed tests will need to be conducted, but preliminary studies of this location lead him to believe it will work. He added that the time pressure is on the applicant, because in order to receive federal

stimulus money, the construction must begin by the end of this year (calendar year 2010), which is why they want to move this along fairly quickly. They would like to have some kind of permit in place by early fall.

The Board agreed to request a joint meeting with the Zoning Board to discuss concerns before the application for a modification to the Special Use Permit is heard.

Mr. Cardello made a motion for a 5-minute recess at 8:15 pm. Mr. Naylor seconded the motion, with all in favor. The Chair called the meeting back to order at 8:22 pm.

Mr. Naylor made a motion to switch agenda items 5 & 6. Mr. Biliouris seconded the motion, with all in favor.

5. Zoning Board of Review applications: Recommendations on Anchor Nissan sign.

The Chair explained that the Zoning Board chair had asked the Planning Board to review the request of Anchor Nissan for a height variance for a sign to be moved to the site from its former site on Route 116. Anchor Nissan owner Bob Benoit was present to explain the request to the Board. He has recently purchased a Nissan franchise and as part of the franchise agreement, he needs to put up standard Nissan signage at the site. He wants to move the existing

sign from its former location to the location on Eddie Dowling Highway. The sign cannot be altered to be brought down to a lower height. The allowable height for the size of the building is between 15'-20', but Mr. Ericson pointed out that the business has a small building with a large outdoor parking area. This is the nature of car dealerships and should be factored in when considering appropriate height for signs.

The Chair also pointed out that the taller sign would actually help with safety issues. Customers traveling from out of the area would have more advanced notice of where to turn if they can see the sign from a further distance.

The Board discussed the location of the sign, as well as its relative location to the DOT variable message sign. Mr. Benoit stated that the sign would be placed to the far end of the lot and would not interfere with the DOT sign. Mr. Biliouris stated that it should be located so that it does not interfere with the line of sight for drivers.

Mr. Cardello made a motion to send a favorable recommendation to the Zoning Board on the height variance requested by Anchor Nissan, as the Board has found that the sign as presented is acceptable. Mr. Naylor seconded the motion, with all in favor.

6. Ordinance reviews: Flood hazard, signs

Mr. Ericson stated that the Flood Hazard ordinance was passed on March 9, 2009 as an emergency measure in order for North Smithfield to remain eligible for national flood insurance. Just in case there were any major issues that were not addressed at the time of passage, Mr. Ericson would like to send the ordinance back to public hearing.

Mr. Ericson explained that section 6.17.6(f) of the Sign Ordinance has a “not completely visible” clause that creates an almost impossible situation. It would be necessary to have a ring road with one side elevated above the roof to have a building completely visible from a road. That strange clause contradicts the intent of using visual perception as the basis for way-finding. Mr. Cardello asked if it would then be based on the nearest public road, which for example would mean that Dowling Village would go by 146A. Mr. Ericson said that would be correct. Mr. Cardello said he finds that to be excessive and that it would allow the franchises opening in Dowling Village to put up very large signs. Mr. Ericson stated that they go by a national format to make franchises look uniform. He also explained that there is a maximum area for signage, dependent on the square footage of the building.

Mr. Biliouris asked that the section on professional service zones be looked at, as it is very restrictive as currently written. Mr. Cardello stated that the ordinance is very restrictive, but that restrictions can all be dealt with through variances.

Mr. Naylor made a motion to send the ordinance to the Town Council, with the statement that the Planning Board has reviewed and recommended the ordinance, with the condition that the Town Council look at the section on professional service zones. Mr. Simone seconded the motion, with all in favor.

7. Subdivision and Land Development Regulations: Suggested revisions

The Board tabled this discussion for a future meeting.

8. Planning Update: Review of current events

The Board tabled this discussion for a future meeting.

9. Meeting dates: Setting dates for July and August

The Board discussed meeting dates for summer and set the next meeting for Tuesday, July 6, which will be a joint meeting with the Zoning Board to discuss the potential wind turbine at Phase IV of Dowling Village. The Board will also meet on July 15 and will keep August 5 open for a meeting, depending on whether there are any pressing matters.

Mr. Biliouris made a motion to adjourn at 9:00 pm. Mr. Cardello seconded the motion, with all in favor.