

Town of North Smithfield Planning Board

Kendall Dean School, 83 Green Street

Thursday, September 8, 2011, 7:00 PM

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

1. Roll Call

Present: Chair Scott Gibbs, Dean Naylor, Gene Simone, Alex Biliouris, Art Bassett, Joe Cardello. Absent: Dr. Lucien Benoit (arrived at 7:55 pm). Also present were Town Planner Bob Ericson and Town Solicitor Rick Nadeau.

2. Approval of Minutes: July 21, 2011

Mr. Biliouris made a motion to approve the minutes of July 21, 2011.

Mr. Simone seconded the motion, with all in favor.

Mr. Cardello made a motion to change the order of the agenda to hear #5, Zoning Ordinances, before item #3, Colonial Property Group Minor Subdivision request. Mr. Naylor seconded the motion, with all in favor.

3. Zoning Ordinances: Review of proposed Stormwater Management, Wetlands Setbacks, and MU1- MU2 ordinances with vote(s) on recommendations to the Town Council

Mr. Ericson gave a quick introduction to the ordinances to be considered. The SWPPP meets the requirements of RIDEM's MS4 requirements. MS4 stands for Municipal Separate Storm Sewer Systems. It is a US EPA program that grants permits to states, which in turn grant permits to municipalities. In November 2008, former Town Planner Michael Phillips asked the Town Council to suspend consideration on the ordinance in order to wait for the state adoption of a model ordinance, but that never happened. The ordinance to be considered was adapted closely from Lincoln's ordinance.

The setbacks from wetlands ordinance extends setbacks and is based on environmental science studies. Other Rhode Island towns have already done this, and it improves MS4 performance.

The third (MU1/MU2) comes from the North Smithfield Redevelopment Agency.

The Chair spoke to Mr. Nadeau about his concern with discussing these ordinances with members of the Ordinance Development Committee who were present in the audience. He was concerned about possible violation of the Open Meetings Act. Mr. Nadeau shared these concerns. In order to avoid violations, the Chair suggested continuing this item until next week's meeting (September 15, 2011), in order to give the ODC a chance to advertise it as a meeting. Mr. Nadeau added that the Redevelopment Agency may also want to post

it as a meeting and participate in the discussion.

Mr. Cardello made a motion to continue the Zoning Ordinances Review to September 15, 2011. Mr. Simone seconded the motion, with all in favor.

4. Minor Subdivision Plan for Colonial Property Group, LLC, Request for Minor Subdivision Preliminary Plan Reinstatement

Owner/Applicant: Colonial Property Group, LLC

Location: Pole #35 Grange Road, Assessor's Plat 19, Lot 26, Zoning: RA-65 Rural Agricultural

Mr. Ericson stated that the applicant is looking to reinstate a plan that was approved in October 2004. However, this plan has a new applicant, less frontage, smaller lot areas, and a different OWTS for subdivision Lot 1. Mr. Nadeau said that it is not eligible for reinstatement under the Land Development and Subdivision Regulations (LD & SR), Section 7-3, which requires that there have been no substantial changes to the LD & SR from the time of approval to the reinstatement. The approval was in 2004, and that LD & SR underwent substantial changes in 2006. It also fails the requirement that the physical conditions on the subdivision parcel are substantially the same as they were at the time of the original approval.

Mr. Cardello made a motion to deny the request for reinstatement,

based on the Town Solicitor's explanation and interpretation of the LD & SR, Section 7-3. Mr. Simone seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Naylor, Mr. Simone, Mr. Biliouris, Mr. Cardello. Motion passed, 5-0.

Mr. Cardello also stated that the Board is not rejecting the plan; it is denying the request for reinstatement because the plan is not the same plan that was approved in 2004.

5. Preapplication submission for a Major Subdivision Plan

Owner/Applicant: Michael R. Bell

**Location: Green Street, Assessor's Plat 2, Lot 49, Zoning: RU-20
Urban Residential**

Mr. Ericson reviewed the application for the Board. He explained that this would be a Minor Subdivision with no improvements, except that the applicant needs a variance for what would otherwise be substandard lots. Mr. Bell owns property on Green Street that is currently one lot with two separate principal residences. He would like to divide the property into two lots, each with one principal building. Mr. Ericson stated that it is his opinion that everyone benefits from having one principal structure on each lot. The property values and taxes increase, and the owners pay less for insurance. The downside is that it's a tight situation and there are a number of dimensional requirements that cannot be met. The applicant will need to go before the Zoning Board for approval of those dimensional

variances. The applicant is looking for an initial recommendation on the variances from the Planning Board to the Zoning Board. If the variances are granted, the applicant will return to the Planning Board for full review of the plans.

Norbert Therien was present for the applicant and reviewed the request for the Board. It is proposed that the existing property be essentially divided in half down the middle to create two lots. The new lots will have almost exactly the same area. The existing driveway will need minimal refurbishing to make two separate driveways. The variances that will be needed are for area, frontage, and side setbacks. There are no other options for this property, as all conditions are pre-existing non-conforming conditions. Without Zoning Board approval, there is no way to divide the property. The driveway will be slightly regraded to send runoff to the back of the property instead of to the street. All utilities are currently and will remain separate, so there is no need for any easement agreements.

Mr. Cardello asked if there was a legal way to approve a non-conforming lot. Mr. Ericson stated that if the applicant was starting from scratch and creating a new lot, it would not be allowed, but that he believes there is a difference between that and creating a non-conforming lot by variances. Mr. Nadeau will look into this before the applicant appears before the Zoning Board. He will research whether there is an absolute prohibition or if it's not favored under the Town's public policy and Comprehensive Plan, but still allowable.

He added that the distinction is generally in taking a conforming lot and carving it into non-conforming lots, but this lot is a pre-existing non-conforming lot.

Mr. Cardello made the following motion: The applicant has two lots, Lot A, as shown has 11,903 square feet with 66.28 feet of frontage; Lot B has 11,903 square feet and 71.72 feet of frontage. Both lots also do not meet the side setback of 20 feet from the structures to either existing or proposed property lines. Variances for these zoning requirements are required. The Planning Board recommends granting variances for all the listed deficiencies. Mr. Naylor seconded the motion. Planning Board vote was as follows: YES: Mr. Gibbs, Mr. Naylor, Mr. Simone, Mr. Biliouris, Mr. Cardello. Motion passed, 5-0.

Dr. Benoit arrived at 7:55 pm, but did not vote on the motion.

6. Planning Update: Review of current events

The Board briefly discussed the opening of the Walmart at Dowling Village and the need for an updated stormwater management plan for the Industrial Drive Commerce Park. Without the updated plan, Jean Lambert, PE cannot do a peer review.

Dr. Benoit made a motion to adjourn at 8:00 pm. Mr. Naylor seconded the motion, with all in favor.