

# **Minutes for Town of North Smithfield Planning Board**

**Primrose Fire Station, 1470 Providence Pike**

**Thursday, July 7, 2016**

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

**1. Roll Call: Present: Dean Naylor, Lucien Benoit, Michael Fournier, Scott Lentz, Gary Palardy and David Punchak. Dinna Finnegan was absent. Also in attendance were Town Planner Robert Ericson, Assistant Town Planner/GIS Analyst Bobbi Moneghan and Town Solicitor David Igliazzi.**

**2. Disclosure: There were no disclosures.**

**3. Minutes: June 2 & 16, 2016.**

**June 2, 2016**

**The Board discussed corrections to the minutes. Dr. Benoit made a motion to approve the minutes of June 2, 2016 with corrections. Mr. Palardy seconded with all in favor.**

**June 16, 2016**

**The Board was missing page two of the minutes and therefore the discussion was deferred until the next PB meeting to be held on August 4, 2016.**

#### **4. Decisions:**

##### **Decision: Cumberland Farms**

**Mr. Palardy and Dr. Benoit asked that the statements made for the five required findings for subdivision approval be changed to be in the positive.**

**The Board discussed minor changes to the decision. Mr. Palardy motioned to accept the decision as amended for the Cumberland Farms, Development Plan Review, Applicant: Cumberland Farms, Inc., Location: 901 Victory Highway, Assessor's Plat 1, Lots 52 and 265, Zoning: BN (Neighborhood Business). Mr. Lentz seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes. Mr. Punchak: Yes. No: 0. Motion passed 5-0.**

##### **Decision: John Michael O'Hearne Subdivision**

**The Board discussed minor changes to the decision including putting the five tests for approval in the approval section of the decision. Mr. Lentz made a motion to accept the decision as amended for the John Michael O'Hearne subdivision, Minor Subdivision, Preliminary Plan, Applicant: John Michael O'Hearne, Location: Hanton Rd., Assessor's Plat 12 Lot 126, Zoning: Split: RU (Urban Residential) and RRC (Rural Residential Conservation) as amended. Mr. Palardy seconded. Roll**

**call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Punchak: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes. No: 0. Motion passed 5-0.**

## **5. Major Land Development Project Pre-Application**

**Applicant: Boardwalk Storage Solutions, LLC Location: 435 Eddie Dowling Hwy**

**Assessor's Plat 13 Lot 104**

**Zoning: BH (Highway Business)**

**This plan proposes an additional storage building of 27,000 SF on an existing self-storage site. This project is being heard as a major land development project.**

**Mr. Eric Prive presented the project for Boardwalk Storage Solutions. The site, located at 435 Eddie Dowling Blvd on the west side of Rte. 146A, consists of 10 acres and currently has three permanent buildings in the front 2-2.5 acres. There are two curb cuts and a detention basin. There are free-standing storage units in the rear of the property on wetlands. The new owner wants to remove the free-standing storage and make improvements by adding a new permanent building, outside of the wetlands. The building will be three stories, 31.5 feet tall and have a 90,000 sq. ft. footprint. The entrance will remain the same and there will be no new sewer or water services. The stormwater management will be improved with the addition of a water quality treatment system and will require approval from RIDEM. It is proposed that the rear 7.5 acres be put**

**under a conservation easement.**

**Mr. Prive stated that the applicant would prefer to combine master and preliminary plan. The RIDEM permits would be attained prior to the master/preliminary submission.**

**Mr. Ericson asked if the applicant was going to use the RIDEM conservation easement model with no public access. He stated the use of the conservation easement will lower the taxes on the back part of the property. Mr. Prive said he has not reviewed the conservation easement at this point and this will be determined before the master plan is submitted.**

**Dr. Benoit asked about PODS being stored on site and Mr. Pouliot, Principal at Boardwalk Storage Solutions, said there will be no PODS only permanent, climate-controlled structures.**

**Mr. Prive explained that the applicant has taken fire access and turning radius into consideration.**

**Mr. Palardy asked about the two properties to the north of this property and Mr. Lentz said these buildings are abandoned.**

**Mr. Palardy asked about how much increase there will be in the amount of storage and Mr. Prive said there will be a 50-60% storage increase. When asked by Mr. Palardy about traffic increases, Mr.**

**Pouliot said storage facilities are not high traffic businesses and there will be 22 additional vehicles entering and exiting the property per day. Mr. Prive said the sight lines are satisfactory and gaps in traffic are created by the traffic light at Dowling Village Blvd and Eddie Dowling Hwy.**

**Chairman Naylor asked about access for larger vehicles and Mr. Pouliot said the buildings allow for passage of a 43 foot box truck. He also said 80% of the storage is residential and 20% is commercial and there is no warehousing or storage of large volumes.**

**Mr. Ericson asked if the applicant has spoken with the fire marshal and Mr. Prive commented that this is the next step.**

**Chairman Naylor asked for feedback from the Board. Mr. Punchak asked if the buildings have sprinklers and Mr. Pouliot said this is one of the discussions they will have with the fire marshal. Mr. Prive said there is a fire hydrant at the front of the lot.**

**Mr. Ericson explained that the storage facility across the street (Eddie Dowling Hwy) was required to install a water storage tank because there is significant POD storage with open access the areas cannot be partitioned and controlled.**

**Mr. Palardy suggested the use of evergreens in the western corner of the lot if there is visibility from Rte. 146.**

**Chairman Naylor stated that he was pleased with the removal on the encroachment on the wetlands and the overall project.**

**Dr. Benoit asked how long after approval they would begin construction. Mr. Pouliot said they would like to get the foundations in before the winter begins.**

**Mr. Prive said there will be no changes to signage on the lot.**

**6. Review of Process for Minor Subdivisions made Major by a variance or waiver.**

**Mr. Ericson stated that when a minor subdivision requires a variance it is automatically considered a major development. He referred to a subdivision currently under review that has two houses on one lot and is being subdivided to have one house per lot. The subdivision requires a variance and because of that, it is considered a major. He commented that the major subdivision process in Planning is considerably more expensive.**

**Mr. Ericson said that master plan and preliminary plan stages have never been combined. He said the problem with the combining is that if there is a problem with the master plan, the preliminary plan has to be redone. In order to combine the stages, the applicant would have to sign an agreement recognizing the risk of combining them.**

**Mr. Ericson referred back to the subdivision reviewed prior to this, Boardwalk Storage, where the engineer is requesting the combining of master and preliminary plans for a major land development project.**

**He stated the problems with combining stages are**

- o Master plan requires an informational meeting with ten day notice and postcard notice**
- o Preliminary plan requires a public hearing with two week notice and certified mail**

**Mr. Ericson said that under state law the Planning Board has no discretionary authority in the case of a minor being considered a major if variances are required.**

**Mr. Palardy said he thinks the Board has to be clear on when stages are combined and there should not be much discretionary authority.**

**Mr. Ericson thought maybe it would be possible to list situations where stages could be combined such as simple set-backs, frontage variances and waivers.**

**Mr. Lentz asked if the Board would make a list of reasons when stages can be compressed.**

**Mr. Ericson said there could be a list of situations where the stages**

can be combined.

Dr. Benoit asked how many times this has happened in the last eight years. Mr. Ericson stated that almost all minors that have come in, about 12 required variances. Dr. Benoit suggested this is making the process more complicated.

Mr. Ericson stated a major subdivision is a lot of work and with separate stages requires two meetings. He said he would prefer the PB meet once per month but with separate stages, more meetings may be required.

Chairman Naylor said over the past year, 12 minor subdivisions kicked up to major and he questions whether combining stages based on the situation, will box the PB in. He suggested this is similar to re-writing variances.

Mr. Palardy supported combining stages on a case-by-case basis if there are concise criteria. Chairman Naylor prefers combining on a case-by-case basis with the ability of the PB to discuss the combination prior to the meeting date.

Mr. Igliozzi stated that the PB can combine stages but questioned how it will be triggered. Will the PB vote to combine or will the applicant ask for the combination at the pre-application meeting?

**Mr. Igliazzi said that if an applicant wants to combine stages, the PB could require they go to a pre-application meeting and request it of the PB. The applicant will have to be aware of the risk involved with combining the stages.**

**The Board came to a consensus that they prefer the solution offered by Mr. Igliazzi requiring the applicant of a minor subdivision requiring a variance, to go to a pre-application meeting and asking for the stages to be combined.**

**Mr. Ericson asked about the situation where the applicant has already had a pre-application meeting and does not ask for the master and preliminary stages to be combined but later decides to combine them.**

**Chairman Naylor said that if the stages are combined, all documentation must be in order, understanding that this is a legal process.**

**Mr. Igliazzi said the difference between the PB voting to combine stages and advertising for two reviews on one night creates two different situations legally.**

**Mr. Ericson said that master plan and preliminary plan have never been combined. Chairman Naylor thinks it is possible to do the stages separately and complete in a short time if the applicant is**

**prepared.**

**This item will be addressed at the next PB meeting on August 4, 2016.**

## **7. Proposed Zoning Ordinance Amendments for review:**

### **Section 5.4.9 Service Industries (reconsideration)**

**Chairman Naylor said that the PB had already voted on the Section 5.4.9 Service Industries Ordinance modification and sent a recommendation to the TC that it is not consistent with the Comprehensive Plan. He suggested that the PB reconsider this ordinance, not to change the recommendation, but to make suggestions as to how to bring the ordinance into consistency with the Comprehensive Plan.**

**Dr. Benoit asked for clarification from the Town Solicitor concerning the reconsideration of an ordinance. He asked if the reconsideration must be executed at the very next PB meeting and Mr. Iglizzi answered affirmatively. Mr. Ericson stated that the appropriate term would be revisited.**

**Mr. Ericson asked the PB what would make this ordinance consistent with the Comprehensive Plan. Mr. Lentz suggested the Board review other ordinance modifications before revisiting this one. The PB agreed.**

## **Section 6.13 Parking and Storage of Certain Vehicles**

**Mr. Lentz stated that the modification to Section 6.13 Parking and Storage of Certain Vehicles came from the Ordinance Review Committee (ORC) and it expands the allowance for the number of vehicles allowed on a property. He said the ORC suggested the number of vehicles be changed from 1 to 2 with the exception of land in Farm, Forest, Open Space (FFOS) where 4 vehicles will be permitted.**

**Dr. Benoit asked if there is any economic benefit of increasing these numbers of vehicles. He said that allowing up to 4 vehicles in FFOS promotes agriculture and forestry and this is consistent with the Comprehensive Plan.**

**The PB recognized town resident Gary Ezovski. Mr. Ezovski commented that his issue is not with the changes being proposed but those not being proposed. He was referring section of the ordinance limiting the parking and storage for vehicles over five (5) tons gross combined weight. He said there are many 6-passenger vehicles around town currently, and that this ordinance would not allow these to park on properties in town.**

**Mr. Igliozzi said that this is not what the PB is considering at this meeting and a change like Mr. Ezovski is suggesting would need to be considered by the TC.**

**Dr. Benoit made a motion to find Zoning Ordinance Section 6.13 Parking and Storage of Certain Vehicles consistent with the Comprehensive Plan. Mr. Palardy seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Punchak: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes. Motion passed 5-0.**

**The Board discussed the definition of combined weight and determined the ordinance should be weight per vehicle instead of combined weight. Mr. Fournier brought up the situation where multiple residents of households have commercial vehicles and are limited on how many they can park on their property. Mr. Lentz said that the ordinance is enforced only when neighbors complain. Mr. Palardy does not agree that zoning should be associated with the number of vehicles permitted on a property.**

**Mr. Igliozzi told the PB that if there is not a clear consensus they should recommend to the TC that the tonnage per vehicle be increased and the number of vehicles allowed be increased. He said it is a policy change that should be decided by the TC, not the PB.**

**Mr. Palardy made a motion to recommend a change to Zoning Ordinance Section 6.13.2 Parking and Storage of Certain Vehicles to increase the weight of the vehicles allowed and to make the weight requirement per vehicle instead of a combined weight. He also recommended the number of commercial vehicles allowed on a particular property be increased. Dr. Benoit seconded the motion**

made by Mr. Palardy and there was a roll call vote. The vote was: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Punchak: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes. No: 0. Motion passed 5-0.

#### **Section 6.14 Parking, Storage or Use of Major Recreational Equipment**

Dr. Benoit motioned to find Section 6.14 Parking, Storage or Use of Major Recreational Equipment consistent with the Comprehensive Plan because it encourages the use of open space and recreation. Mr. Palardy seconded with all in favor (unanimous).

Chairman Naylor asked if this ordinance refers to zones other than residential and gave the example of a business property where many recreational vehicles are stored for a few days. Mr. Ericson replied that in the case being referred to in a manufacturing zone; the property owner had a comprehensive variance and was therefore permitted that number of vehicles.

Mr. Fournier asked for clarification on the relationship between the number of recreational vehicles allowed and the size of the lot. Mr. Lentz answered saying the larger the lot, the greater the number of vehicles allowed. He said if the lot is small, only allowing 1 recreational vehicle, a structure must be built to house any additional recreational vehicles. The structure must just cover the vehicle.

There was no recommendation for this Zoning Ordinance.

## **Section 6.21 Illicit Discharge Stormwater Ordinance**

**Mr. Ericson said that this ordinance is a standard requirement for compliance with the Rhode Island Department of Environmental Management MS4 regulations. He stated that these requirements should be enforced by a town Zoning Officer.**

**Mr. Lentz asked if this ordinance has to be on the books and Mr. Ericson said yes.**

**Mr. Ericson stated that the DPW becomes aware of illicit tie-ins when they are cleaning catch basins. He said there could also be illicit substances being dumped in commercial situations.**

**Dr. Benoit made a motion to find Section 6.21 Illicit Discharge Stormwater Ordinance consistent with the Comprehensive Plan because it protects the environment mandated by RIDEM. Mr. Punchak seconded with all in favor.**

## **Section 5.4.9 Service Industries (use table)**

**Mr. Ericson told the Board that this is where they would recommend changes to make the ordinance consistent with the Comprehensive Plan and the first change was to the Use Table item 5.4.9.8 Ground Mounted Solar Photovoltaic Systems, changing zones RRC and RR from 'N' to 'S1'. He said the special use permit 'S' with a subscript**

would require a minimum of twelve acres (12) plus a minimum of twelve (12) acres per additional megawatt.

Mr. Lentz asked if this ordinance pertained to land in FFOS. Mr. Ericson said it is for land zoned RRC or RR. Mr. Lentz said that because this is for FFOS protection it should be land that 1) has been protected for ten years, 2) been on the tax rolls as farm for ten years and 3) have a current RIDEM-approved forest plan. He also said that if the land ceases to be classified as FFOS, the solar photovoltaic system would need to be removed. Chairman Naylor disagreed. Mr. Iglizzi said to enforce Mr. Lentz' suggestion, there would have to be a deed restriction on the land. He also said that they could specify conditions of the special use permit:

- 1) must be twelve (12) acres
- 2) additional twelve (12) acres per megawatt
- 3) in farm for the last ten (10) years
- 4) forest plan in place
- 5) deed restriction-land used only as a farm as long as there is a solar farm

Mr. Iglizzi stated that the restriction is on the land. Mr. Lentz said there should be a requirement for satellite photographs to prove that trees have been there for the last ten years.

Dr. Benoit believes that if an owner has trees on his property he

should be entitled to cut them down and if he wants to clear the land for solar, it should be permitted.

Mr. Lentz said that because of technology changes, the requirement should be based on percentage of land being used for solar. Mr. Ericson gave the example of a requirement of twelve (12) acres and a maximum of 40% of that land in solar.

Mr. Ezovski commented that there are principals that must be maintained. He gave the example of the ordinance that specifies no multifamily homes on land without public water and public sewer. He said that that ordinance has had a dramatic impact on the town. Mr. Ezovski stated that there are many conditions that have to be met to use solar power effectively and this presents limitations to property owners. Not all property has the conditions to benefit from the installation of solar panels.

Mr. Ezovski suggested not focusing on farms. He suggested focusing on lots that are prone for development and determining if the town would benefit more from a buffered solar installation or a new residential development. Mr. Ezovski said the town should be focusing on economic development and having things in balance.

Mr. Ezovski listed a few towns that allow solar photovoltaic systems: Smithfield, Coventry and Gloucester. He believes the best method is to offer a special use permit for solar in the District Use Tables.

**Mr. Lentz asked if the Rhode Island Bill to eliminate taxes for solar arrays (tangible tax) is under consideration in the legislature. Mr. Ericson said he did not know. Mr. Lentz said if the bill is under consideration and is passed the town stands to receive less tax money in the future if solar is exempted.**

**Ms. Maureen Souza, attorney for Mr. Ezovski, asked if it is the intent of the PB to alter the Use Table with respect to renewable energy. Mr. Ericson said it is the responsibility of the ORC and TC. He suggests the TC have a two-person ordinance committee that would reach out to experts in the field for ordinance development.**

**Chairman Naylor said the Use Table came from the ORC and the only task of the PB is to find consistency with the Comprehensive Plan and to make recommendations to the TC. Mr. Ezovski said that the idea of solar only being allowed in commercial and manufacturing zones is a disaster.**

**Mr. Ericson reiterated that the requirement for solar should be at least 12 acres and no more than 40% in solar photovoltaic. Mr. Lentz thinks the percentage of land should be 20 % and there should be no acreage requirement. Mr. Ericson said that if the percentage is changed to 20%, there will be fewer viable parcels.**

**Mr. Palardy proposed the use table item 5.4.9.8 Ground Mounted solar**

**photovoltaic systems require a special use permit for all zones with a minimum of 15 acre requirement and limited to 30% solar. Chairman Naylor agreed.**

**Mr. Igliazzi asked what it is about zones LC and M that is inconsistent with the Comprehensive Plan, as the Board stated at the last meeting. Mr. Palardy and Chairman Naylor said that land in zones LC and M could have better uses for economic development, and the land should be used to create jobs. Mr. Igliazzi said that if the use of solar photovoltaic systems in LC and M zones is not a good use, the indicator on the table should be N (no).**

**Dr. Benoit stated zones LC and M should be preserved for jobs or true manufacturing and commercial development.**

**Mr. Ericson said that much of the land zoned MU2 is in a groundwater recharge area so only 40% can be impervious, but because solar systems are considered permeable, they can be installed anywhere on the site. Therefore MU2 should allow solar photovoltaic with a Special Use Permit.**

**The Board discussed the Use table and determined the following changes:**

**Zone Indicator Text of Subscript\***

**RRC S1 Minimum 15 acres and limited to 30% solar**

**RR S1 Minimum 15 acres and limited to 30% solar**  
**RS S1 Minimum 15 acres and limited to 30% solar**  
**RU S1 Minimum 15 acres and limited to 30% solar**  
**RV S1 Minimum 15 acres and limited to 30% solar**

**PS, BH, BN N**

**BA S1 Minimum 15 acres and limited to 30%**

**LC N**

**M N**

**MU N**

**MU2 N Make recommendation for S**

**OS S1**

**\*Actual subscript number to be determined later**

**Mr. Punchak made a motion to recommend the above District Use Table changes to make the table consistent with the Comprehensive Plan. Mr. Palardy seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Punchak: Yes, Mr. Lentz: No, Mr. Palardy: Yes. Motion passed 4-1.**

### **Section 5.7 Ground-mounted Solar Photovoltaic Installations**

**Mr. Ericson started the discussion of why this may be inconsistent with the Comprehensive Plan, as discussed at the previous meeting. He stated that requiring a minimum 250 kW effectively prohibits**

anything smaller, whereas the existing ordinance leaves it unregulated.

Mr. Palardy said that someone with less than 250 MW capability should not be stopped from using ground-mounted solar.

Mr. Ezovski commented that a percentage of property is a good way to limit the use of solar and also it is important to look at where the arrays will be put and whether there is buffering from the neighbors.

Mr. Iglizzi said that to be consistent with the Comprehensive Plan the ordinance should ensure that installation for onsite use is not prohibited. He said the minimum nameplate capacity requirement should be removed.

Mr. Ericson spoke about the decibel requirements of not more than 40 decibels at the property line. He said this will be difficult to enforce because the inverter is not on at night and during the day it will be difficult to separate from the ambient noise. Mr. Lentz stated that to calculate the daytime noise levels of the installation, first measure ambient noise with the inverter turned off and then measure noise levels with the inverter turned on. The difference will be the decibels created by the installation.

Mr. Punchak made a motion to allow onsite use and remove the 250 MW minimum from 5.7(b). This will protect onsite use with no

minimum nameplate and assure it is regulated. The word onsite will be added to 5.7(a) and the 250 MW minimum will be removed from 5.7(b). Mr. Palardy seconded.

Chairman Naylor made a procedural motion to extend the meeting 10 minutes. Mr. Lentz seconded with all in favor.

Mr. Palardy restated the motion to make a recommendation that Zoning Ordinance Section 5.7 Ground-mounted Solar Photovoltaic Installations be cleaned up to remove inconsistencies in language, allow onsite use and remove the minimum of 250 Megawatts. Mr. Punchak seconded with all in favor.

## **8. Proposed Amendments to Land Development & Subdivision Regulations:**

The Board did not discuss this agenda item.

## **9. Planning Update:**

Mr. Ericson told the PB about a proposal by RIDOT for a roundabout at the intersection of North Main Street and Victory Highway that has been withdrawn.

Dr. Benoit asked Mr. Ericson if he was aware of state legislation concerning removing wetland buffers from the construction density

**calculation. Mr. Ericson stated that the bill, that removes the fifty foot wetland buffer from the density calculation, went to the governor on July 1.**

**Dr. Benoit said that he was taken aback by a presentation where sewerage was being installed but residents were using wells. He said that this situation means no reinjecting and possibly a lowering of the water table. Dr. Benoit suggested the PB discuss a mandate to bring water in when small lots are being developed. Dr. Benoit would like to see this item on the next agenda for the PB.**

**Mr. Punchak made a motion to adjourn and Mr. Palardy seconded with all in favor. (10:03 PM)**

**Submitted by Bobbi Moneghan on July 26, 2016.**

**Approved by the Planning Board on August 4, 2016.**