

Minutes for Town of North Smithfield Planning Board

Primrose Fire Station, 1420 Providence Pike

September 1, 2016

The Chair called the meeting to order at 7:03 pm.

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

2. Disclosure: Dr. Benoit disclosed that he had engaged the services of Casali Engineering. The work is completed and paid for in full. Dr. Benoit said he had no financial interest in the Casali organization. These minutes serve as a statement of disclosure. Mr. Igliazzi saw no problem in continuing the meeting with Dr. Benoit participating.

3. Minutes: August 4, 2016

There was one minor change. Dr. Benoit motioned to accept the minutes of August 4, 2016 as corrected. Mr. Lentz seconded with all in favor (5-0).

4. Decisions: Carey Major Sub-division

Mr. Lentz pointed out that there were two paragraphs on page 3 that were redundant. Mr. Ericson said to remove the first paragraph. Beside one small change, he also said to add a date of September 2, 2016 at the end of the decision.

Mr. Lentz made a motion to approve the decision for the Major Subdivision Plan for Applicant: James Carey Location: 119 Sayles Hill Rd, Assessor's Plat 17 Lot 1 & 127, Zoning: RS-40 (Residential Suburban) as corrected. Mr. Palardy seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Mr. Punchak: Yes, No: None. Motion passed 5-0.

5. Pre-Application: Edward Avenue Major Subdivision Plan

**Applicant: Philip & Kimberley Godfrin Location: Edwards St
Assessor's Plat 1 Lot 57 Zoning: RS-40**

Mr. Ericson explained that a pre-application is required for a major subdivision plan. Mr. Casali of Casali Engineering explained the six lot subdivision to be built on Assessor's Plat 1 Lot 57, Edwards Avenue. He said the freshwater wetlands have been identified as well as the 50 foot buffer. The proposal is for six lots larger than the RS zoning requirement and a 325 foot extension of Edward Ave. The extension will be a 24 foot paved road in a 50 foot right-of-way and the cul-de-sac will be 50 feet of pavement in a 60 foot radius. He said there is currently a six inch water main and the proposal is to extend the water line for domestic and fire protection for all six of the

single-family dwellings. There is a hydrant near the end of Edward and he proposes adding an additional hydrant. Mr. Casali said that each parcel will have a septic system. If town sewers are extended into the area, the parcels will have town sewer.

Mr. Casali reviewed the water issues and possible litigation on the adjacent Parkview Drive. He said this development will not impact the water problems on Parkview Drive. The water from the proposed lots will be diverted to a detention basin.

The applicant is looking for four waivers:

- 1. It is proposed that a 24-foot roadway be used instead of the standard 30-foot in keeping with the natural width of Edward Avenue.**
- 2. For the length of the roadway, dimensional relief the roadway would be 1425 feet instead of the recommended 1000 feet.**
- 3. No sidewalks to keep with the nature of Edward Avenue**
- 4. No granite curbing because Edward Avenue does not have granite curbing.**

The Public Works Director, Ray Pendergast has submitted a letter of recommendation for the waivers and Fire Marshal Brian Gartland has as well.

Mr. Casali said the applicant will be filing with the RIDEM concerning the freshwater wetlands.

Dr. Benoit asked who would be responsible for extending the water and sewer line if and when they are extended down Edwards Ave and Mr. Casali said it would be the applicant's responsibility.

Dr. Benoit also asked about granite curbing. He said it is mandated in the regulations. Dr. Benoit would not support waiver on granite curbing or sidewalks within the village. Mr. Casali stated that it is a lower cost to omit granite curbing and sidewalks, but they are not used on the existing Edward Avenue. He said he is keeping within the character and look of Edward Avenue by not installing granite curbing and sidewalks.

Dr. Benoit read the letter written by the Public Works Director, Ray Pendergast for the public and entered it into the record.

The letter from the Director of Public Works reads:

I have reviewed the site plan for the proposed major subdivision on Edward Avenue and have the following recommendations. With regard to the proposed cul-de-sac the Department of Public Works has no objection to this proposal. Some of the reasons we are in favor of this are easy turn-around when we are snowplowing and the trash and recycling trucks would not be required to back down the road. Also my department would prefer that there were no sidewalks or curbing on the proposed roadway. The existing Edward Avenue doesn't have them. The curbing and sidewalks would become one

more hazard to my department when we are snowplowing.

Chairman Naylor stated that all applicants should follow the regulations. He said that a letter from a town official such as the fire chief or Public Works Director should have no bearing on the regulations and whether an application has to adhere to them.

Mr. Casali said the applicant will do what the residents and town want. Sidewalks and curbing do not affect health and welfare.

Mr. Palardy said that there are watershed problems on Edward Avenue and the pavement is poor. He thought that maybe when the pavement is replaced, the sidewalks and curbing could be added to the existing roadway. Mr. Casali agreed the pavement is in poor shape and the underlay is the problem. He also addressed the possible connection of Edward Avenue to Parkview and said because of wetlands, this connection could not be made.

There was much discussion concerning the repaving of Edward Ave and adding curbing and sidewalks.

Mr. Ericson clarified the LD&SR street requirement of 26 feet width, length of 325 feet creates ambiguity and he thinks it is reasonable for the applicant to ask for a length of 1425 feet. He also said there are deteriorating Cape Cod berms on Edward Avenue. He is concerned about stormwater management in that area.

Mr. Casali said the RIDEM prefers open system drainages like swales.

Mr. Casali said that slope and wetland buffers will no longer be excluded from the calculation of buildable lots. He explained the calculation of buildable lots.

Chairman Naylor asked for confirmation that the applicant is creating six lots. Mr. Casali confirmed.

Dr. Benoit asked about when a study was instituted to sewer Parkview Drive and Edward Ave. Mr. Casali said it was approximately six months ago, and it is before the Sewer Commission.

The Board discussed the problems on Edwards Avenue, soil testing and the possibility of sewers.

6. Master Plan: Edward Avenue Major Subdivision Plan with Informational Meeting (public hearing)

Applicant: Philip & Kimberly Godfrin Location: Edwards St

Assessor's Plat 1 Lot 57 Zoning: RS-40

Mr. Punchak made a motion to accept the discussion of the pre-application for Edward Avenue, a major Subdivision Plan as part of the master plan discussion. Mr. Lentz seconded. Roll call vote:

Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Mr. Punchak: Yes, No: None. Motion passed 5-0.

Mr. Casali corrected two items from the pre-application meeting. 1) roadway width reduction waiver is for two feet, not six feet and 2) 1425 foot cul-de-sac, waiver request is for 825 feet not 425 feet as said earlier.

Chairman Naylor stated that the state law concerning wetland buffers inclusion in the calculation of buildable lots will change on January 1, 2017. He said that if the master plan is approved, the project is vested. He then asked Mr. Iglizzi if because the project is vested, the applicant has to abide by the rules in effect at the time of vesting. Mr. Iglizzi suggested the Board defer the issue until the preliminary plan stage.

Dr. Benoit made a motion to open the public hearing at 8:04 pm. Mr. Palardy seconded with all in favor. When asked if there were any comments from the public Mr. Lefebvre of 19 Edward Ave presented a deed for his property that contradicts the plan for this subdivision. Mr. Lefebvre entered the deed (Pg. 155 Pg. 731) into the record as exhibit 1.

Chairman Naylor commented the existence of such deed does not prove the plan is incorrect and it is not within the Board purview to determine which plan is correct.

Mr. Casali, the engineer for the project, entered the subdivision plan (2016) created from a class 1 survey into the record as Exhibit 2.

Chairman Naylor told the Board that he does not feel comfortable approving a master plan when there is a dispute among property owners.

There were no more comments from the public.

Dr. Benoit made a motion to close the public hearing at 8:16 pm. When corrected by Mr. Iglizzi, Dr. Benoit withdrew his motion and made a new motion to continue the public hearing to a date known. He then withdrew that motion.

The applicant Mr. Philip Godfrin addressed the Board and explained the subdivision. The property was purchased in 2002 and he said he had never heard of a dispute about boundary lines. He told Mr. Lefebvre that he wants to resolve any concerns he may have. Mr. Godfrin stated that his intent is to continue Edward Avenue and design the extension to look like the existing Edward Avenue. There are no granite curbs or sidewalks currently on the street. He went on to explain that this is not a 'for profit' venture and that he will be building his own home in the subdivision. The project has been delayed because of sewer and drainage areas present in the area. Edward Avenue and Parkview Avenue will be re-paved when the

sewer is extended and Mr. Godfrin said the street will most likely not get granite curbing and sidewalks.

Dr. Benoit made a motion to continue the public hearing to October 6, 2016. Mr. Palardy seconded with all in favor.

Dr. Benoit voiced his concerns that the Board has not received any information about the town sewer project and the status.

Chairman Naylor asked if the Horsley Witten report on the sewers in that area could be forwarded to the Board. Mr. Godfrin said he would attain those reports from Maura Beck or Russ Carpenter.

Dr. Benoit asked the Board if there should be an open discussion concerning the modernizing of the roadway to town standards. Chairman Naylor restated that he would like the sewer plan on the prospective changes to be made to Edward Avenue.

Mr. Ericson stated that if sidewalks and granite curbing are added to Edward Ave, there would need to be another stormwater system.

Discussion ensued concerning the work being done on the sewers and the repaving on Edward Avenue. Mr. Palardy asked if the Board should be involved in the sewerage and paving process. Mr. Ericson said that he thinks the Board should have input.

Mr. Palardy made a motion to continue the Board discussion of this master plan application to October 6, 2016. Mr. Lentz seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Mr. Punchak: Yes, No: None. Motion passed 5-0.

Mr. Lentz made a motion to take a 5-minute break at 8:45 pm. Mr. Punchak seconded with all in favor.

Meeting continued at 8:50 pm

7. Proposed zoning amendments: Section 6.22 Wind Turbines and Section 5.4.9 Service Industries use table for wind turbines. Section 5.7 Ground-mounted Solar Photovoltaic Installations and Section 5.4.9 Service

Dr. Benoit asked Mr. Ericson to give his opinion on the consistency with the Comprehensive Plan. Mr. Ericson stated that wind turbines could potentially aid in preserving farmland in North Smithfield. He also said that the only argument he can find with consistency with the Comp Plan is that the ordinance in totality makes wind turbines in North Smithfield unusable. He also suggested the ordinance could cause problems with economic development.

Mr. Lentz said that with the ordinance in effect, residents can still install wind turbines but there will not be many places that will meet the regulation. He also said that the ordinance made wind turbine use

as safe and environmentally friendly as possible.

Mr. Palardy addressed the wording of the ordinance in relation to the use of wind to produce energy. He used the example of outlet vents on homes and buildings. If those vents were used to generate onsite electricity, this ordinance would preclude the use of them.

Mr. Lentz said that the intent of the ORC was to address all stand-alone turbines.

Chairman Naylor gave the example of a beach house in RI where there stands a 25 foot wind turbine for onsite electricity generation. He believes the ordinance makes it nearly impossible to use wind turbines of any kind in North Smithfield.

Mr. Lentz stated the ordinance protects abutting property owners from the visual, noise, fall zone and flicker from wind turbines.

Chairman Naylor argued that people should be able to do what they want with their land. He also said this ordinance is onerous.

Mr. Lentz continued to say the ordinance allows wind turbines if they meet the criteria.

Mr. Palardy suggested the Comp Plan specifies seeking alternative energy sources, and Mr. Lentz said the present Comp Plan does not.

Mr. Lentz also noted that preserving farmland, as mentioned by Mr. Ericson, is not addressed in the Comp Plan.

There was much discussion before Mr. Lentz made a motion to find the Wind Turbine Ordinance consistent with the Comp Plan. Mr. Palardy seconded. Roll call vote: Chairman Naylor: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Dr. Benoit: Yes and Mr. Punchak: abstained. Motion passed 4-1.

Chairman Naylor advised the Board to make recommendations to the Town Council regarding the Wind Turbine ordinance. Mr. Punchak made a motion to make the following recommendation:

1. General finding that the ordinance is so onerous that it makes installation of a wind turbine in North Smithfield next to impossible, both commercial and residential.

Dr. Benoit seconded. Roll call vote: Chairman Naylor: Yes, Mr. Lentz: No, Mr. Palardy: Yes, Dr. Benoit: Yes and Mr. Punchak: Yes. Motion passed 4-1.

Mr. Palardy made a motion to make the recommendation to the Town Council:

1. When ruling on the wind turbines, to take into consideration the production of energy on residential property for their own use just as

the Board recommended with the solar ordinance.

He concurred with Mr. Punchak that this ordinance is onerous. Dr. Benoit seconded the motion. Roll call vote: Chairman Naylor: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Dr. Benoit: Yes and Mr. Punchak: Yes. Motion passed 5-0.

The citizens group COURT (Conserve Our Unique Rural Town) is present to ask the Board for a reconsideration of use table item number 5.4.9.7 Wind Energy Generation.

Mr. Palardy contended that no one can generate wind energy and that the real meaning is the use of wind for generating energy.

Chairman Naylor said that he would suggest the same argument that was discussed by the Board for the solar ordinance; residents should be allowed to use wind-generating energy sources on their own property for their own use. He also gave a scenario where a company in North Smithfield may need to use wind-produced energy to stay in business in Town. If it is not permitted, the company may have to go elsewhere thus hindering economic development.

Mr. Palardy was very concerned about the wording. He said it sounds to him like the use of wind to create energy is not wanted in Town. He said there are other ways to use wind other than turbines.

Mr. Lentz said that as written this line of the Use Tables is not consistent with the Comp Plan.

There was more discussion regarding this topic

Mr. Palardy made a motion to find line 5.4.9 inconsistent with the Comp Plan and said the wording is not clear. Mr. Punchak seconded. Roll call vote: Chairman Naylor: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Dr. Benoit: Yes and Mr. Punchak: Yes. Motion passed 5-0.

The next discussion was of the recommendations to the Town Council regarding this line of the Use Table proposed by COURT.

Mr. Lentz made a motion to:

- Modify the wording to be COMMERCIAL ELECTRICITY GENERATION VIA WIND TURBINES with N for all zones.**
- Add another line to the Use Table 5.6 ONSITE NET METERING ELECTRICITY GENERATION VIA WIND TURBINES with S for all zones**

Mr. Palardy seconded. Roll call vote: Chairman Naylor: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Dr. Benoit: Yes, Mr. Punchak: Yes. Motion passed 5-0.

At 9:57 pm Dr. Benoit motioned to extend the meeting for ten minutes. Mr. Palardy seconded with all in favor.

Mr. Fournier left the meeting.

8. Subdivision Fees: Discussion on fees in which 1) a minor subdivision becomes major because of a required waiver or variance, and 2) the resulting Master and Preliminary stages are completed in the same meeting.

Chairman Naylor stated that he had asked Mr. Iglizzi for a legal opinion on the subdivision fees and possible waiver. Mr. Iglizzi said that the Board cannot treat some subdivisions differently than others. He said there would be no way to discern which projects had fees waived and which ones did not.

Mr. Lentz made a motion to reject the change consideration for reduction in the subdivision fees if a subdivision is forced to go from a minor to a major because of state law. Mr. Punchak seconded. Roll call vote: Chairman Naylor: Yes, Dr. Benoit: Yes, Mr. Lentz: Yes, Mr. Palardy: Yes, Mr. Punchak: Yes, No: None. Motion passed 5-0.

9. Policy for Minutes: This item was deferred to the October 6, 2016 meeting.

Dr. Benoit asked that a discussion of water and sewer be put on the next agenda.

Chairman Naylor made a motion to reject having a Board meeting on September 15, 2016. Mr. Palardy seconded with all in favor.

11. Adjournment

Dr. Benoit made a motion to adjourn and Mr. Punchak seconded with all in favor. (10:07 PM)

Submitted by Bobbi Moneghan on September 27, 2016

Approved by the Planning Board on October 6, 2016