



**TOWN OF PORTSMOUTH
PLANNING BOARD**

2200 East Main Road
Portsmouth, RI 02871
401-683-3717

**PORTSMOUTH PLANNING BOARD
Regular Meeting
March 13, 2018**

Members Present: Guy Bissonnette, Luke Harding, Edward Lopes, David Garceau, Ryan Tibbetts and Kathleen Wilson

Members Absent: Michael James

Others Present: Atty. Kevin Gavin, Portsmouth Town Solicitor and Michael Asciola, Assistant Town Planner.

The Meeting was called to order by Mr. Bissonnette at 7:00 p.m.

1. Agenda Continuances/Modifications: none

2. Approval of minutes for Planning Board meeting of February 13, 2019

MOTION: Mr. Harding made a motion, seconded by Mr. Tibbetts, to approve the minutes of the February 13, 2019 regular meeting as written.

All in favor. So voted.

3. Sakonnet Bluffs, LLC, AP 59, Lots 5A – 5P, Request to reduce Road Bond:

Attorney Cort Chappell, Chappell & Chappell, 171 Chase Road, Portsmouth appeared on behalf of the petitioner with a request to reduce the Road Bond for the Sakonnet Bluffs Subdivision. He asked that the Road Bond be reduced by half. This reduction would still allow for enough funds to work out any disagreements, current or future.

Attorney Jeffrey Brenner, Nixon Peabody LLP, One Citizens Plaza, Suite 500, Providence, appeared on behalf of Ann and Kevin Tarsagian, abutting neighbor. They would not like to see the Road Bond reduced because there are still issues with the road. If the Bond is to be reduced they would like conditions placed on the decision. The conditions would include a guard rail, gates, landscaping, and a cape cod berm. Mr. Brenner introduced a report by DiPrete Engineering and multiple pictures to show the Board what is happening. The exhibits were entered as Tarsagian 1-6.

Attorney Chappell stated that they have already agreed to meet these conditions.

Attorney J. Russell Jackson, Miller Scott Holbrook & Jackson, 122 Touro Street, Newport, appeared on behalf of Mark and Paige Goulart, abutters immediately to the south. Their concern is not with any of the conditions but with the long-term use of the road. The use was originally proposed for emergency personnel only but now it is for residents as well.

Attorney Chappell referenced a specific vote from 4/13/2011 in which the vote for emergency vehicles was voted down, 5-2. This vote allows for the road to be used for residents only and not the public or emergency vehicle use only.

Attorney Jackson referenced a document from 9/25/2017 which is an amendment to the final plan that is later in time than the document Atty. Chappell referenced with that specific vote. According to a finding of fact made by the Planning Board in this decision in which the private road was to be used primarily as an emergency entrance for fire and police departments.

Atty. Brenner stated as his final comment that what exists now is never what was intended or what was approved by this Board.

MOTION: Ms. Wilson made a motion to reduce the Road Bond by half, seconded by Mr. Lopes with discussion. Mr. Lopes will support the reduction in the Road Bond because there is no dispute to the conditions that were proposed. Motion modified to include the conditions of the guard rail, landscape, gates, usage of the gates, and what has already been agreed upon. Motion passed 5-1, Mr. Harding opposed.

4. **John & Susan Borden, AP 31, Lot 32B, Request for Informational Hearing and Master Plan approval for a four (4) lot subdivision requiring an Advisory Opinion to the Zoning Board for lot frontage on a private road:**
Mr. Harding recused himself.

Attorney Neil Galvin appeared on behalf of the owner/applicant. Attorney Galvin introduced three exhibits to the Board. They were entered as Borden 1-3. Borden 1 is a memo from the Portsmouth Fire Marshal, William Ethier, stating that the Borden proposal has met all vehicle access and water supply needs for the Portsmouth Fire Department. Borden 2 and 3 are plans showing the proposed lots. Atty. Galvin went over what they are looking to accomplish which is seeking minimal usage of the property to limit the potential density for this area. Mr. Borden is looking to create 4- single family homes, with the existing 3-family house becoming one of the single-family homes. Atty. Galvin believes that this is fully in compliance and keeps with the commitment that the owner made.

Mr. Bissonnette called for public comment.

Susan Lewis, 28 Canonchet Drive, Portsmouth, commented that Mr. Borden was untruthful when he was presenting what he was looking to accomplish and that he would not develop the land. Mr. Bissonnette clarified that Mr. Borden would not develop the property which means he would not be building the houses. She asked what will the buffer on the road look like?

Michelle Pope, 6 Canonchet Drive, Portsmouth, stated that in a private meeting Mr. Borden said he was going to sell the property because he needed the money. He did not say he was going to build on the land.

Heather Hall, 36 Canonchet Drive, Portsmouth, stated that they were first told it was going to be a driveway and not a road. To be considered a road it needs to be 50 feet across and this is not, it is only 43 feet.

Atty. Galvin stated that 43 feet was a zoning relief that was allowed. Atty. Galvin also commented that Mr. Borden does need funds but he is trying to reduce what a developer would be able to do.

Mr. Bissonnette also stated that a smaller road acts as a traffic mitigator, so that people won't drive as fast.

Mr. John Borden, 41 Mill Lane, Portsmouth, owner of Borden Farm Limited Partnership. Mr. Borden stated that he is trying to be a good neighbor and it never was his attention to mislead anyone. His plan was to subdivide and sell to a developer. After receiving feedback, he is trying to make it so that a developer cannot purchase the land and build 10 – 1 bedroom homes. Mr. Borden is trying to reduce the density that would be allowed if he does not accomplish this subdivision. Mr. Borden plans to add landscape to act as a buffer for the Lewis' and Hall's properties.

Michelle Pope, 6 Canonchet Drive, Portsmouth, asked about a buffer for the Martins property.

Mr. Borden stated there is already an existing buffer for the Martins property.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Lopes, to grant Master Plan Approval and a favorable advisory opinion to the Zoning Board for lot frontage. All in favor. So voted.

Break 8:15 pm, returned 8:21 pm

5.Velocity NBC, LLC (The Newport Beach Club), AP 16, Lot 37, AP 17, Lots 8 & 9, AP 22, Lots 2,3,4 & 10, AP 23, Lots 18 & 19 Request for a modification (fifth modification) to reduce the number of residential units from 152 to 141 by removing multiple structures, relocating garage structures and increasing the number of single family units.

Mr. Lopes recused himself.

Atty. James Hall, Adler Pollock & Sheehan, One Citizens Plaza, Providence, appeared on behalf of the applicant. Atty. Hall says they are looking to change

the PRD that is in place. The PRD is an agreement between the property owner and the Town. The applicant is looking to not build the member accommodations building or the function room, that was previously approved. This building is not conducive to or consistent with the surrounding properties. The applicant wants to remove these structures and increase the number of single-family homes. This change will not change the overall number of units for the project.

Mr. Bissonette asked how they plan to keep it a resort development if they are looking to not build some of the amenities that would make it a resort.

Ms. Wilson made a motion, seconded by Mr. Harding, to qualify Lyn Small, Northeast Engineers & Consultants, Inc., 55 John Clarke Road, Middletown, RI as an expert in the field of civil engineering. All in favor. So voted.

Lyn Small, has been on this project since 2005. She went over the changes that the new owner, Velocity NBC, LLC is looking to make. The changes would include no longer building the townhomes near the pool area, no longer building the member accommodations building or function hall and they would reduce the number of multifamily units from 12 to 10. Instead of the hotel accommodations building, the applicant is looking to make single-family homes that could range from 3-4 bedrooms. With these changes, Ms. Small is unsure of how many bedrooms this will create but she knows that this change will decrease the waste water flow. Creating the single-family homes will leave more green space, less traffic, it will be better for the coastal water and it will reduce the impervious surface.

Ms. Wilson made a motion, seconded by Mr. Harding, to qualify Thomas O. Sweeney as an expert in the field of real estate and development. All in favor. So voted.

Mr. Sweeney, 1 Turkshead Place, Providence, stated that in his opinion that making these changes are more desirable in his opinion. Adding the 9 homes, not only provides additional buffers to the abutters, it adds value to the property. Mr. Bissonette called for public comment.

Jane Hanks, 86 Therien Road, asked which way the houses will be facing? She is also concerned about the impact the houses will have on the pond, the impact on the schools, and how tall the houses could be. Mr. Bissonette commented that these homes are usually 2nd or 3rd homes and that the homeowners do not live in these homes full time. Houses cannot be over 40 feet. Mr. Hall stated that once someone buys the home they will be subject to the condominium documents that have the restrictions the homeowners would need to follow. Once the person buys the land, they will get their own permits to build, their own permits for DEM and any other permits that would be necessary.

Ross Landy, 2 Grant Road, an abutter at the North side of the property, is concerned with the number of bedrooms that the single-family homes would create.

Stacy Patterson, 2 Grant Road, is concerned with what the real bedroom count will end up being, the possibilities of parties going late into the night, and the traffic. The traffic is of concern because while construction has been going on, there have been construction vehicles travelling down a street they should not have been. Mrs. Patterson also expressed her concerns about promises that have been made in the past and not been kept. Neighbors were promised that a kayak holder would be built, and it hasn't been, and neighbors were promised that there would be trash pickup on the public right of way and there has not been any pickup.

Heidi Small, 8 Strawberry Lane, wants to make sure that the cemetery that is on the Newport Beach Club property is protected. Ms. Small also has concerns about the road that was put there. She believes that the road was put on her property and because there are no more markers Ms. Small cannot be sure if it is or not on her property. Mr. Hall stated that this is something that they can investigate and get back to Ms. Small about. Ms. Wilson stated that there is still a road bond which means there is money to fix this problem.

John Hanks, 86 Therien Road, abutter at the southwest corner of the property. Mr. Hanks believes that the homes along the ponds will be more intrusive than the hotel. He is also not happy about this change because when he was first looking into buying this home, he was not told that there would be homes right along the pond. If these changes are to be made, Mr. Hanks feels it is becoming less of a resort and more towards a subdivision.

Stacy Patterson, 2 Grant Road, interested to see what CRMC has to say about construction because she is also concerned with the impact the homes will have on the Town. Mr. Bissonnette stated CRMC will have to approve anything they do.

Diane Carruba, 250 Bristol Ferry Road, is pleading that the Board considers the impact that this will have on the residents next to the entrance. Ms. Carruba is now boxed in, she has roads on 3 sides of her property. Ms. Carruba is hoping that the setbacks for the plots (10, 11, 12) in the cul de sac right behind her property could be moved so that it does not obstruct her water view. If this is done, the value of her property will decrease. Unfortunately, plot 12 has been sold and once it is sold the configuration of the lot is up to the owner.

Paul Ems, 310 Bristol Ferry Road, stated that he bought the house for the view not for the house. Does not seem fair that he could lose that because they have been moving dirt to the land behind his house and making a plateau. If the house

can be 40 feet tall then that does not seem fair to him.

Scott Hallman, 288 Bristol Ferry Road (personal address) and a vacant lot on Brownell Lane, states that his letter that he received as an abutter says that it is a minor modification, to him adding 14 homes does not seem like a minor modification. Mr. Hallman is concerned about the loss of view. With the changes, how much open space would there be? How much space would be needed for the wastewater system? Mr. Hallman states that he likes that it is being developed and it is no longer the mess that it was before. Mr. Hallman feels like this project is becoming less of a resort and more of 'how many homes can we fit in an area'.

Ross Landy, 2 Grant Road, says the paper road is not built correctly.

Stacy Patterson, 2 Grant Road, is also concerned with the height of the homes to be built. Are they allowed to build 40 feet on top of the 20-foot plateau or can they only build 24 feet on top of the plateau? Ms. Patterson also is insulted by the use of the word minor in the abutters letter she received. Ms. Patterson would also like the Board to think about the long-term ramifications their decisions have.

Cort Chappell does not believe this is a minor modification. Mr. Chappell went through the history of this project and also definitions of resort, the impact of people there full time. It is substantially different to have someone in the house next door to me for only 18-20 days per year then to have someone there 365 days. Mr. Chappell believes that there would be a better buffer if they built the members accommodations building then if they build these 9 single family homes. These homes could have decks off the back, children playing in the back and the noise will travel across the pond which makes these homes seem that much closer to his property. Mr. Chappell printed a page directly from Newport Beach Clubs website that they are advertising these homes as full-time homes not vacation homes. Mr. Chappell goes over what a resort should be right from the Town of Portsmouth's Ordinance and speaks about the amenities that are not being built on this resort. Changes to the PUD, shall include findings that the public will benefit from these changes not the developer. Mr. Chappell sees how the developer will benefit but as a member of the public he does not see how he benefits from any of these changes. With these changes, is it more likely that this will be a full-time community, or will it be a resort where people are there 'x' number of days for year? If nothing else, this is a significant alteration and a new proposal should be made. If the 8 or changes are not enough on their own, collectively they should be enough to constitute making a new proposal.

Gary Crosby, Portsmouth Town Planner, asked what about the LMI (low to moderate income) units. 4 more still need to be built.

Mr. Hall stated they are not far enough along in the development phase to trigger

the last 4 LMI units.

Scott Hallman, 280 Bristol Ferry Road, if the hotel was an option, is the clubhouse with the pool an option?

Mr. Hall stated that the clubhouse with the pool is a change to the plan.

MOTION: Mr. Tibbetts made a motion, seconded by Ms. Wilson, to continue to the next Planning Board meeting, so that the applicant can come back with answers to questions that have been posed. Motion failed 2-3. Mr. Tibbetts and Ms. Wilson in favor.

MOTION: Mr. Harding made a motion, seconded by Mr. Garceau, to reject the new modification and deny the modification. Mr. Bissonnette thinks that this is a major not a minor modification and it was not brought before the board properly. All in favor. So voted.

Break: 10:37 pm Resumed: 10:42 pm

6:Wind Rush Properties, LLC, AP 36, Lot 17 (2451 East Main Road) – Request for Advisory Opinion regarding a Special Use Permit for a new retail and Consumer Services Complex.

Atty. Peter Regan, appeared on behalf of the applicant. Atty. Regan explained what the applicant is looking to create a Retail and Consumer Services Complex. The proposal would be to have two small retail spaces of 600 square feet each at the front of the building. There would be eight (8) tradesman units in the back. Two units would be 1200 square feet and 6 would be 1000 square feet in size. Wind Rush Properties, LLC, is seeking a dimensional variance for a side set-back on the north side because the set-back proposed does not meet requirements. The Design Review Board Opinion was entered in support of this project with a few modifications to the materials to be used.

MOTION: Mr. Tibbetts made a motion, seconded by Mr. Harding, to qualify Tom Principe, Principe Engineering Company, as an expert in the field of civil engineering. All in favor. So voted.

Mr. Tom Principe, Principe Engineering Company, spoke about the proposed layout of the Retail and Consumer Services Complex. Mr. Principe further explained why it was necessary to seek the dimensional variance for the side set-back. Reason being, they are trying to provide enough turning space for the larger vehicles that they are anticipating using the tradesman units. Mr. Principe also explained other elements of the project including the septic, landscaping, water run-off and others.

MOTION: Mr. Lopes, seconded by Mr. Harding, made a motion to give a favorable advisory opinion regarding a Special Use Permit for a new Retail and Consumer Services Complex, that includes the Design Review Board Advisory opinion from March 11, 2019. All in favor. So voted.

MOTION: Mr. Harding, seconded by Mr. Lopes, made a motion to move Agenda Items 8, 9, and 10 to the next Planning Board meeting

7:Donnovan Gray Distributing, LLC (applicant) and Van Hoff Land Associates (owner), AP 28, Lot 17 (54 Bristol Ferry Road) – Request for Advisory Opinion regarding a Special Use Permit to develop a farm brewery:

Atty. Gerard Galvin, Galvin Law, appeared on behalf of Donovan Gray Distributing, LLC, the perspective purchaser for the Van Hof property. The Design Review Board Advisory Opinion was entered in support of this project. Zoning Ordinance was changed in September 2018 to include a new use of a farm brewery and since then the applicant has been working on a design for a farm brewery on this site. A goal is to change as little as possible on the property. The main addition will be a facility to house the brewery itself. The structure is going to be centered to keep away from the abutting properties as much as possible. Atty. Galvin also went over the layout of the property.

MOTION: Ms. Wilson, seconded by Mr. Harding, made a motion to qualify Mike Russell, as an expert in the field of civil engineering. Mr. Russell, Land Development Engineering & Consulting, LLC, went over the site overview of the proposed layout design and permitting they are requesting.

In response to questions asked by the Board, to start, the applicant is not looking to have any extra uses at the brewery at this time and it is not part of this application. In the future this is something that can be explored as a part of agricultural special uses.

Matthew Gray, 87 Col Christopher Greene Road, stated that the main building that was used as the Nursery Shop will remain a retail space. This building will mostly remain as is with possible modifications to include bathrooms. Mr. Gray said that at their current location most days they are open 4-8 pm Wednesday through Sunday. They open at 12 pm on Sundays currently and close at 9 pm on Fridays and Saturdays. In the new space they would be looking to open all 7 days a week 12 to 9 pm. These hours are for the retail space.

Mr. Bissonnette called for public comment.

Scott Hallman, 280 Bristol Ferry Road (personal address) & 161 Willow Lane (commercial address), Hallman Portable Toilets, abuts the pond at the back of

the Van Hof property. Mr. Hallman thinks this is awesome and a great use for the property. Mr. Hallman wanted to make sure that his support was on record even with objections present.

MOTION: Mr. Harding, seconded by Mr. Lopes, made a motion to give a favorable advisory opinion regarding a Special Use Permit for a farm brewery, that includes the Design Review Board Advisory opinion and is subject to the Fire Department approval. All in favor. So voted.

At 11:23 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:
Tracy Adams
Recording Secretary for:

Leon Lesinski
Administrative Officer