

## PLANNING BOARD MINUTES

A regular meeting of the South Kingstown Planning Board was held on Tuesday, April 13, 2010 at 7:02 p.m. in the Council Chambers at the South Kingstown Town Hall, 180 High Street, Wakefield, Rhode Island.

### A. ROLL CALL:

Mack – Present      Clendenen – Present      Riendeau – Present      Leslie Castrovillari - Present  
Morrison – Absent      DelGiudice – Present      Kenerson – Present

Mr. Dennis Vinhateiro, Principal Planner, Mr. William Boardman, Town Engineer and Ms. Nancy Letendre, Special Legal Counsel, were present.

### B. CONSENT AGENDA (CA):

Ms. Mack read the items on the Consent Agenda.

Mr. Riendeau moved, Mr. Clendenen seconded; motion carried: "To approve the following Consent Agenda items:

### C. APPROVAL OF MINUTES:

(CA) "To approve the minutes of the February 23, 2010 work session."

(CA) "To approve the minutes of the March 9, 2010 regular meeting."

### F. SPECIAL ITEMS:

1. (CA) Order of Notice Scheduling a Public Hearing on an Application to Amend the Comprehensive Plan and Zoning Map - Proposed Amendment to the Comprehensive Plan Land Use Plan Map 2.5 (Kingston Detail) from Government / Institutional to Residential - High Density and Accompanying Application to Amend the Town's Zoning Map from GI to R-10, Medium High Density Residential, AP 23-3, Lot 120, Located on Briar Lane, Christopher D. Cummiskey, Owner, Town of South Kingstown, Applicant. The purpose of the proposed amendments is to correct a scrivener's error.

**Motion:** "The South Kingstown Planning Board hereby schedules a Public Hearing on May 11, 2010 to consider the application of the Town of South Kingstown to amend the Comprehensive Plan Land Use Plan Map 2.5 from Government / Institutional to Residential - High Density and accompanying application to amend the Town's Zoning Map from GI to R-10, Medium High Density Residential for property identified as Assessor's Plat 23-3, Lot 120 and located on Briar Lane in Kingston. Staff is directed to place the requisite legal advertisement for such hearing."

2. (CA) Order of Notice Scheduling a Public Hearing on an Application To Amend the Comprehensive Plan and Zoning Map - Proposed Amendment to the Comprehensive Plan Land Use Plan Map 2.3 from Residential - Very Low Density to Residential Medium Density and Accompanying Application to Amend the Town's Zoning Map from Open Space to R-40, Medium Density Residential, AP 7-4, Lot 3, Located at 10 Old Usquepaugh Road, Patricia C. Salisbury, Owner, Town of South Kingstown, Applicant. The purpose of the proposed amendments is to correct a scrivener's error.

**Motion:** "The South Kingstown Planning Board hereby schedules a Public Hearing on May 11, 2010 to consider the application of the Town of South Kingstown to amend the Comprehensive Plan Land Use Plan Map 2.3 from Residential - Very Low Density to Residential Medium Density and accompanying application to amend the Town's Zoning Map from Open Space to R-40, Medium Density Residential for property identified as Assessor's Plat 7-4, Lot 3 and located at 10 Old Usquepaugh Road. Staff is directed to place the requisite legal advertisement for such hearing."

**G. (CA) REPORT OF THE ADMINISTRATIVE OFFICER:**

ADMINISTRATIVE SUBDIVISIONS recorded during March 2010

None were recorded.

MINOR SUBDIVISIONS recorded during March 2010

Willard Avenue Plat (Chofay) Minor Subdivision, AP 56-4, Lot 34, located at Old Post Road and Willard Avenue, recorded March 12, 2010.

MAJOR SUBDIVISIONS recorded during March 2010

None were recorded.

VOTE: Mack – aye    Clendenen – aye    Riendeau – aye    DelGiudice – aye    Kenerson – aye  
Castrovillari – aye

Ms. Mack stated that the Planning Board received a suggestion from Staff to move Agenda Item E.1 Development Plan Review for the Fay Residence ahead of the two Public Hearings which could be more complex and lengthy.

Mr. Riendeau moved, Ms. Castrovillari seconded; motion carried: "To change the Agenda order to hear Item E1, Development Plan Review and Recommendation to the Zoning Board of Review, Ministerial Road Scenic Highway, Fay Residence before the two Public Hearings."

VOTE: Mack – aye    Clendenen – aye    Riendeau – aye    DelGiudice – aye    Kenerson – aye  
Castrovillari – aye

**E. DEVELOPMENT PLAN REVIEW:**

1. Development Plan Review and Recommendation to the Zoning Board of Review, Ministerial Road Scenic Highway, Fay Residence, a Proposed Garage Requiring a Variance for Doors Facing Ministerial Road, AP 46, Lot 61, located at 2143 Ministerial Road, Bethany H. and Patrick J. Fay, Owners/ Applicants

Mr. Patrick Fay stated that he and his wife, Bethany, owners of the property at 2143 Ministerial Road are seeking a dimensional variance based on the submitted landscaping plan which would obscure the garage doors from view on Ministerial Road.

Ms. Mack stated that Board members received a GIS map, photos of the driveway entrance and a plan for the proposed garage.

Mr. Kenerson asked why the applicant did not extend the garage to the end of the house, rather than the proposed design. Mr. Fay responded that based on the town ordinance the garage doors could not face Ministerial Road so the solution was to cut the driveway and permit an island of vegetation to obscure their view from Ministerial Road.

Ms. Mack questioned if the applicant feels that the proposed plantings would provide sufficient screening due to the steep incline of the existing driveway entrance. Mr. Fay responded that the submitted plans were prepared by a certified landscape architect and should meet the requirements. Ms. Mack stated that the Zoning Board of Review would also question the screening of the garage from Ministerial Road. She noted that a condition in the written motion that the Board received requires that the garage doors not be visible from Ministerial Road. Ms. Mack advised the applicant to make sure that the plantings were of suitable size. Mr. Fay stated that there are a number of layers and a series of plantings which should provide adequate screening.

Mr. Riendeau moved, Ms. Castrovillari seconded; motion carried: **Motion #1:** "The South Kingstown Planning Board hereby grants approval to the application of Bethany and Patrick Fay to construct a two-bay garage as shown on a plan entitled: 'Planting Plan, Fay Residence, 2143 Ministerial Road, South Kingstown, RI.' Plan by Michael D. Picard, R.L.A., dated 04.01.10, scale 1" = 40'. This Development Plan approval is further based upon the following Findings of Fact and Conditions of Approval:

### Findings of Fact

1. The granting of this approval will not result in conditions inimical to the public health, safety and welfare.
2. The granting of this approval will not substantially or permanently injure the appropriate use of the property in the surrounding area or zoning district.
3. The plans for this project comply with all the requirements of the Zoning Ordinance and these regulations.
4. The plans for this project are consistent with the Comprehensive Plan.
5. Any conditions or restrictions that are necessary to ensure that these guidelines have been met have been incorporated into the written approval.
6. The proposed garage doors face Ministerial Road and do not conform to the Town's Zoning Ordinance.

### Conditions of Approval

1. The applicants shall secure a variance from the Zoning Board of Review to allow construction of the proposed garage with doors facing Ministerial Road.
2. The applicants shall install landscaping as shown on the approved plan.
3. Landscape materials shall be guaranteed for a period of two years.
4. Prior to the issuance of a Certificate of Occupancy for the garage, the Town's Building Official shall require that the project Landscape Architect certifies that the installed landscape materials conform to the approved plans."

VOTE: Mack – aye      Clendenen – aye      Riendeau – aye      DelGiudice – aye      Kenerson – aye  
Castrovillari – aye

Mr. Riendeau moved, Mr. DelGiudice seconded; motion carried: **Motion #2:** "The South Kingstown Planning Board recommends favorable action by the Zoning Board of Review on the application of Bethany and Patrick Fay for a variance to construct a garage with the garage doors facing Ministerial Road for property located at 2143 Ministerial Road. The Planning Board bases this recommendation on the following findings:

1. The proposed garage will be located greater than 200 feet from Ministerial Road.

2. Based on the driveway realignment and the proposed landscaping, the proposed garage doors will not be visible from Ministerial Road."

VOTE: Mack – aye      Clendenen – aye      Riendeau – aye      DelGiudice – aye      Kenerson – aye  
Castrovillari – aye

**D. PUBLIC HEARINGS:**

1. Development Plan Review Public Hearing (Continued), Willow Dell Beach Club, a Proposed Relocation of Existing Cabana Buildings, Deck and Canopy, New Gravel Parking Field, Landscape Waivers Requested and Recommendation for a Special Use Permit, AP 92-1, Lot 36, Located at 156 Card's Pond Road, Willow Dell Beach Club, Owner/Applicant

Ms. Margaret Laurence, attorney, representing the applicant, Mr. James Reilly, attorney for Ms. Marion Marceau, abutting property owner and Mr. Peter Conopask, representing Willow Dell Beach Club, were present.

Ms. Laurence stated that at the last meeting the Planning Board requested that the attorneys meet with CRMC to clarify some of the issues that were raised relative to the new location of the building and a proposed location submitted by Ms. Marceau. She noted that she and Mr. Reilly were able to meet with two assigned representatives for South Kingstown, Mr. Thomas Medeiros, an engineer for CRMC and Ms. Tracy Silva, a wetlands biologist. The representatives noted that they review applications for completeness and make certain factual determinations and observations; but they are not the decision makers. Ms. Laurence noted that Mr. Medeiros stated that from an erosion and engineering standpoint the further back the building is placed the better. Mr. Medeiros also stated that if the applicant could remove the building from CRMC jurisdiction it would be out of the regulatory process. Ms. Laurence stated that the only hard and fast rule is that there must be a 50' setback. They acknowledged that there was the 200' jurisdictional area of CRMC. On occasion there can be an accommodation under certain circumstances that a building could be placed within the 200' jurisdiction. Ms. Laurence stated that Mr. Medeiros would like the building as far back as possible and recommended no pavement on the parking lot. The existing and proposed alternative septic system was also discussed. Ms. Laurence noted that the March 14<sup>th</sup> storm eroded another 10' of their property.

Mr. Reilly agreed with Ms. Laurence's assessment that the representatives did not state that the applicant had to move the building all the way back to the 20' setback. The proposal that the club has made is to move the building back 150' and Ms. Marceau suggested that it be moved back 120'. This would allow 50' behind the relocated clubhouse in order to preserve the coastal vegetation on the westerly side of its property. Mr. Reilly stated that the staff engineer indicated that he would like to see the building as far back as possible or even out of CRMC 200' jurisdiction, however if there is a valid reason not to do so, such as preserving coastal vegetation, CRMC would take that into consideration. Mr. Reilly noted that both plans would fall within CRMC jurisdiction. The 50' minimum building setback is the only requirement.

Mr. Riendeau asked Mr. Reilly how the 50' setback was measured. Mr. Reilly stated that the 50' setback is measured inland from the coastal feature, which is designed by CRMC. Mr. Reilly made a comparison of the building setback in both plans and stated that the engineer had stated that CRMC would give great deference to a local Board that decided to preserve vegetation. Mr. Reilly stated that Ms. Marceau is trying to work with the club and to preserve the vegetation on the westerly side of the property in front of her home.

Ms. Laurence was in agreement with Mr. Reilly's comments except for his reference to the great deference; she did not recall if that was ever a comment. Mr. Reilly then stated that they did not say great deference but that CRMC informed

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them that they would look at both proposals equally and see if there was a trade off by not moving the building all the way back. Ms. Laurence then reported the results of the CRMC meeting to the sub-committee that she deals with at the club who then reported the information to the Board of Directors of the Willow Dell Beach Club. She noted that Mr. Conopask would explain the analysis that went into their decision and changes that the Planning Board was going to recommend.

Mr. Conopask stated in his overview of the proposed plans that the Willow Dell Beach Club, after reviewing all the alternatives, having many discussions and experiencing the storms in the past month, feel that they have come up with the best solution. In his review of the new plan he stated that there are slight modifications to the primary and overflow parking areas. They have removed parking spaces from the casual pathway and provided a 40' pathway for the Marceau's with heavy vegetation on each side to maintain the present look; they have increased the vegetative buffer on the north side and would provide additional native species to enhance the existing vegetation. Mr. Conopask noted that the proposed primary parking area is to the southeast of the Marceau property with eight additional spaces next to the proposed club. He noted that there would be a gated parking area west of the existing path which would be closed except for approximately 13 days when overflow parking would be needed. Mr. Conopask stated that the plan now has only one access to this proposed overflow parking area to help reduce the noise and dust coming into the property. He stated that the club is entitled to 85 parking spaces and it now has 71.

Ms. Mack questioned why there are more spaces on the proposed new plan when there were only 59 on the previous plan. Ms. Joyce Flanagan, who also represents the Willow Dell Beach Club, stated that at its last meeting the Beach Club thought it could use the drive coming into the Club as overflow parking and that is where the extra spaces were located. Mr. Conopask explained how the club arrived at the 71 parking spaces. He noted that he would like to move this proposal quickly because of the damage to the property from the most recent storms and that erosion has accelerated in the last several years. He provided details on how erosion has affected the club site since 1985. He stated that the expense of moving the Willow Dell Beach Club should only have to be done once and they should be able to move it back to the farthest northern boundary as possible. Mr. Conopask stated that there are 85 families and 50 single memberships that enjoy the club and the club needs to utilize the full use of its property under the regulations of the Town of South Kingstown and other State agencies and implored the Planning Board to move the application forward.

Discussion ensued with regard to the number of parking spaces, monitoring the overflow parking and the continued right of casual entry by the Marceau's over the property to the beach.

Mr. Reilly stated that he would prefer to continue the Public Hearing on these new proposed plans that are being presented this evening because he and Ms. Marceau have not had a chance to review the proposed changes.

Ms. Marceau stated that until someone from the beach club informed her of its intent to move the beach club she was unaware of any proposal to move the facility. She noted that she can see the parking area from her property and that during weekdays there may be one or two cars, but on weekends there are approximately 30 automobiles using the facility. Ms. Marceau expressed her concerns about automobiles crossing in front of her property and people using the beach area late at night. She stated that because of the recent storms the beach area is now larger than its original size. Ms. Marceau noted that the plan that she proposed would allow the beach club to still have its club, parking and beach without taking out trees.

Mr. Riendeau asked Mr. Vinhateiro what number of parking spaces the applicant is allowed today. Mr. Vinhateiro stated that the beach club is allowed parking spaces by a Special Use Permit with no specific minimum requirements for beach clubs in the Zoning Ordinance. The applicant must convince the Zoning Board that the number of spaces is adequate and not excessive.

Ms. Laurence stated that the 83 parking spaces, which have been discussed, came from the original plan in 1985 that Mr. Cotta had reviewed. She stated that the original plan was never built or needed. The intent is that there would be no new parking spaces added to what is presently allowed. Ms. Laurence stated that the club was going to try to police the after hours use of the beach better and to encourage Ms. Marceau to call the police if necessary. She noted that the overflow lot would be gated and locked. Ms. Laurence stated that it is difficult to have a meaningful dialogue with Ms. Marceau because at a previous meeting Ms. Marceau stated that she intends to fight the proposal. Ms. Laurence stated that the new coastal jurisdictional line was drawn in by the applicant's engineer and only colored in by Mr. Conopask. Ms. Laurence noted that at the CRMC meeting she provided Mr. Reilly with the plan that included the modified jurisdictional line. Ms. Laurence noted that a review by CRMC for an application takes between 12 and 18 months and the beach club does not have the luxury of time and suggested that a recess be called in order to discuss the outstanding issues.

Ms. Mack stated that the Board was hoping for a compromise between the applicant, Ms. Marceau and the two proposed plans. If the goal was to move the application forward she would have hoped that the two parties would have met and reviewed the revised plan. Ms. Mack expressed the displeasure of the Planning Board in receiving something at the last minute without a period of time to review it. She noted that the Board does understand the erosion situation and moving the building back as far as possible is probably the best thing to do. However, she thinks it would be a wise idea of the beach club to make some compromises where the parking is concerned. Ms. Mack outlined her ideas for reducing the number of spaces and buffering of those spaces. Mr. Riendeau stated that it just makes common sense to move the club back as far as possible because of the erosion of the shoreline. He stated that he understands Ms. Marceau's desire to keep the west side of the property pristine and keep the parking to the east side of her view. However, if it is not possible the parties need to compromise and address the problem. Mr. Riendeau stated that Ms. Marceau has the ability to install a fence to protect people from accessing her property. He noted that it would have been better to have had the revised plan in advance and suggested that the applicant returns to the TRC to work out the issues before coming back to the Planning Board.

Ms. Mack suggested that the Board would like to see the application continued to its May 11<sup>th</sup> meeting, have another review at the TRC level and strongly suggested that both parties get together and work something out so the application can be done in a practical and sensitive way. Mr. DelGiudice requested that the Planning Board receives the proposal in advance of the meeting in order to review it in a timely manner.

Mr. Kenerson moved, Ms. Castrovillari seconded; motion carried: "The South Kingstown Planning Board hereby continues the Development Plan Review Public Hearing for Willow Dell Beach Club, a proposed relocation of existing cabana buildings, deck and canopy, new gravel parking field, landscape waivers requested and recommendation for a Special Use Permit to its May 11, 2010 regular meeting."

VOTE: Mack – aye      Clendenen – aye      Riendeau – aye      DelGiudice – aye      Kenerson – aye  
Castrovillari – aye

2. Combined Conceptual Master Plan Public Informational Meeting and Preliminary Plan Public Hearing Whittier Estates (Revised Plans), a Proposed Ten-lot Subdivision Comprised of Seven New Single-family Homes and Two New Duplexes Including Two Inclusionary Units and the Existing Single-family Home, Flexible Frontage Waiver Request, AP 56-4, Lots 38 and 40, Located at 52 Willard Avenue, Linda M. Sisson, Owner, Robert Leonard and Mark Lubic, Applicants

Margaret Laurence, attorney for the applicants, Ms. Nikki Andrews, project engineer, Mr. Robert Stewart, landscape architect and Mr. Robert Leonard, developer were present.

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Ms. Laurence stated in her review of the new plans that have been submitted that the applicant has made enormous changes accommodating those comments made by the Planning Board, staff and neighbors during numerous meetings with staff and the TRC with regard to providing a landscape engineer and the proposed landscaping plan. Ms. Laurence noted that she believes that all of the housekeeping items have been resolved with regard to the waivers for road frontage on certain lots. Ms. Laurence stated that she has submitted preliminary legal documents to the Planning Department and will forward them to Ms. Letendre on April 14, 2010 for her review.

Ms. Nikki Andrews stated in her review of the new design that the layout is basically the same. However as opposed to having nine lots with a duplex on each lot they now have nine lots with seven single-family homes and two duplex units which will each accommodate an affordable unit. Ms. Andrews noted that the house locations and drainage are basically the same. There has been a change to the sewer calculations which have been submitted to Public Services. Ms. Andrews stated that items addressed at the TRC were: additional labeling on the site plan, width of the road, cross section detail of the water and sewer lines and the connection invert between Willard Avenue and Whittier Drive. Due to the reduction in units, additional changes were made regarding traffic calculations and sewer flows. Ms. Andrews stated that relief was still being requested regarding the lot width for lots three, four, six and seven around the cul-de-sac per the zoning regulations. The detention pond remains the same size and there is less drainage because some of the roof drains have been removed on the southerly side due to a reduction in the number of driveways. Ms. Andrews noted that lots one, six, seven, eight and nine have underground infiltration systems to handle roof drainage.

Ms. Mack asked if Ms. Andrews considered modifying the dimensions of the detention pond to make it look more natural and blend in with the wooded site. Ms. Andrews stated that due to the wetland area, configuration of the lots, the existing grades and drainage in the roadways it is more complicated to reconfigure the detention pond.

Mr. Boardman stated that detention ponds are designed for a hundred year storm or more, which we have just experienced. The detention ponds are well thought out as far as size and volume of required capacity and that he trusts Ms. Andrews' calculations. How you take the volume and place it in a limited area is difficult to figure out because you have to configure lot lines to get a more natural looking pond shape. Mr. Boardman noted that there are some constrictions with the lot lines, roadway, placement of the homes and wetlands all within the development site. He stated that the detention pond is at the rear of the parcel and could be screened with proper vegetation.

Ms. Andrews discussed the number of proposed bedrooms, parking spaces, number of vehicles, traffic report, required frontage on the Yield Plan, erosion control reports, overflow parking, emergency vehicle access and number of trips per day.

Mr. Stewart stated in his overview of the proposed landscape plan that with the small lots, driveways and the heavily wooded area it is difficult to plan what trees could be saved until the actual building begins. However, because the developer would be doing the building he will be working with the developer to make the final determinations in order to save some of the existing trees. Mr. Stewart outlined his proposal for the types of trees and plantings according to the site and its limitations.

Speaking at the Public Hearing were Mr. Joseph Morrone, Mr. Charles Fink, and Mr. Douglas Fisher. They expressed concerns about landscaping on the western property line, water on the property from the recent storm, clearing in the northeast corner exacerbating the water situation, wetlands, parking in the roadway, height of the detention basin, size of the lots, additional plantings for buffering the abutter's properties, parking in the cul-de-sac, size of the arborvitae and limits of disturbance.

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Ms. Mack asked Ms. Andrews to address the issue of the run-off on the site. Ms. Andrews stated that the Town's regulations require that the site have zero net impact, which means that the developer cannot increase drainage to the road or any abutting property.

Board members referred the application back to the TRC with instructions to the applicant to revise the limits of disturbance along the westerly property line to provide additional buffer area between the proposed development and abutting property owners.

Mr. Clendenen moved, Ms. Castrovillari seconded; motion carried: "The South Kingstown Planning Board hereby continues the combined Conceptual Master Plan Public Informational Meeting and Preliminary Plan Public Hearing for Whittier Estates (revised plans), a proposed ten-lot subdivision consisting of seven new single-family homes and two new duplexes including two inclusionary units and the existing single-family home with a flexible frontage waiver request to its May 11, 2010 regular meeting. The Planning Board further directs staff to draft a motion of approval for consideration should the Board be prepared to act on the application at its May 11, 2010 meeting."

VOTE: Mack – aye    Clendenen – aye    Riendeau – aye    DelGiudice – aye    Kenerson – aye  
Castrovillari – aye

**H. CORRESPONDENCE**

No correspondence was noted.

**I. COMMENTS – BOARD MEMBERS & PRINCIPAL PLANNER**

Mr. Kenerson stated he would attend the April 29, 2010 TRC meeting.

**J. ADJOURNMENT**

Mr. DelGiudice moved, Ms. Castrovillari seconded; motion carried: "To Adjourn."

VOTE: Mack – aye    Clendenen – aye    Riendeau – aye    DelGiudice – aye    Kenerson – aye  
Castrovillari – aye

The meeting adjourned at 9:45 p.m.