

**TOWN OF SMITHFIELD
PLANNING BOARD MEETING MINUTES OF
NOVEMBER 10TH, 2021**

MEMBERS PRESENT: Erik Rasmussen Michelle Taylor
David Kincaid Jo-Anne Bushey
David Merry Jr. Jodie Mosher Towle

MEMBERS EXCUSED: Ed Glasheen

MEMBERS ABSENT:

OTHERS PRESENT: Andy Marble Nichole Clark Stephen Shoemaker
Josh Hahn Scott Downing Troy Prescott
Virginia Anderson JoAnn Perry Gayle Middleton

7:00PM meeting was called to order and members present reviewed all documents presented to them.

David Merry Jr. motioned to move to New Business before Old Business. David Kincaid seconded the motion. Motion passed.

Minutes of the October 13th, 2021, Meeting:

David Merry Jr. motioned to accept the October 13th, 2021; minutes as typed. David Kincaid seconded the motion. Motion passed.

Board Update/Info:

Code Enforcement Update/Report: None

OLD BUSINESS:

1. Request for the Following to be discussed/reviewed

a. Update to Application Review/Voting Procedures

The board discussed having an area on the Shore Land Zoning Application to describe conditions voted on. Jo-Anne has asked for a word version of the application to draft up an example.

b. Use a check List to Fully Document Board Review and Vote

The board discussed having a check list for every applicant to make sure the application is complete.

c. Update Shoreland Zoning Ordinance Section 16: Administration D. Procedure for Administrating Permits 1 line 5

The board discussed section 16 Administration, D Procedure for Administrating Permits. The board discussed extending the review process beyond 35 days.

d. Decide to Update Commercial/Industrial Site Review Ordinance to Support Solar Energy Systems

The board discussed adding wordage for Solar Energy Systems to the current Commercial Industrial Site Review Ordinance. Jo-Anne Bushey and Jodie Mosher Towle indicated that they would work on wordage to present at the December Planning Board Meeting.

e. Discuss a Fertilizer Ordinance for Shoreland Zone

The board discussed drafting wordage for Fertilizing within 250' of the highwater mark for the current Shore Land Zoning Ordinance. The discussion included looking at other town's ordinances for guidance.

NEW BUSINESS:

1. Application to Rebuild Year-Round Dwelling, Joshua Hahn, Map 2 Lot 1

Joshua Hahn and Scott Downing presented an application to rebuild a year-round dwelling at 230 East Pond Rd. The board reviewed Section 15(B) "principal and accessory structures" in the Shoreland Zoning Ordinance.

The following is the CEO's report.

- The applicant wants to remove an existing non-conforming camp and construct a new single-family dwelling 105' setback from East Pond.
- Site visit: multiple, last done on 10/13/2021
 - There is currently a camp which sits on posts roughly eighty-five' setback from East Pond.
 - This is a big lot, with almost five hundred' of shore frontage (this lot abuts Oakland)
 - There are a number of large pines on this lot that are past maturity, and need to be thinned out before they fall and damage buildings
 - I believe that if this application is approved, the applicants will plan to remove some of these pines at the same time the current dwelling is removed (since there will be no structures to hit)
 1. They will need to submit a hazard tree removal form to me, as well as a replanting plan showing where trees will be replanted to take the place of the pines.
- Application review
 - Page two of the application shows us that this site is located within the limited residential district of the shoreland zone
 - Page three of the application shows us:

1. After the existing 1584 ft² camp and 240 ft² shed are removed, there will only be about 3400 square feet of driveway left within the shoreland zone
2. With the new (1984 ft²) home added in, the total unvegetated on the lot will only be 4% (again, this is a big lot)
 - This is well under the 20% allowed
3. It also shows us that the house will be a “conforming” structure, since the closest part will be at 105’
- Page four of the application shows us:
 1. That the new two-bedroom structure will be on frost walls and will be twenty-five’ high (which is far less than the thirty-five’ allowed)
 2. It also shows us that there is a new three-bedroom septic design included
- Page five of the application is mostly blank because there is no new construction within one hundred’ of the water
- Additional packet items
 1. The applicant has included pictures of the site, an erosion control plan, a (brief) revegetation plan, two separate plot plans (one survey and one on graph paper), a floor plan of the structure, and an elevation drawing of the structure.
- One of the plot plans (from a survey) gives an excellent representation of the layout of the lot, and where the new camp will be in relation to the existing camp.
- Overall
- I see no issues with the application and recommend approval.

Jo-Anne Bushey motioned to approve the application pending a hazardous tree plan submitted to the CEO. David Kincaid seconded the motion. Motion passed.

2. Revision to Existing Commercial RV Park (Eagles Nest) Michael Labbe, Map 7 Lot 11C

Mike Labbe submitted a Commercial/Industrial Site Plan Review Application asking the board to overturn a required provision of use of a right of way to his original approved RV Park. Mike Labbe had submitted a letter giving Virginia Anderson permission to represent him for this application.

The following is the CEO’s report.

- This application is to make a revision to an existing Commercial RV Park (Eagles Nest RV Park) which was permitted on 2/10/2010 by the Smithfield Planning Board.

- On the original permit issued by the Planning Board, a condition was placed which states “Tenants do not have lake access, will be directed to boat land/public beach.”

- The intent of this application is to remove this condition and allow campground tenants to access the lake using a twelve’ strip of land which Mr. Labbe owns two hundred’ south of the Campground on Lakeview Drive (shown on the plot plan between “Perry” and “Shoemaker”).

- Section B(4)(F) of the Smithfield Commercial-Industrial Site Plan Review Ordinance States “revision to previously approved plans shall include enough supporting information to allow the Planning Board to make a decision that the proposed revision meets the review criteria”

- Since I do not know what type of information the Planning Board will deem necessary to complete its review, I will not go through the “application submissions” (sections B(4)(b, c, and d) to determine what was and was not included.

- A “commercial revision fee” of \$125 **has** been paid

- Rather than list whether or not this is a complete application (since again, I do not know what the Board will deem necessary for review), I will instead point out a few pieces of the Commercial Ordinance and Shoreland Zoning Ordinances which I believe are pertinent when deciding whether or not this change would be allowable.

- First, under State Law, roads divide lots. This means that because this lot is on the separate side of the road, it is a separate parcel of land.

1. While this lot may be listed in the same deed as other lots located on the opposite side of the road, the deed does not change the fact that it is a standalone lot

2. This is further outlined in section 15(A)(3) of the Smithfield Shoreland Zoning Ordinance, which states “Lots located on opposite sides of a public or private road shall be considered each a separate tract or parcel...”

3. Since this is a separate lot, a simple “revision” to the original application may not be applicable, as this lot is not being used as a “campground,” but instead to give water access to a campground. While this may seem like semantics, it might be important when considering what is and is not allowed in this district.

- Second, Under the section labeled “Review Criteria” in the Commercial Ordinance (page 8 of the Commercial Ordinance), item 4 states “the proposed activity will not have an adverse impact upon any waterbody such as a lake, pond or stream”.

1. This is a non-conforming lot (only twelve’ wide, and eighty’ deep for a total of 960 square feet) located in the “Limited Residential-recreational District” of the shoreland zone.

2. Under Section 14 “Table of Land Uses” in the Smithfield Shoreland Zoning Ordinance, Table 1 item # 15(C), lists “commercial use” as not allowed in the Limited Residential-Recreational district.

- Please see the definition of “commercial use” to determine whether or not this is applicable

3. Furthermore, if we instead call this lot a “campground” (which is an allowed use in the Limited Residential District), Section 15(D) of the Shoreland Zoning Ordinance requires a minimum of 5,000 square feet of land for each campsite which would use it.

4. I am under the belief that at least 3 (and maybe more) non-waterfront lots currently use this twelve’ wide lot as their deeded shore front access to North Pond

- Such a use would be considered a “non-conforming use” since section 15(A)(7) of the shoreland Zoning Ordinance states “The Establishment of a shoreland lot not contained in a subdivision but intended for the common use of lots or dwellings within a subdivision is prohibited”

- Since this non-conforming use would be expanded (by providing water access for a 9-site campground), Section 12(D)(1) of the Shoreland Zoning Ordinance (“Non-conforming use Expansion”) may be helpful to review.

- Finally, this issue was discussed at length during the original review of the application back in 2009-2010, and the Board may find it helpful to review those documents to determine why this condition was placed on the campground to start with.

The board did not vote on this application due to it being an incomplete application.

3. Application for Conversion of 3-season camp to 4-season home: Demolition of main part of residence, to be replaced by larger structure in same position; Movement of Shed to provide room for new dwelling; Garage to be enlarged by one-third; addition of stone patio, Gayle Middleton & Jeffrey Silverstein, Map 20 Lot 14

Gayle Middleton, property owner and Troy Prescott, contractor, presented an application to replace an existing camp into a year-round dwelling.

The following is the CEO's report.

- The board reviewed Section 15(B) “principal and accessory structures” in the Shoreland Zoning Ordinance
 - Site visit: 11/10/21
 - This is a complicated application, and I have not met with the applicant on site to discuss their plans.
 1. I “believe” the applicant is looking to remove the existing dwelling, move the existing shed, cut six of the existing eleven trees in the center of the lot, build a new larger dwelling, build new stone patios around the house, expand the garage by one-third, and install a new driveway?
 2. I do not know why the applicant did not ask to discuss this ahead of time, or why an application was not submitted weeks in advance of meeting deadline.
 - This lot has a large lawn to the water with only about four trees within one hundred’ of the water (not including the trees located on the property lines)
 1. Two of these trees are proposed to be cut
 - There are not a lot of trees on the roadside of the house either (mostly lawn again). Out of the six trees existing, I believe three will remain.
 - Obviously, the removal of this many trees would violate a number of sections within section 15(P) of the ordinance
 1. Cleared canopy within one hundred’ of water, total cleared opening on the lot, points system within one hundred’ of the water
 2. The applicant has submitted a hazard tree removal form, with a letter from an arborist stating that the trees are a hazard and should be removed
 3. Realistically, some of the trees are hazardous.
 4. An extensive replanting plan including trees at least two” DBH being replanted prior to any occupancy, and dispersed throughout the cleared opening (not just the lot lines) would need to be submitted before I could approve such an extensive removal of trees on this lot
- The measurements shown in the application and on the plot, plan do not appear to include overhangs
 1. The existing dwelling has two-foot overhangs, meaning the building actually has a twenty-eight’ wide “footprint,” not a twenty-four’ wide one as shown in the application.
 2. The same is true for the garage (although those overhangs are eighteen,” not twenty-four”)

- The existing driveway is barely visible, and has grown up into mostly lawn
1. I did not measure the driveway as its fairly subjective as to where the “edge” is.
 - This is a large lot, and while it is almost entirely grass, it is at least vegetated with something.
 - Application review
 - Page three of the application
 1. The numbers in question 22, 23, and 24 are obviously wrong since no overhangs were included
 2. I am honestly not too worried about lot coverage on this site simply because it is a (relatively) large lot
 - That being said, it would be nice to “know” what the actual numbers would be
 - Page four
 1. The applicant states that the septic is a 2-bedroom concrete chamber system
 - There is no design for this system, but Ken Stratton is drawing something up to fix the existing system (it failed upon inspection)
 - Other
 1. The erosion control plan is good
 - Typically, we worry about making sure that the applicant has no machinery within one hundred’ of the water. Where this is mostly lawn to the water, I do not know how important this is.
 - Overall
 - While this very well may be approvable, the following is still needed
 1. an extensive replanting plan. I would want some two” DBH trees to be planted.
 - A surveyed plot plan would have been great for this application.

David Merry Jr. motioned to approve this application pending the receipt of a septic system design, a replanting plan approved by the CEO, and updates to the site plan indicating required changes due to the overhang eaves not being depicted on the existing and the proposed plans. David Kincaid seconded the motion. Motion passed.

MEETING ADJOURNED

David Kincaid motioned to adjourn. Jo-Anne Bushey seconded the motion. Motion passed.

