



## TOWN OF PORTSMOUTH PLANNING BOARD

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

### PORTSMOUTH PLANNING BOARD Regular Meeting June 14, 2023

**Members Present:** Luke Harding, David Garceau, Ryan Tibbetts and Nora Kane-Daly

**Members Absent:** Kathleen Wilson, Chris O'Connell and Edward Lopes

**Others Present:** Leon Lesinski, Administrative Officer, Portsmouth Planning Board, Lea Hitchen, Town Planner and Atty. Kevin Gavin, Town Solicitor

The Zoom meeting was called to order in the Town Council Chambers by Mr. Harding, Vice Chairperson at 7:00 p.m.

#### **1. Agenda Continuances/Modification:**

Ms. Hitchen requested that Agenda Item # 5 be moved to the end of the agenda.

Ms. Hitchen stated that the applicant requested a continuance for Agenda Item # 3.

**MOTION:** Mr. Tibbetts made a motion, seconded by Mr. Garceau, to continue Agenda Item # 3, Applicant: Michael Palmer – Owner: Michael & Dietra Medeiros – AP 67, Lot 65A (Briarwood Lane) - Request for a Concept Plan Review for a five (5) lot subdivision on a private road, to the August 9, 2023 regular meeting.

#### **2. Approval of minutes for Planning Board meeting of May 10, 2023**

**MOTION:** Mr. Tibbetts made a motion, seconded by Mrs. Kane-Daly, to continue approval the minutes for the May 10, 2023 meeting to the August 9, 2023 regular meeting. All in favor. So voted.

#### **3. Agenda Item # 4: Request for a review/approval of the Town's Community Development Block Grant (CDBG) application's consistency with the Comprehensive Community Plan and with local development ordinances and regulations, including certification, to forward to the Town Council.**

Bob Plain, CDBG Program Manager, Church Community Housing Corporation, 50 Washington Square, Newport, RI appeared with a request for a review and approval of the Town's Community Development Block Grant application and programs therein. Specifically, he asked the Planning Board to determine if the included activities and programs are consistent with the Town's Comprehensive Community Plan and with local ordinances and regulations, including certification.

**MOTION:** Based on staff report submitted by Lea Hitchen, Town Planner, Mr. Tibbetts made a motion seconded by Mrs. Kane-Daly, to approve the Town of Portsmouth's Community Development Block Grant (CDBG) application, with activities and programs therein, as consistent with the Town's Comprehensive Community Plan and with local development ordinances and regulations, including certification and that said approval and certification be forwarded to the Portsmouth Town Council and further moving that the following documents are written into the record as exhibits.:

- I. Letter, James Seveney, Chair, Portsmouth Housing Authority to Richard Rainer, Town Administrator, Town of Portsmouth, dated June 5, 2023
- II. Letter, Linda Ujifusa, District 11 State Senator, State of Rhode Island Senate Chamber to Richard Rainer, Town Administrator, Town of Portsmouth, dated June 5, 2023
- III. Letter, Michelle E. McGaw, Representative – District 71, Portsmouth, Tiverton, Little Compton, State of Rhode Island, House of Representatives, dated June 6, 2023
- IV. Letter, Jim Winters, Housing Hotline to the Town of Portsmouth, dated May 24, 2023
- V. Letter, Jim Winters, Housing Hotline to the Town of Portsmouth, dated May 25, 2023
- VI. Letter, Andrew Bulk, President, Three Angels Fund to Ron Wolanski, AICP, Town Planner, Town of Middletown, dated June 1, 2023

All in favor. So voted.

Mr. Harding signed the certified copy of the application which was presented by Mr. Plain.

Ms. Hitchen requested that the Planning Board hear Agenda Item #7 before Agenda Item #6 because the applicants for #6 had not yet arrived at the meeting.

**4. Agenda Item # 7: Applicant/Owner: Ralph McCluskey – AP 48, Lot 17 (1597 East Main Road) - Request for a Concept Plan Review for a two (2) lot subdivision.**

Ralph McCluskey, applicant requested a concept review for a two-lot subdivision at 1597 East Main Road. He presented a concept plan that delineates the proposed lots A and B from the existing AP 48, Lot 17. Both lots have equal and conforming frontage of 110 linear feet along East Main Road, however this is accomplished for lot A by creating a jog or "hockey stick" shared lot line between the proposed lots. Mr. McCluskey explained that he intends to repair and renovate the existing barn on proposed lot A into office space and to likely sell proposed lot B with an existing house.

Ms. Hitchen noted that the applicant is showing how the proposed plan meets the minimum requirement for frontage but that if the Planning Board does not agree with the jogged lot line, then Mr. McCluskey would have to seek a variance for frontage from the Zoning Board of Review (ZBR).

Mr. Tibbetts noted that the jog creates a triangle along proposed lot B that is not useful for the lot and thus departs from a standard intent for frontage. Ms. Hitchen noted that if the proposed plan is approved as is, it will only need to be heard for preliminary and final approvals because it meets all dimensional requirements. Ms. Hitchen stated that the proposed plan represents the least relief necessary.

Atty. Gavin also explained that under the regulations, that if the Planning Board's feedback is that a straight property line is preferred, then the applicant would seek a variance for minimal frontage from the ZBR in order to go forward with a minor subdivision approval.

In response to Mrs. Kane-Daly, Mr. McCluskey confirmed that proposed lot A is a buildable lot and that a home could be constructed on it should he decide to sell it in the future. Mr. Tibbetts stated that his recommendation would be for Mr. McCluskey to seek a variance for frontage. Mr. McCluskey asked for Planning Board action that would minimize his need to go to too many meetings. Atty. Gavin stated that he could return with a new plan that indicates a straight share property line and a required variance for minimal frontage. He stated that the Planning Board could approve the plan conditional upon the ZBR granting the variance. He emphasized that the Planning Board could not act on the proposed plan during the evening's meeting because it is presented on the agenda for a concept review only. Mrs. Kane-Daly stated that she'd prefer to minimize the triangle as much as possible given the curve of the existing driveway on proposed lot A. Mr. McCluskey stated that given the number of properties along East Main Road with non-conforming, "grand-fathered" frontage, he could argue to the ZBR that an application for relief is consistent with the surrounding area. He estimated the resulting frontage for proposed lot A would be just under 80 feet.

**5. Agenda Item # 6: Applicant/Owner: Jason Spitalnik – AP59, Lot 22 (Glen Farm Road) - Request for Preliminary and Final approval for a two (2) lot subdivision.** Representing the applicants, John Braga, P.E. and Professional Land Surveyor, John Braga & Associates, Inc., Portsmouth, RI, presented a plan for a two-lot subdivision at 9 Glen Farm Road, located at the corner of Glen Road.

**MOTION:** Mr. Tibbetts made a motion, seconded by Mr. Garceau, to accept John Braga, Jr. as expert in the field of civil engineering and land surveying. All in favor. So voted.

Mr. Braga explained that existing lot 22 is zoned R30. He stated that the proposed plan indicates two new lots, one being 5.81 acres with frontage on Glen Road and Glen Farm Road and the other being 2.27 acres with frontage on Glen Road. Both lots meet dimensional requirements including minimal frontage and require no relief. He further explained survey and wetland delineations studies conducted on the site in recent years. He spoke on RIDEM approvals that have been received for the subdivision. He noted a portion of the site that was acquired by the Aquidneck Land Trust. He noted the availability of town water along both Glen Farm and Glen Roads. Mr. Braga explained

that the applicants are currently constructing their home on the site with the house footprint being well within the setbacks for the wetlands.

Mr. Harding called for public comment to which there was none either present or over the Zoom meeting.

**MOTION:** Mr. Tibbetts made a motion, seconded by Mrs. Kane-Daly grant preliminary and final plan approval for Applicant/Owner: Jason Spitalnik – AP59, Lot 22 (Glen Farm Road) subject to the findings of fact read by Lea Hitchen, Town Planner as follows:

1. The proposed development is consistent with local needs as identified in the local comprehensive community plan
2. The proposed development is in compliance with the standards and provisions of the municipality's zoning ordinance and subdivision regulations
3. There will be no significant negative environmental impacts from the proposed development as shown on the final plan
4. There will be no significant negative impacts on the health and safety of current or future residents of the surrounding community
5. Each proposed subdivision lot will have adequate and permanent physical access to a public street
6. The proposed development will not result in the creation of individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable.

All in favor. So voted.

**6. Agenda Item # 5: Applicant: Rhode Island Energy Facility Siting Board, Owner: Narragansett Electric Company (TNEC) - AP 68, Lot 74 (Old Mill Lane) - Request for Advisory Opinion regarding an application for a license to Construct and Operate a Liquefied Natural Gas (LNG) Vaporization Facility at Old Mill Lane and more specifically as to whether a major variance is required and will be granted for the Facility: and whether TNEC will be able to comply with the Comprehensive Community Plan.**

Atty. George Watson III, Robinson & Cole, One Financial Plaza, Providence, RI appeared representing The Narragansett Electric Company (TNEC) with a request for an advisory opinion to the State of Rhode Island Energy Facility Siting Board (EFSB) as to whether a proposed Liquefied Natural Gas (LNG) Vaporization Facility on a site located on Old Mill Lane, requires a major variance and complies with the Portsmouth Comprehensive Community Plan (Comp Plan). Rhode Island Energy staff also present to testify were Jeffrey Montigny, Project Manager, Brian Kirkwood, LNG Operation and Julie Porcaro, Gas Central. Atty. Watson introduced the RI Energy Staff presentation to the Planning Board.

Ms. Porcaro explained the purpose of the application is to provide safe, reliable, continual gas service during the winter months to Aquidneck Island. She spoke on the supply vulnerability and capacity constraints that led to the 2019 failure in Newport and Middletown. Referring to the plan, she reviewed the existing conditions at the site. She

noted that currently the noise generating components of the facility are closer to the road and the plan proposes to change that condition.

Mr. Montigny, referring to a photo timeline, gave a history of the site dating back to 1962. The site was once the location of a liquid propane (LP) storage and processing facility. In 2014, the LP and associated components were removed. He reviewed a 2021 photo and the plan which show the current locations of the LNG tanks and vaporizer with the noisiest components located closest to the road. He noted that a concrete matting has since been removed and replaced with a pervious, eco-friendly material. Mr. Montigny then reviewed the first proposal for the application which RIDEM commented encroached on the surrounding wetlands. Next, he reviewed the current, updated plan on which the vaporizer is shifted to the north and further away from the wetlands. He noted that based on noise modeling, the vaporizer is placed behind a sound wall and treated with noise blankets to meet the noise ordinance requirements for nighttime noise levels.

In response to questions from Planning Board members, Mr. Kirkwood explained that the noise is caused by the cooling process to bring the ambient temperature down. He noted that the greatest noise occurs during the winter when the LNG is vaporized over a 2-to-3-day period after the truck deliveries. Mr. Montigny spoke on the processing differences between LP and LNG. Ms. Porcaro stated that the greatest change in LNG delivery and processing is how it is acquired from suppliers or how the gas is distributed. Mr. Kirkwood also noted that the venting process over a series of days is louder than the conditioning process. Discussion continued in detail over the noise levels involved in the venting, vaporization and conditioning processes over the winter months when the facility is in use. The team noted that the plan includes the purchase of vaporizers which are much less noisy.

Mr. Montigny described the Ecoraster Pervious Surface and components. It is suitable for heavy equipment. He confirmed that this product may eliminate the need for an additional retention basin located in the back of the site. Returning to the issue of noise, Mr. Montigny summarized that the facility will be in 99% of compliance with the noise ordinance with 1. moving the components toward the back of the site, 2. acquiring new vaporizing equipment, 3. installing noise reduction blankets and 4. installing a sound wall around the vaporizers. Referring to the plan noise contour map, he confirmed that the plan requires a sound variance due to the noise levels during the venting process.

Mr. Kirkwood explained the specifications of the new vaporizers which operate at greater efficiency, less emissions and lower noise levels. He noted that the site has one in operation and that the intent is to acquire more of the same. In response to questions from Planning Board members, Mr. Kirkwood and Ms. Porcaro explained the levels of traffic and site activity during the annual mobilization and demobilization of the facility. LNG truck deliveries would occur about 3 times during the winter operating months. The site would be demobilized in April. Mr. Kirkwood explained why a sound wall could not be installed on the site as it currently exists. Ms. Porcaro confirmed that the team investigated other possible sites on Aquidneck Island and concluded that the proposed

site is best and associated with the least amount of work. She noted that the US Navy site is being eliminated due to poor system reliability and restrictions associated with access to it.

In response to questions from Planning Board members, Mr. Montigny explained that RIDEM sent back the original plan with comments, which the team updated. The second version was before the Board and subject to formal submission to RIDEM and subsequent approval. He also reviewed the wetland areas slated for restoration. Mr. Montigny stated that he expects to receive the environmental or air pollution controls application from the consultant in a few weeks. It will then be submitted to RIDEM for approval.

Mrs. Kane-Daly questioned the Planning Board's ability to decide on Comp Plan compliance in the areas of environmental impact, reduction of fossil fuel dependency, wetland protection and land use. She questioned why the facility components even need to be moved closer to the wetlands when the new equipment was more efficient in noise reduction. Ms. Porcaro explained that even with the new equipment, the facility noise levels do not meet the noise ordinance. She noted that currently the site requires a 25-foot wall noise barrier which would be more invasive to site distances to the surrounding neighborhoods. Mr. Montigny stated that, with the wetlands restoration measures, he has received verbal confirmation from RIDEM that the project is on the right path. He confirmed that the application, with changes, will be submitted to RIDEM over the summer. Referring to Sheet C-3, Planning Board members discussed at length the restoration areas with the team. Mrs. Kane-Daly continued to question how the Board could decide without the RIDEM report. Discussion continued between the panel and the Board members on wetland protections, noise mitigation and a potential advisory opinion. Mr. Tibbetts emphasized that a Planning Board advisory opinion would be contingent upon any approvals from RIDEM and that the project could not go forward until those approvals were granted.

Ms. Hitchen read the two questions that The Energy Facilities Siting Board (EFSB) has directed the Planning Board to render an advisory opinion, as written on page one of the Portsmouth Planning Staff report, dated June 7, 2023. The first question is "...Whether a major Variance is Required and will be Granted for the Facility...." The second question is "Whether The Narragansett Electric Company will be able to comply with the Town of Portsmouth Comprehensive Community Plan...." Mr. Harding called for public comment. Ms. Hitchen stated that no one was present on the Zoom meeting.

Steve Johnson, 44 Wapping Road, Portsmouth, posed the question to the project team and the Planning Board, that given all the environmental, safety and community risk potential, why wouldn't the applicant consider the alternative of constructing and installing an LNG pipeline loop from Tiverton, RI or Fall River, MA thus obviating the need for the local facility.

Ms. Porcaro stated that while she believes the loop is the right thing to do, she sees several problems in it. She said the concept of creating new pipelines for fossil fuel

service is not favorable given current opinions and initiatives on energy. She stated that looping doesn't completely solve the problem with peak shaving in that it would not provide the supplemental volume needed to offset the difference between peak supply and demand. She noted that the current facility would still have to operate during the design, permitting and construction of the pipeline, which could take years. The Planning Board members and the team entered a lengthy discussion on peak shaving and the risks associated with a supply failure like the one that occurred in 2019. Ms. Porcaro stated that the most likely location for a pipeline crossing would be a parallel from Tiverton to Portsmouth.

Reading from the Comp Plan, Ms. Hitchen asked the applicant to show how the application meet the following vision language of the Energy Element: "...We [Town of Portsmouth] will be an energy efficient community in all its municipal functions which supports the development of both public and private, renewable energy production within the community." Atty. Watson argued that the application doesn't block the vision and ensures reliable service to existing customers. Ms. Porcaro commented that customers still can, at any time, convert to other forms of energy. Mr. Tibbetts commented that while the application doesn't specifically support the energy vision, that vision also places value on reliability and consistency in energy service and safety to citizens. Atty. Watson argued that RI Statewide Planning concurs that the project is beneficial in providing reliable, consistent service even though it does not comply with the Act on Climate.

Mr. Tibbetts asked about the Planning Board's need to act on the EFSB's first question. Atty. Gavin said he wrote a response to the question as written in the Planning Staff Report.

**MOTION:** Mr. Tibbetts made a motion, seconded by Mrs. Kane-Daly, to deny an advisory opinion to The Energy Facilities Siting Board (EFSB) as to whether a major variance is required and will be granted for the facility for Owner: Narragansett Electric Company (TNEC) - AP 68, Lot 74 (Old Mill Lane) based on the advice of the Portsmouth Town Solicitor and as stated in the Portsmouth Planning Staff report, dated June 7, 2023, as follows: "...The question is not germane in the context of our Zoning Ordinance and Land Development regulations....There is no terminology in Portsmouth's zoning or land development regulations that refers to or requires a 'major variance' for the proposed development. The proposed LNG vaporization facility on Old Mill Lane will require a Special Use Permit under Article V, Section B.5 of the Zoning Ordinance for 'Public utilities, limited to electrical, telephone, water, gas, cable television and sewer.' The local board to hear this application and issue an Advisory Opinion to the EFSB is the Zoning Board of Review. Therefore, a major variance is not required." All in favor. So voted.

Mr. Garceau commented that the facility doesn't essentially comply with the Comp Plan because it doesn't belong in the residential neighborhood but because it is existing, and the application proposes to make it better for the neighborhood, then the project makes sense to him. In response, Ms. Hitchen advised the Planning Board to look at the

Energy and Land Use elements of the Comp Plan. She noted that while the Town's main energy vision is to look toward renewable energy options in parallel with the Act on Climate, conversion to renewable energy takes time. She noted that meanwhile 15,000 businesses and residences rely on LNG supply to the island and the applicants are trying to make that reliability and consistency better. She quoted the Land Use element as promising "...to ensure the continued strength and stability of our residential neighborhoods by respecting value development patterns and character...." She said the Planning Board must determine if the application is consistent with that policy. Mr. Tibbetts commented that the application ensures energy resiliency and consistency which are important to the strength and stability of Portsmouth neighborhoods.

Ms. Kane-Daly stated that she is not able to render an advisory opinion as to the application's compliance with the Comp Plan without reviewing a RIDEM report on the wetland protections or hearing public comment on the noise level mitigations. Atty. Gavin stated that Ms. Kane-Daly's concerns are more germane to the special use application to the Zoning Board of Review which requires public notification. Ms. Hitchen stated that the application is before the ZBR on June 22. Mr. Tibbetts commented that he relies on the fact that the applicants must obtain approvals for favorable mitigations from RIDEM regardless of what the Planning Board decides on Comp Plan compliancy. Ms. Hitchen also noted that the uniqueness of the application lies in its status as a legal non-conforming use that existed prior to most of the houses.

Mr. Kirkwood noted several operational advantages to the proposed plan, including a reduction in hoses which pose the highest probable failure, an increase in space for first responders and an increase in operational safety.

Ms. Hitchen confirmed that the application must be submitted to the EFSB no later than August 4. Atty. Watson noted that the RIDEM report will probably not be out by then. Lengthy discussion continued further on the Planning Board's ability to render an advisory opinion.

**MOTION:** Mr. Tibbetts made a motion, seconded by Mr. Garceau to make a favorable Advisory Opinion to the Rhode Island Energy Facilities Siting Board (EFSB) that the application for The Narragansett Electric Company (TNEC) - AP 68, Lot 74 (Old Mill Lane) for a license to Construct and Operate a Liquefied Natural Gas (LNG) Vaporization Facility at Old Mill Lane complies with the Portsmouth Comprehensive Community Plan, according to the following:

1. Specific to Element 8, Energy, the application is not inconsistent with the vision towards energy efficiency and renewable energy and provides critical energy infrastructure, resiliency and reliability to the community.
2. Specific to Element 12, Land Use, subject to favorable mitigations required by Rhode Island Department of Environmental Management to protect the natural environment, the project adds to the enhanced fiscal stability of the Portsmouth Community through the resiliency argument and through the proposed noise mitigations.



The motion was carried with 3 votes approving. Mrs. Kane-Daly abstaining.

**7. Agenda Item # 8: Approve June 14, 2023 Monthly Project Status Report, Administrative Subdivisions, Plat Plan Recording and Status of New Road Construction.**

**MOTION:** Mr. Garceau made a motion, seconded by Mrs. Kane-Daly, to accept and place on file the June 14, 2023 Monthly Project Status Report, Administrative Subdivision, Plat Plan Recording and status of new road construction. All in favor. So voted.

At 10:09 p.m., a motion was duly made and seconded to adjourn the meeting. All in favor. So voted.

Respectfully submitted:  
Dede Walsh  
Recording Secretary for:

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Leon Lesinski  
Administrative Officer