

ZONING BOARD OF REVIEW MINUTES

Tuesday, April 23, 2019 Meeting 7:00 pm

Town Council Chambers, Town Hall

125 Main Street, East Greenwich

Present: Richard Land, Chair; Chris Mulhearn, Vice-Chair, Jody Sceery, Ashley Cullion, Melody Alger; Barry Golden (Alternate) and David Collier (Alternate).

Staff: Lisa Bourbonnais, Town Planner and Michael Ursillo, Town Solicitor.

Mr. Land, Chair of the Board, called the meeting to order at 7:05 PM and introduced the members and staff present. The Board's meeting procedures were read into the record and the Chair announced some changes to the docket. First, applicants for the **GREP Arcade, LLC** project located at 50 Main Street have requested a continuance to the May 28, 2019 meeting. Motion by Mr. Mulhearn, second by Ms. Sceery to continue to 5/28. VOTE: 5 – 0 – 0 in favor.

Next, the Chair called upon representatives for Item 4 on the docket, being **J2 Properties** for their project at 816 Middle Road. **Attorney David Johnston** came forward to request that the application be withdrawn with prejudice. Such withdrawal would allow them to re-submit an alternative application in the near future, once he has time to meet with all relevant staff and review the building floorplans to determine the appropriate type and amount of relief. Motion by Mr. Mulhearn, second by Ms. Sceery to continue to 5/28. VOTE: 5 – 0 – 0 in favor.

Zoning Board of Review Hearings

1. **Charles K. and Nancy L. Shallcross** for property located at 118 Blueberry Drive; Map 73 A.P. 9 Lot 307 (Zoned Residential, R-30). The Applicant seeks a dimensional variance from Table 2 of Chapter 260 of the Town Code; Zoning Ordinance, Dimensional Regulations by Zone and Section 8 (f) of the same chapter pertaining to the siting of accessory structures. The applicant seeks to erect a 14'x22' shed seven (7) feet from the south side property line. **(Continued from the March 26, 2019 meeting.)**

The applicants were on hand to represent their application. Mr. Shallcross noted the project had been thoroughly vetted at the March meeting but was continued to give him time to work with his most directly affected abutter regarding any potential negative impacts. Since that time, he met with the neighbor on-site and explained the exact location proposed and they assessed view-sheds and existing

buffering. The neighbor, not on hand to represent himself, is now satisfied that his property will not be negatively impacted. The Assistant Town Planner affirmed his position by phone prior to this meeting. There was no one present to speak in favor of or against the request.

The Chairman provided a brief synopsis of the Board's review and noted for the record that in his view, all relevant legal standards have been met. In particular, it was noteworthy that the request does not arise from any desire for greater financial gain and the project is not inconsistent with the Comprehensive Plan or the purpose and intent of the Zoning Ordinance. He called for a motion.

Motion by Ms. Sceery, second by Ms. Alger to approve the application as submitted. Ms. Sceery reiterated the finding that the standards of review have been met and she felt the imposition of any mitigating conditions was unnecessary.

VOTE: 5 – 0 – 0 in favor of the motion to approve.

2. NuGen Capital Management, LLC for property owned by **Briggs Drive Associates** and located at 10 Briggs Drive; Map 36 A.P. 16 Lot 36 (Zoned M/LIO, Manufacturing/Light Industrial Office). The Applicant seeks a Special Use Permit under Article XX of Chapter 260 of the Town Code; Zoning Ordinance, Solar Energy Systems and Facilities. This article provides protocols for the construction and operation of Solar Energy Systems. The Applicant is requesting to install a major roof-top solar energy system (6 MW) which also requires Major Land Development approval from the Planning Board. **(Continued from the March 26, 2019 meeting.)**

Attorney Scott Spear was on hand to represent the application. After providing some brief background on this site and other Rhode Island solar projects, Mr. Spear stated his intent to show the subject project's consistency with our comprehensive plan and Zoning Ordinance and to further demonstrate that there will be no significant negative impacts - environmental or otherwise - resulting from the project. He called his first witness, Mr. Aaron Rust, who is a business development specialist with NuGen.

Mr. Rust expressed enthusiasm for this Warren, RI-based company's first Rhode Island project. He provided details on the 6 megawatt rooftop solar project including how all panels will be ballasted, anchored and secured and coated with anti-reflective materials to both optimize energy production and to reduce glare. In addition to the panels themselves, the rooftop will also receive a number of inverters and a large transformer from which some wires will extend overhead and others will run

underground to transfer the power to national grid lines. The rooftop in question is relatively new and free of obstacles like condensers or air vents, so it is a great blank canvas to work from. All gravel has been removed which lightened the load on the roof and it has been inspected by a structural engineer to affirm that it can support the panels and related equipment as well as snow loading and other variables. The project will produce no odors or emissions and no lights will be installed by NuGen. All facets of the project will fully comply with state building and electrical codes. Following the initial construction period, the solar project will not create any traffic as only occasional maintenance staff will visit the property, not resulting in any average daily trip generation. There will be some noise -described as a low hum - from the inverters but given the size of the site, no noise is expected to carry beyond the property. Mr. Rust did not have an actual decibel level for the record but stated he expects his Preliminary plan review with the Planning Board to cover that detail. He added that he does not expect there to be any glare issue given the coating on the panels, the distance from neighboring properties, and the angle at which the panels will sit.

Mr. Spear called his second witness, Laura Frazier, the Director of Operations for NuGen. She explained how the whole operation will be monitored remotely as their equipment transmits the status of all panels and inverters, tracks all energy being produced, and can send alerts to maintenance staff if any equipment goes off-line, becomes sub-optimal, or other issues arise. NuGen's lease with the property owner dictates that they continue to maintain the panels long term and they will record an operations and maintenance plan for the site. The lease is for 25 years but is renewable and they have already entered into power purchase agreements with two municipal facilities and a school. Their direct purchases of renewable energy provide a broader community benefit.

Upon conclusion of the expert testimony, the Chair asked if any abutters were on hand to speak about the project. Matthew Willis of 25 Ezekiel Carre Road spoke, explaining that his house sits directly behind the existing large building. While his home is a few hundred feet away from the building, he still has a direct view of the industrial structure and sees lights from the rooftop year-round and hears noise from trucks and other activity on site. Although the applicant is not installing new lighting, he asked that the existing lighting situation be addressed. Especially in winter when the trees are denuded, the lighting is extremely bright and is directed outward rather than downward. So, given the elevation of the structure in relation to the abutting neighborhood, the lights shine directly into upstairs bedrooms of several homes all night long. It was his strong feeling that although the situation is pre-existing. The Town's regulatory Board's should get involved as part of the subject application even though this lessee will not be adding to the problem.

Chairman Land responded noting that the Town's lighting standard is contained in the land development regulations – not the Zoning Ordinance – and therefore it was his strong feeling that the issue should be taken up by the Planning Board at the Preliminary Plan review and should not be addressed by the Zoning Board as part of this process.

Mr. Willis continued, moving on the issue of noise. He stated he has attended the Planning Board's initial master plan hearing and at that time, the applicant had indicated there would be no noise coming from the site. This evening's presentation seemed to indicate something very different and he asked for clarification and for actual metrics regarding decibel levels both on site and at adjacent homes.

Attorney Spear suggested that Mr. Rust be allowed to clarify. Mr. Rust explained that there is no noise generation from the panels themselves but the electrical equipment associated with their presence will make some low level noise on the rooftop. He did not have actual decibel level information available tonight but could certainly supply it if desired. Chairman Land asked if there was something familiar that he could compare the noise level to just to help Board members and the public understand. Mr. Rust stated he hesitated to make such comparison since he doesn't actually know the decibel levels but has worked around the equipment a lot and finds that people can carry on a very normal conversation standing next to the inverters, transformers and other equipment without raising their voices. He felt this indicated the levels are quite low and will not carry far.

No one else appeared to be heard and the Chair called for discussion and a motion. Mr. Land noted for the record the standards required to be met for the granting of special use permit and added that they are different from and considered lesser than the standards associated with variances. A motion was made by Ashley Cullion, seconded by Ms. Sceery, to approve the application as submitted. VOTE: 5 – 0 – 0 in favor of the motion.

3. **GREP Arcade, LLC** for property located at 50 Main Street; Map 85 A.P. 1 Lots 54 and 364 (Zoned Commercial Downtown, CD-1). The Applicant seeks a Dimensional Variance under Chapter 260 of the Town Code, Zoning Ordinance, Article VI, Off-Street Parking Regulations, Section 260-20 Required Off-Street Parking Spaces. The Dimensional Variance is required because the Applicant is deficient of the number of required on-site parking spaces in order to open the first floor restaurant, being Tavern on Main.

See above discussion.

4. J2 Properties, RIGP for property located at 816 Middle Road; Map 53 A.P. 11 Lot 626 (Zoned Manufacturing/Light Industry Office, M/ LIO). The Applicant seeks Dimensional Variances under Article VI of Chapter 260 of the Town Code; Zoning Ordinance, Off Street Parking Regulations, specifically Sections 21(D), Parking Location and Section 25(D)(2), Parking Lot Side Setback Requirements. Additional relief is also needed from Table 2 of the Zoning Ordinance, Dimensional Regulations by Zone and Article III, Zoning Districts, Section 260-8(I), Required Screening from Adjacent Residential Uses. The Applicant has enlarged the existing parking area into the front and side setbacks and seeks to abate an issued Zoning Code Violation issued on December 20, 2018.

See above discussion.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the March 26, 2019 meeting.

There was no action on the minutes. In other business, the Chair brought up a recent conversation with Town Council President Schwager regarding downtown parking. He noted that while the ZBR reviews applications for parking relief and, in the interest of being business friendly, often grants such relief on the basis of valet parking agreements, there appears to be something of a parking shortage at present. He inquired about the status of a “parking study” so the Board can better understand the metrics at play and also about any Town-wide valet service requirements, wherein locations for such activity can be controlled/regulated.

Staff confirmed that an in-house parking capacity and demand analysis is being conducted for the Main Street corridor and it will likely be used as leverage to hire an outside expert to help design solutions to whatever parking shortage is shown. Ms. Bourbonnais also confirmed that other communities have actual Valet Licenses, locally administered by Town/City Councils (acting as a licensing board) and these templates/models are being looked at for East Greenwich. This seems like the only way to effectively grapple with the issue of where all cars are going but it will require Council action.

Mr. Ursillo noted this was a useful update but any more substantive discussion should probably be deferred to a future meeting where the topic can be properly docketed.

With all business concluded, there was a motion by Ms. Sceery to adjourn at 8:00 PM. Motion seconded by Ms. Cullion and unanimously supported.

Minutes respectfully submitted by:

Lisa Bourbonnais,
Town Planner

For more information, please refer to the recording available in the Planning Department.