

Planning Board Minutes  
August 5, 2015– 7:00 P.M.  
Town Council Chambers  
125 Main Street  
East Greenwich, R.I

Members Present: Steve Brusini, Chair; David Eaton; Chris Russo; John Ayotte; Dan Tagliatela, Jason Gomez;

Members Absent: Brad Turchetta; Mike Donegan

Staff present: Lisa Bourbonnais, Planning Director; Sarah Jette, Legal Counsel; Tom Coyle, Town Manager; Aaron Lindo, Planning Assistant

Steve Brusini called the meeting to order at 7:05 PM and introduced the members and staff present.

1. Preliminary Plan application with a Public Hearing for the Saint Elizabeth Home proposing an expansion of their nursing home facility at Post Road and Grandview Road. The project constitutes a Major Land Development and will be built at 1 St. Elizabeth Way, being Map 45 AP 11 Lot 105 on 21.2 acres in an MUPD zoning district. The project will involve construction of four new structures housing 48 new nursing facility beds. The project will be served by existing road ways and by public water and sewer and will meet the dimensional standards of the zoning code.

Mr. Brusini introduced the matter and defined the definition of a preliminary plan hearing.

Attorney Peter Nolan, representing the applicant, introduced himself and confirmed that the applicants had received and reviewed the staff report. Mr. Nolan stated that he agreed with the staff report and confirmed that certified mail noticed was mailed to abutters. Mr. Nolan introduced Matt Trimble, Steven Horowitz, Roberta Merkle, principle officers of St. Elizabeth, Scott Moorehead, engineer, and James Almonte, the landscape architect, all of whom were on hand to represent the applicant.

Mr. Nolan started by addressing the proposal. 4 single-level buildings with 12 bedrooms housing 12 residents for a total of 48 beds, built on a single family residential concept. The buildings will have public water, public sewer, underground utilities, and will keep the 100 foot buffer from the abutting residents. Mr. Nolan asked Matt Trimble to explain the concept of the project.

Mr. Trimble is sworn in and gives a brief summary of what he said in previous meetings about the concept of the project. He explains that the project is the first of its kind in the state of Rhode Island. Rather than building a large building, they are building 4, 12-bed houses with private bedrooms, bathrooms, and shower facilities. Each house will operate independently, depending

on the 12 residents who live in the buildings. They will be in control of what goes on in each house such as activities and menu selections. Mr. Brusini asks about the philosophy about the concept. Mr. Trimble explains that the concept was developed by Dr. Bill Thomas who discovered through his work that the elderly can be relieved from suffering from boredom, helplessness, and loneliness. The solution was to make everything much smaller in scale. Because of the small scale, the staff that work with the elders know them very well, building strong relationships and bonds with the residents who live there. Mr. Russo asked if the plan was to be assisted living. Mr. Trimble responded that it is not assisted living but rather nursing home patients with varied mobility; some residents in wheel chairs, some mobile, some with cognitive abilities intact and others with dementia. The concept is that this is their home and this is their family with a 24/7 staff.

Mr. Eaton asked what the demand was like for Rhode Island, specifically for East Greenwich. Mr. Trimble responded that there was a high demand for the existing building and that there is a waiting list of 60-70 people waiting to get into the home. Mr. Brusini clarifies with Mr. Trimble that this facility is no different than any of the other units in the conventional units in terms of care, that it is a matter of choice.

With no other questions, Mr. Nolan asks Scott Moorehead to go over the engineering aspects of the project. Mr. Brusini commented the Mr. Morehead frequently testifies before the Planning Board on engineering matters and has been qualified numerous times as an expert. Mr. Moorehead is sworn in and begins by explaining that the current plan is essentially identical and unchanged to the master plan with the exception of a few tweaks with more detailed design to the drainage, grading, erosion control and utilities. The lay out of the buildings, the parking and the driveway are unchanged from the master plan review.

Mr. Moorehead describes the layout of the site using a visual aid. There are existing utilities such as sewer, water, gas, electric, and telephone to service the existing development so no off-site improvement will need to be done in any of the roads off the site. Drainage from the site runs toward Post Road because of the high point of the hill just to west of the property. There are currently 3 detention basins on site servicing the existing facilities discharging to a large detention basin on Post Road which then discharges to the state drainage on Post Road. Drainage facilities within the site will be added, such as a rain garden area, an infiltration basin, and a detention basin which will pick up the new development drainage. These will be connected to the existing on-site drainage system.

Mr. Moorehead explained that they received a permit from the DEM which gives approval for storm water and erosion control. Mr. Busini asked for an explanation of what the new permit entails. Mr. Moorehead responded that the permit involves a consolidated review of erosion control, drainage, sediment control, and covers all the items that DEM would be concerned with regarding environmental protection through their various agencies. The DPW has reviewed the drainage report and is satisfied with the drainage and erosion control.

Mr. Moorehead continued on, giving attention to a concern raised by DPW regarding traffic calming. It was noted that the existing facility makes use of portable speed bumps which will continue to be used and taken down in the winter because of the plowing hazard they would be. This would alleviate the traffic calming concern that DPW had.

In the plan, the property lines and respective 100 foot buffer lines were indicated as well as the limit of clearing within the buffer. The clearing will be re-landscaped and re-vegetated.

Within the site, the parking will be provided for the new facility all within the area of the new driveway. There will also be handicap parking within the driveways of each building which makes them look more like a single-family residence. Each building has its own driveway.

From an architectural perspective, the buildings are single story, with no attic and no basement. The building height will be 25 feet, well within the zoning code. The site pitches from west to east with a slope in the development site. In order to develop the site respecting the needs for the elderly, the plan is to make the area as flat as possible. The center of the site will be matching existing grade. The area to the west, where buildings 3 and 4 will be, there will be excavating done up to 12 feet to put the buildings below the crest of the hill. This will help visual and noise impact for the surrounding abutting residents. Building 2 is at grade and building 1 will be raised slightly so that all the walkways will be ADA accessible. There will be 2 court yard areas, between buildings 1 and 2 and between 3 and 4 which will be fenced for residents to enjoy the outdoors.

Mr. Ayotte raised a question about building 3 having a 3 foot wide access to the back of the building. Mr. Moorehead answered that they are for access to the generator pads for maintenance personnel. There are 3 generators, one for building 1, another for building 2 and one that services both 3 and 4. Most of the mechanicals are contained within a mechanical room. Air conditioning condensers are on the outside. A question was raised regarding the sound the generators would make and it was answered that they would definitely be quieter than a commercial sized unit.

Mr. Russo raised a question about spaces in front of buildings 3 and 4 and asked if they were meant to be parking. Mr. Moorehead responded that there are parallel parking spaces in front of the buildings and that it is supposed to look and feel like a residential streetscape driveway. The driveways would be 24 feet wide which is more than enough space for any vehicle to access. The cul de sac has more than ample radius for fire and emergency vehicles. They would also have a spot to park in the driveways.

Mr. Gomez affirmed that the island in the cul de sac wouldn't have a curb that would pose a problem in regards to a turning radius. Mr. Moorehead responded, saying that indeed it was the case and would accommodate any vehicle the town has already. Even a bigger vehicle such as a moving truck, would not pose a problem because they would be able to drive over the curb safely.

Mr. Ayotte asked Mr. Moorehead to briefly explain the parking situation. All parking for the new facility are in the new paved areas. 16 90 degree spaces, 11 parallel parking spaces and 4 handicap spaces. A question was raised about the storage bins on the property by Mr. Ayotte and if they were being used. He was told that they were currently being used and move around where needed. There is no issue right now for parking. At peak times during the day, such as shift changes and common visiting hours, people will park along the driveway but most of the time the parking lot is 50-60% full. There are no parking issues spilling out onto Post Road or Grand View. Mr. Moorehead said that they were investigating the possibility to add parking spaces if it was needed and will have opportunities for additional parking. The only additional parking that would be needed would be for staff and visitors as none of the residents drive. 8-10 spaces per building would more than ever would be needed.

Mr. Trimble addressed the storage bins, stating that they are permanent and that the storage is needed.

Mr. Brusini addressed a few issues that were raised in the TRC notes. The first was a fire flow letter being required from the Kent County Water Authority. Mr. Moorehead responded that a fire flow test was done and a letter had been submitted to the fire department and has gone to the state fire marshal for review. Another issue was the confirmation of fire hydrant locations which have been approved by the fire department.

Mr. Brusini went on to ask few questions about the landscaped area inside the cul de sac. He asked if it also functioned as a storm water detention area. Mr. Moorehead confirmed this was a bio-retention area or a rain garden, which serves as a removal of pollutant. It cleans the water coming off the pavement and infiltrates some of that water into the ground. Mrs. Bourbonnais confirmed that there were no issues from DPW regarding the bio-retention area and that the zoning officer has reviewed the area for code compliance.

Mr. Brusini stated that from the staff report, there was a reference that parking was “tight” on some visits and wanted clarification. Mrs. Bourbonnais stated that people were parked on the grass and Mr. Moorehead confirmed that there is a small window of time where it gets busy and that there are areas on the grass where people could park. It was also stated that if parking needed to be expanded, they could do that as well. Mr. Brusini followed up to this by asking where people park in the winter. Mr. Moorehead stated that snow is moved to areas to get it off the pavement and allow access to parking. Also, to address additional parking, he stated that they are looking into several places to add parking. They are proposing to remove sidewalk make way for additional parallel parking. There is also room in the rear entrance which is underutilized that could be made available for parking. In total, there could be 30 additional parking spaces easily. The removal of the sidewalk would facilitate a 24’ feet of two way road space plus an additional 8 feet for a parallel parking lane.

Mr. Brusini confirmed that there will be no roof top mechanics on the buildings which he was told was correct. Another issue from the staff report that he brought up was regarding the noise impact and Mr. Moorehead responded that the noise impact would be no more than you would have from a large residential home. There will be 2 AC units for each home, comparable to 8 homes build there that had central air. The only thing outside HVAC that would make noise would be the propane generators which are quieter than the diesel generators. It will also be smaller scale units because there are 3 units for the 4 buildings. Once a week they will probably start up for a test but they are not loud like ones for big commercial facilities. Presuming that no power would ever run out, they would never run anyway.

Another issue Mr. Brusini brought up from Master Plan was the timing of the construction activities being disruptive to the neighbors, such as the construction vehicles getting in and out, construction noise, and kids getting up for school. Mr. Moorehead responded that they are required to comply with code as far as construction. The intent is to build all 4 of the buildings at one time. Construction is due to start this Fall with clearing, grading, etc. It is not intended to be phased out for a long term project and is projected to be completed in a year. The access is on Grandview near Post Road and most of the construction traffic will not be going through the neighborhoods, it should be coming from Post Road. The neighbors will deal with normal construction operating times which will probably be 7am-4pm and will probably work a little bit around the schedule for the St. Elizabeth's and the Seasons shift changes, so we don't have the construction traffic pose a problem to the staff.

The visual impact was brought up by Mr. Brusini, asking what the people of Grand View were going to see of the property out their back window. Mr. Moorehead explained that the houses on Grand View were going to see the trees in the buffer and probably not even going to be able to see the rooftops of the buildings due to the 100 foot buffer zone. The proposed houses will also be set somewhat down grade to mitigate that problem.

With no further questions, Mr. Nolan called up the next witness, James Almonte, a registered landscape architect with the firm Perry and Waterman. Mr. Almonte has a degree in landscape architecture from the University of Rhode Island, and is registered in the State of Rhode Island and Massachusetts.

Mr. Almonte is sworn in and Mr. Nolan asks him to explain the landscape plan as it pertains to the neighbors and the property itself. Mr. Almonte explained that the objective of the design was to accomplish a number of goals. The first was to meet the regulations of the town and the state for street trees along the driveway and plantings within the parking lot. Secondly, was to re-establish the vegetative buffer within the 100 foot buffer to the north and to the west of the project. Third was to to enhance the overall project, the residential feel of the project as well as to provide some amenities for the residents in the courtyards.

Along the driveway there will be street trees in accordance with the subdivision rules and regulations. Along the perimeter of the driveway there will be 16 large shade trees. In the middle landscape island there will be 5 additional street trees that will be mature shade trees for a total of 21 trees along the driveway. There will also be a bioretention basin in the middle of the landscape island in the middle of the cul de sac, which as previously described, would treat the water quality of the drainage for the area. The bioretention basin has been designed in accordance with the Rhode Island storm water regulations. Along the north and the west of the project, there is encroachment on the 100 foot buffer and the intention is to re-establish that buffer with native vegetation, both evergreen and deciduous plantings. The plantings will be mostly evergreen to provide year-round coverage to the new development. The varieties of trees will be pine, white pine, pitch pine, as well as some deciduous varieties mixed in. Even with the deciduous varieties, the specified trees will have dense horizontal branching which will also provide year round coverage as well.

He continued on to explain the plantings along the buildings and on the property itself. To enhance the residential feel of the buildings, there will be a mix of low growing evergreen and deciduous flowering trees to provide year round interest with a mixture of texture, form and color. In the court yard, amenities will be provided for the residents which is an important element to the 'Green House' concept. The residents will have amenities such as outdoor cooking and barbecue, shade structures, walking paths. There will also be designated areas within the court yards for residents to go outside and plant and maintain a garden of perennials or whatever they would like to do.

Questions were opened up for Mr. Almonte and Mr. Gomez asked about a previously mentioned retention wall behind one of the buildings, asking about where it is and the specifications about it. Mr. Almonte pointed out the general location the retention wall on the plan and further explained that the plan is to utilize some of the natural boulders on site that will be found after excavation as a retaining wall. It depends on how many boulders will be found but essentially the homes on the perimeter of the property will be higher than the development so it will be sloping down. The trees will be planted on the high side of the retaining wall and then the retaining wall will drop down to the site. The height of the retaining wall will be a maximum of 4 feet.

Mr. Tagliatela mentioned that there had previously been an abutter who had concerns about the trees in the perimeter and asked if the trees would follow up after or if there had been any modifications regarding which trees would be planted. Mr. Almonte explained that the previous plan had more deciduous trees which was part of the concern of not having year round coverage. When going to the next level of development, more evergreen trees were added as well as a higher quantity of trees. He further went on to say that when you see some gaps in the existing trees, they can go out and place trees where it makes sense.

Mr. Gomez asked about the previously mentioned courtyards, inquiring about the shaped area in the middle which is unidentifiable, saying it looked like a pond. Mr. Almonte answered the it

was certainly not a pond. The intention was to try to create a path where residents could walk around in a circle with a lawn area in the middle for gatherings and activities of the like. Around the perimeters, there are certain pockets where the residents can go out and ‘get their hands dirty’ and plant.

Mr. Brusini gave a follow up of the abutting resident on Misty Oak that Mr. Tagliatela mentioned who had raised concerns about gaps where one could see through. He confirmed that the gaps would be filled with more trees, different types of trees, denser trees, deciduous trees that have more horizontal branching to give year round coverage. He asked about the growth of the trees, if they were going to get better coverage with height. Mr. Almonte confirmed that the evergreen trees specified will be about 7-8 feet in height and the deciduous trees have about 2 ½ to 3 inch caliper so they will be about 12 feet in height, maybe even higher. With the varieties specified, there will be 8-12 inches of growth every year. Mr. Brusini commented that it sounded like there was a good amount of thought put into addressing the concerns of the neighbor.

No further questions were asked by the Planning board and a five minute break was taken for the public to come up and inspect the plans closer.

Before opening up to public comment, Mr. Brusini asked Mr. Nolan if he or any member of his team perceive any negative economic impact or negative impact on property values as a result of this project. Mr. Nolan stated that he does not.

Public comment was opened up to voice opinion in favor of, against, or otherwise with respect to this application. There was no member of the public to speak.

Final comments were made by Mr. Nolan. He stated that he believes the applicant has met the burdens as required and if the Board sees fit to give preliminary approval, he asked if the applicant could be considered to be allowed to go administratively through the Planning Department for final approval. He said he had asked Mrs. Bourbonnais if she had an objection to that and she said that she did not. Mr. Brusini confirmed with Mrs. Bourbonnais about Mr. Nolan’s request. He then asked the members of the Board if they were comfortable with handling the final approval administratively through the Planning Department and no objections were made.

No final comments were made and the staff marked the exhibits. Mr. Brusini asked for a motion to be made with respect to this application and to include Mr. Nolan’s request on administrative review for final plan. There was a motion made by Mr. Russo to approve the preliminary plan with conditions as summarized:

Having considered the requirements of Rhode Island General Laws of 1956, as amended, including Section 45-23-30, and based on:

- Review, consideration, and adoption of the staff report and its findings and recommendations, and

- Review and consideration of the Exhibits made part of the record, and
- Personal knowledge of the area in question, and
- Testimony presented to the Board, now

The East Greenwich Planning Board hereby makes the following findings of fact:

Representatives of the applicant, the Saint Elizabeth Home, appeared on behalf of a project known as “The Green House Project at St. Elizabeth Home,” located at 1 Saint Elizabeth Way (Post Road and Grand View), being Map 45, Assessor’s Plat 11, Lot 105, and presented a development plan before the East Greenwich Planning Board calling for four new structures to house 48 new skilled nursing care beds, and

The proposed development is consistent with the Comprehensive Community Plan, including the Future Land Use Map, and with the purpose and intent of the Zoning Ordinance, and

The subject property is currently in use as a nursing home and assisted living facility and the applicant’s representatives have testified that the proposal is in keeping with the existing land use.

The Planning Board received reports from Town Departments, the Technical Review Committee, and representatives of the applicant regarding this proposed land development plan in a public meeting on August 5, 2015; and

The Planning Board further finds that the proposed development, if approved as discussed and with conditions imposed,

1. Is consistent with the Comprehensive Community Plan and with the General Laws of Rhode Island Section 45-23-30;
2. Is in substantial compliance with the standards and provisions of the East Greenwich Zoning Ordinance in accordance with the General Laws of Rhode Island Section 45-24;
3. Will cause no significant negative environmental impacts;
4. Will not create individual lots with any physical constraints to development such that building on those lots according to pertinent regulations and building standards would be impracticable; and
5. Has adequate and permanent physical access to a public street for the development.

Therefore, I move that the Planning Board approve the Preliminary Plan for “The Green House Project at Saint Elizabeth Home” subject to the following conditions:

1. Approval is based on plans entitled “Preliminary Land Development Review for the Green House Project at Saint Elizabeth Home” dated June 12, 2015, a 17-page plan set. The collective set was marked as Exhibit #\_\_\_\_\_ at the August 5, 2015 Hearing, prepared by SFM Engineering, SWBR Architects, and Veri Waterman Associates.

2. No building permit for new construction can be secured until Stormwater Management and Soil Erosion and Sediment Control Permits are obtained from the EGDPW.
3. Per approved motion by the applicant, Final Plan Review and Approval shall be administrative and shall not be scheduled before the Planning Board unless the checklist requirements contained in the Town's Land Development and Subdivision Regulations are not met.
4. All parking lots created or reconfigured in conjunction with the project shall meet the landscaping requirements set forth in the off-street parking provisions of the Zoning Code.
5. A temporary construction easement will be required during project build-out. Easement language shall be provided for review and approval by the Town Solicitor and Planning Department prior to final plan approval. Such language shall call for affected areas to be restored to their natural state upon completion and no residential structures shall be allowed to encroach. Exceptions within the buffer will include construction of a boulder retaining wall (not to exceed 4' in height) to support the grade change on the west side of the parcel and installation of a detention basin and grass access-way on the north side of the property.
6. Site lighting shall conform to the Town's lighting standards and adhere to the dark skies objective. Lighting details showing pole heights, luminary direction, and lumen array shall be provided as part of the Final Plan.
7. The Stormwater System "Operation and Maintenance Plan" must be legally binding in accordance with the R.I. Stormwater Manual requirements. The document must be recorded with the Town in conjunction with or be made part of the property deed prior to construction.
8. The DPW reserves the right to require that a Soil Scientist certify that the predominantly Sand and Urban Land soil types on site are appropriate for steep slopes and drainage purposes as site work progresses.

Mr. Brusini noted that a motion to approve the application had been made by Mr. Russo which was seconded by Mr. Gomez. There was no discussion or final comments made by members of the Board and it passed unanimously.

VOTE: 6—0—0 in favor of the motion to approve the Preliminary Plan Application of Saint Elizabeth Home.

2. Continued Discussion: The Town of East Greenwich is considering amending its zoning regulations pertaining to "farming" and agricultural land uses. Such amendment would

include changes to Section 260 – 6, Definitions, of the Town Code and Section 260a, Table 1, Table of Permitted Uses by Zone. Sections 260 – 108 through 260 – 111 would be added to the Zoning Code to address farming/agricultural operations. Previous draft reviewed 6/3/15.

Mrs. Bourbonnais opened up the discussion, reminding the Board of the last meeting. There was a discussion in June about revising the agriculture related tenets of the zoning ordinance. There have been numerous complaints over the last couple of years that were overly restrictive of what would be thought of urban farming activities, including the keeping of backyard chickens and back yard bees for honey. The goal was to loosen the restrictions on the ordinances and allow them in more places. Even in farm zones, where there would be a use permitted by right, there are deed restrictions preventing that activity, especially in the sub-divisions. There are still going to be people who might want to have this agriculture and will not be able to.

It was agreed the last time the revisions were drafted, there wasn't enough done in regulating the land use. In the interest of trying to balance the desires of the backyard chicken and honey enthusiasts, keeping in mind the need to protect the residential character and property values in neighborhoods, Mrs. Bourbonnais put forth a compromise. The urban agriculture was allowed down to a 5000 square foot lot in the R zones by right. This was eliminated and now has been allowed by special use permit which would require a Zoning Board review, a requirement to notify abutters, people who oppose would be given the opportunity to voice their opposition in a public hearing. It was also changed to R-20 zones which have a 20,000 sq. ft. lot minimum as a baseline for establishing the urban agricultural use.

She continued on to say that there are very few R-20 zones in town, with a couple of small stretches on Middle Road and some in the Tanglewood and Tamarack neighborhoods. Moving further west across rt.4, the lots become farm zones.

Mr. Russo asked if this issue came about because people thought the ordinance was overly restrictive and people want to do this. Mrs. Bourbonnais responded that there are people on the Hill on 8,000 sq. ft. lots that want chickens. A violation was just issued with in the last week to people on Lafayette Drive, an R-10 zone, for bee keeping. A neighbor was allergic and it posed a problem. People have come to the town asking to get on a zoning docket to keep bees and chickens. So far, these people have been told not to bother because it requires a use variance which is nearly impossible to obtain given the legal burden that has to be met. It requires the property owner to show that they cannot make any beneficial use of their property without the use variance. It was noted that use variances have been granted maybe twice in 20 years. People get turned away with the promise that an attempt will be made to make it easier to obtain. The requests are made very routinely and there are people clambering to engage in this activity. The requests are made primarily for bees and chickens for urban farming.

Mr. Eaton inquired about the number of people who call regarding this matter and if it was isolated or if has been on going for a number of years. Mrs. Bourbonnais responded that it has been within the last 3-4 years that the requests started, getting about 1 call a month. The initial push was very vocal as there was a whole group of people who came forward to express that they could not participate in urban farming in the Town of East Greenwich but that it was allowed in

other towns and cities within the state. The calls are steadily constant now but not as frequent as before. Mr. Eaton inquired about the properties of the people who called, if they were 8,000 or 20,000 sq. ft. The answer was that most were R-30 zones, close to farm zones, but there are several R-10 properties, such as the aforementioned violation on Lafayette Drive, that have made requests. There is a demand for smaller and smaller lot sizes to allow urban farming.

Mr. Tagliatela asked if the way the ordinance was written was overly restrictive or would it allow the people in R-20 and R-30 zones to participate in urban farming if wanted to. Mrs. Bourbonnais replied that they would still have to go to the Zoning Board for review. It is thought that the people in these zones think they should be able to have urban agriculture by right but it does not seem like that will happen, especially when there are concerns about allergies and other things that can happen. There are potential negative impacts. Mr. Tagliatela asked about the special use permit process as he was not familiar about it. Mrs. Bourbonnais replied that it is similar to a variance that goes in front of the Zoning Board to review. All the abutters within 200 feet are notified, there is at least one public hearing regarding the application where anyone can speak their piece. It does not have the same legal burden that a true variance has, it has to be shown that it is not damaging the public health, safety, and welfare. After everyone has been heard, there is a vote. If there are complaints, it would be denied.

Mr. Tagliatela asked if it was necessary to have a special use permit for an R-20 and an R-30. The response was that it is a density issue. When animals are living in close proximity to a lot of people, there are smells, rodents, foxes, etc. and in a denser setting there would be more detrimental outcomes than there would be in a R-30 zone property. This is the reason the update was made from 5000 sq. ft. to a 20,000 sq. ft. minimum.

Mr. Russo asked where this issue is now and where does it go from here from a procedural perspective. Mrs. Bourbonnais replied that if the Board is comfortable with the direction this is headed in, a formal public hearing could be scheduled so that a recommendation could be made to the Town Council to adopt the ordinance. They, in turn, would go through their own procedures and public hearings before it gets approved and becomes law.

For context, Mr. Brusini inquired about how much negative feedback has been received. He was told that there was a couple who applied who felt strongly enough about the issue to go through process of obtaining a use variance permit. She lived in an area that did not have a plat restriction and was eligible to apply and people came out in droves to oppose her. There are people on both sides of the issue that have strong opinions so a public hearing would be unpredictable.

Mr. Eaton inquired about the ordinances of the surrounding towns, such as North Kingstown, regarding the urban agriculture issue. Mrs. Bourbonnais answered that she didn't what North Kingstown does but knows that West Warwick, South Kingstown and Narragansett all allow urban agriculture by right in residentially zoned lots within a quarter acre and on smaller lots by special use permits. The ordinance proposed in this draft would probably double the size requirements of surrounding communities. Mr. Eaton asked if there was a criterion that exists that could be looked at for options of requirements. Mrs. Bourbonnais said that she used the town of Richmond and South Kingstown as templates in terms of requiring fencing, capping numbers, not allowing roosters, etc., and standard for the ordinance was modeled after those communities

in terms of how to keep everyone happy. There are a lot of places where this is allowed by zoning but is not allowed by property restriction

Mr. Eaton commented that he would like to see this issue go to public hearing to see what kind of turnout there will be and make an assessment from there, with a better understanding of where the public stands.

Mr. Gomez wanted clarification on the specifics of the zoning regulations. On the table of zoning requirements, general agriculture is allowed in the F-1 and F-2 zones by right, but in the same zones we do not allow urban agriculture. Mrs. Bourbonnais replied that all of the things that are allowed under urban agriculture are allowed in the definition of general agriculture. It is the smaller lot sizes define 'urban' agriculture because the F-1 and F-2 zones are not considered urban.

Mr. Gomez continued with a question regarding the surface in which a chicken coup could be places, commenting that a coup must be located on an impermeable surface that prevents waste run-off. He made an example of someone putting down a pad of concrete where the chickens will be fenced in. When the chickens undoubtedly defecate on this surface and then rain comes down, it seems like that would be the definition of waste run-off. All of that waste is going to run off of the concrete into the ground. He suggested that it didn't make sense for the surface not to be permeable because it would just go into the ground regardless. The language of the regulations do not specify the nature of the impermeable surface for containment and the surface will not be perfectly level so all of the waste will just go right into the grass beside the coup. If that is the way it should be done, the regulations should include that there must be some kind of containment to prevent that run off.

It was commented that the goal is to avoid the waste run-off going into a neighbor's property. Mr. Ayotte had a follow up question regarding manure management, citing the regulations. He questioned the source of the distances of where manure could be managed and referenced known septic system regulations requiring 200-400 feet buffer zone between a septic system and protected water source such as a well or reservoir. Mrs. Bourbonnais said she would need to look at the current DEM standards. Mr. Gomez confirmed that the manure management had to be for general agricultural purposes and had to be properly contained.

After a comment was made by Mr. Ayotte regarding the consideration of complaints from the odor that would emanate from urban farming, Mr. Gomez questioned if any neighbor would have a second chance to voice an opinion or concern after the initial permit was granted. Mrs. Bourbonnais responded that if the current draft went forward and standard for a special use permit was adopted, once a permit is granted, it runs with the land and there is no provision to revisit it. If there is a substantial change of circumstance, it could be reconsidered, but it is uncertain how it would be proven that a smell would be worse than initially perceived. This was one of the key reasons the lot size was expanded. One can imagine that at 5000 sq. ft., neighbors would be most likely be impacted but there is a possibility that at 20,000 sq. ft., the odor would not be as impactful.

Mr. Russo affirmed that this issue would go before the zoning board for the permit and it would be up to the zoning board members to be the voice of the public and discuss that at the hearing. It would be of the understanding that if this was to be approved and a month later, the odor was stronger than initially perceived, it would be too late to revisit.

Mr. Ayotte asked if the animal control officer had weighed in on this issue. Mrs. Bourbonnais answered no, the animal control officer has not. In the animal control ordinance the only animal that is defined is dogs. It will come into play eventually but as of right now no other animal is addressed in the current ordinance.

Mr. Russo asked who would respond if there was a complaint about bees swarming the neighbors. Mr. Coyle responded that after the initial response by the town, the state would be called as we do not have the resources, citing an incident that happened in the past. Since that incident, there is a local bee keeper who can be called.

Ms. Jette followed up, asking if there is any extra insurance a bee keeper would have to get in the event, for example, a swarm of bees started attacking a neighbor. Mr. Russo commented that home owners insurance doesn't cover bees.

Mr. Eaton asked if a fee could be added to the permitting process. Mrs. Bourbonnais replied that there is a standard fee for a special use permit which is addressed by the zoning ordinance. This would be considered a residential application for a special use permit which is \$150.00. Like a variance, a special use permit runs with the land. Mr. Gomez asked if the special use permit went on a deed and if it changes hands. The answer to that is it is supposed to show up in the title work. Once a decision has been recorded about that property, it does not expire.

Mr. Brusini requested the members of the board to input their comments on the concept of whether there is any way there can be residential zones with bees and chickens and if so, what the thoughts are about how this ordinance has been readdressed to strike a balance.

Mr. Gomez started off by commenting that he would like see it ordinance happen and would hate to be overly restrictive. He likes the idea of special use permit. The special use permits gives the neighbor's a say in what goes on in their abutters properties. He would not be opposed at going smaller in size with the hope that the people the special use permit would affect will come forward and voice their opinion; also with hope that the Zoning Board is receptive to public hearing to make sure the neighbors really understand the issue. Mr. Brusini questioned that if playing devil's advocate, if there is a robust public hearing and there are 20 neighbors in favor and 20 neighbors against, and they are equally persuasive, which way he would side with. Mr. Gomez responded that he is for freedom and would let people do what they want.

Mr. Eaton agreed a lot with what Mr. Gomez said. He commented that he would like to see it go to public hearing. He thinks the draft is written well in respect to the extension of requirements to give room to negotiate. He likes the idea of special use permits especially associated with the fee as revenue for the town, but if it sits in the zoning board's hands, he believes it is the planning boards due diligence to at least hear the feedback from the public. He wants to make sure that people know about the issue and would like to hear opinions of people on both sides. A bigger

sample of people should be taken to obtain in order to get a better idea of what the general consensus is from the people of the town. Mr. Brusini presented the same question as before, if there are 20 neighbors in favor and 20 neighbors against, and they are equally persuasive, which way he would side with. Mr. Eaton's response was that he was against.

Mr. Russo agreed with the previous members went on to say that if it were split down the middle (20 for and 20 against), he would be more restrictive. He stated that he was interested in seeing what a public hearing would be like and have people be given the opportunity to present their case.

Mr. Tagliatela also agree with had previously been said by other board members. He believed the R-20 and R-30 zone change minimum coupled with the added restrictions is good idea. He also liked to see the use of the special use permits so that neighbors will be able to voice their opinion and be heard.

Mr. Ayotte commented that he liked the present draft a lot better than before; stating that the R-20 and R-30 zones make more sense. He expressed concern about what the impact of the town would be. Another concern was that if people actually want this, would they be willing to maintain the facilities or would there be a cost burden to the town. In the case of a 50/50 split, it should come down to freedom with what you want to do with your yard.

Mr. Brusini began by saying that he likes chicken, eggs, and buying local produce but he is absolutely, positively, unequivocally against this ordinance. It is not a good idea and it will not work. This is a "puppy" law; arguably, no one is against puppies, but who is going to clean up after the puppy, what happens when the puppy gets in the neighbor's yard and digs up the prize marigolds, et cetera. He believed more and more problems will arise with this. The reason there is zoning in the first place is so that people understand what they are getting into. It is no different than what he said in the previous meeting.

There are residential zones because people have an expectation when they buy a residential property that it is going to be residential. The worst problem you are going to have is a neighbor that you don't like because the kids are too loud or whatever other reason, not that there is going to be bees or chickens and the noise, odor, etc. that comes with having them. If someone buys in a farm zone, then you can expect that to happen. It can be taken into account that there may be agriculture such as bees or chickens and a conscious decision has been made.

From a personal perspective, his lot is about 15-16,000 sq. ft. and it is not nearly big enough. Without question, there is no place on the lot where he could put a chicken coup that it will not bother the neighbors. Three quarters of an acre is not that much bigger. If these were 2 acre lots with a huge setback and perhaps there would be some way it could be placed far away, it might be plausible. Houses are laid out pretty much the same way; no one wants a 9,000 foot drive way so they are all pushed up. It would be very difficult to site a coup or hive on these lots in a way that it is not going to be disruptive. There will be liability issues for the town and a lot of complaints. If, in fact, it is true that once grant a permit you can never take it back, either legally or from a relation stand point with the public, it will look bad. Once this path is taken, it can never be taken back. While he appreciates that other towns and cities allow this kind of ordinance and they believe it works, it is the Planning Board's job to protect the interests of East

Greenwich, its unique characteristics and why people move here. People don't move here to have chickens in a residential zone.

After expressing his thoughts, Mr. Brusini commented that the majority of the board believes this should advance public hearing with a cleaned up draft. Mr. Gomez followed up that at any public hearing; the people who are for the issue will come out and voice their opinion much more readily. The people that are against it will not care until someone puts it in their backyard and they'll show up at the Zoning Board hearing. Mr. Brusini said it was a good point and having experience with this, he proverbially expressed that you can't put the manure back in the horse. Once you make this precedent as a board, you will never be able to take it back. He continued on to say that he appreciated the thought that went into the ordinance and the balance that is trying to be achieved, but people cannot do everything they want on their lot because that is not how zoning works.

Mrs. Bourbonnais was asked for her input and she said that she would like to try another draft and just take it very methodically, finding out answers to the legal questions, the DEM standards on the set back, and other technical things. Mr. Brusini commented that perhaps feedback could be obtained from stake holders in or outside of the town, or any town departments, etc. that could be incorporated in another draft. He express that he would like to have an emphasis in defining the setbacks. An urban agricultural structure should be as far away from every boarder to give maximum protection to one's neighbor. No one's yard is laid out to accommodate that; the town is not a cookie cutter community. Most people are going to want to put such structures in the corner of their back yard.

Mr. Gomez interjected saying that by the regulations, that cannot be done. It is self-regulatory because if there are rules that dictate the setbacks, and a person wants to have an urban agricultural structure, they obviously cannot. Mrs. Bourbonnais followed up that if they cannot meet the regulations, they would not be eligible for the special use permit. She was asked what the normal front, rear and side setbacks are on a 20,000 or 30,000 sq. ft. lot and responded that on an R-30, the rear setback is as little as 10 feet if it was deemed that a chicken coup was an accessory structure. Mr. Brusini rhetorically asked if one would want a neighbor's chicken coup just 10 feet from their own property, commenting that although this ordinance is a great idea, it will be incredibly difficult to make it work in a practical sense. Mrs. Bourbonnais said that the accessory structures could be subjected to the primary structure setbacks, which would give more space, rendering the setbacks to 40 feet in the R-20 and R-30 zones which would be an option and give a more stringent setback burden. This would make it not allowed to be classified as an accessory structure.

Mr. Gomez pointed out that the more stringent the rules are, the less properties would be eligible for a special use permit. Mr. Brusini added that there is nothing worse than a law that is passed that leaves it to the discretion of a court, or if it is vague or ambiguous. In that case, no one has certainty. The pro urban agriculture people have not been helped nor the people who are opposed to it. If there is going to be a collective decision, make the decision and stand behind it, and not let someone else handle the issue. Issuing a special use permit is basically leaving the decision up to someone else to decide on a case by case basis. If the rules were to be made clear, a case by case basis would not be needed; let the rules dictate.

Mrs. Bourbonnais commented that the Town Counsel would approve the zone change which would be about the ordinance. Then it would give the Zoning Board authority to grant the special use permit for each applicant.

Mr. Gomez clarified with Mr. Brusini that in principle, it would be more favorable to set up rules to give some sets of lots that meet the restrictions and the ability to do it by right. Mr. Brusini countered that in principle, he is opposed to the ordinance at the present time, but if it had to go forward, the restrictions should be made very clear and try to narrow the rules on where structures could go on the 20-30,000 sq. ft. lots to the parts where it would be the least offensive and least likely to diminish property values. He would also be in favor of the right to a second review of an applicant to give another “bite at the apple” if the structure were to be unfavorable to a neighbor. If there is no chance to ever look at the issue again, then it has to be treated very meticulously and conservatively, airing on the side of caution.

To wrap the subject up, Mr. Brusini proposed that information will be gathered from multiple resources, a new draft written, and to make sure that when this issue is brought up again that the Board makes sure that there is 100% attendance because the missing Board members would have a lot to say about this issue.

3. Minutes: June 3, 2015

No comments were made. Public comment was opened and closed as no comments were made. A motion to approve the minutes was made by Mr. Russo, seconded by Mr. Ayotte

VOTE: 5—0—0 in favor of the motion to approve the minutes of the June 3, 2015 minutes.

109:12