

Planning Board Meeting Minutes

Town of Foster

Benjamin Eddy Bldg., 6 South Killingly Road

Wednesday, March 20, 2024

A. Call to Order

Anthony Renzi called the meeting to order at 7:03 PM.

B. Roll Call

Planning Board Members: Mike Carpenter; Warren Ducharme; Bill Gibb; Susan Joyce; Anthony Renzi; Secretary, Hilary Downes Fortune.

Excused: David Paolissi

Staff present: Grant McGregor, Planner; Julia Chretien, Solicitor

Public present: Gil Woodside, RIEMA; Tom Guthlein, Deputy Director of RIEMA; Rep. Mike Chippendale; Mike Fragementi; Jim Tull

C. Approval of Minutes

Approval of the March 6, 2024 minutes was tabled to the next meeting.

D. Public Hearing (Unified Development Review) (Continued)

Development Plan Review – Combined Preliminary & Final Plan Review

Dimensional Variance

Special-use Permit

Applicant: Town of Foster

Owner: Town of Foster

- Applicant has signed a Memorandum of Understanding with Rhode Island Emergency Management Agency (RIEMA). Town of Foster (Owner/Applicant) seeks approval for a combined Preliminary & Final Development Plan Review to erect a 186-foot communications tower to improve emergency responder communications. Applicant requests approximately 22 feet of relief from the side yard setback (Sec. 38-192(1)). Applicant requests approximately 67 feet of relief from Sec. 38-291(c)(3)(b). Applicant requests approximately 22 feet of relief from Sec. 38-291(c)(3)(c). Applicant requests a special-use permit (Sec. 38-191 Business use #20).

Mr. Renzi read the summary and asked for a motion to open the hearing. Mr. Gibb made a motion to continue the hearing where they left off at the March 6, 2024 meeting, with RIEMA

presenting only the new information addressing the issues identified last time. Mr. Carpenter seconded. Motion passed 6-0.

Gil Woodside of RIEMA stated that there were 9 total conditions and a few issues that were addressed through changes to the plans.

1. An Auto Transfer Switch has been added to the Electrical Plan (Sheet E01).
2. A lightning rod has been added/amended on the Compound Plan & Tower elevation (Sheet A01).
3. Coverage maps have been provided showing RISCO coverage with and without this tower.

Mr. Renzi read aloud the nine conditions from the draft motion.

Mr. Gibb stated that the state doesn't usually or ever require a bond be posted (Condition #7); Mr. Woodside confirmed this, and this part of the condition was deleted.

Mr. Renzi asked where the requirement for not disturbing long ear bats comes from. Ms. Downes Fortune said this is standard for disturbances in forested areas with Eastern White Pine; Ms. Joyce concurred, saying this also affected forestry work at Borders Farm. Ms. Joyce also suggested revising Condition #3 to state that vegetation should screen the fence/enclosure, not the tower, as that is impractical.

Mr. Carpenter asked if RIEMA will provide a legible copy of the coverage map to the Foster Police. Mr. Woodside said they can do that, but they don't generally make copies of the map available to the general public.

Mr. Renzi asked if this tower will increase coverage for the Town of Coventry; Mr. Woodside said yes, and said RIEMA has offered space on the tower for Coventry to add their own equipment.

Mr. Renzi asked what the anticipated completion date is for the tower installation. Mr. Woodside said they are aiming for September 2024.

Ms. Joyce stated that at the last hearing one of the abutters (Newport firefighter) asked if the underground electric could be extended to the field house. Mr. Woodside explained that power will be overhead to the last existing pole, then go underground from there. Discussion ensued and it was determined that connection would not be made to the existing "field house" structure near the tower. Condition #8 was eliminated.

Mr. Renzi asked for a motion for Preliminary & Final Plan approval.

Ms. Joyce made the motion to grant combined Preliminary & Final Plan approval for the proposed Development Plan,

WHEREAS: Owner/Applicant: Town of Foster, appeared before the Planning Board for property located at 16 Howard Hill Road, being Plat 2 Lot 62 on 8.30 acres in an Agricultural/Residential AR zoning district, for a combined Preliminary and Final Plan Formal Development Plan to erect a 186 foot communications tower to improve first responder communications.

WHEREAS: The Town of Foster and Rhode Island Emergency Management Agency have agreed to and signed a Memorandum of Understanding for a Rhode Island statewide communications network (RISCON) tower, with RIEMA being the Tower owner and both parties taking responsibility for actions as set forth in that document.

WHEREAS: The Planning Board received reports and testimony from Town Departments, and the applicant regarding the application; further

Having considered the requirements of Rhode Island General Laws of 1956, as amended Section 45-23-30, and based on the Hearing conducted before the Planning Board and on:

- Testimony presented to the Board, and
- Recommendations of the staff, and
- Review and consideration of the Exhibits made part of the record, now

The approval is subject to the following conditions:

- Condition #1. The Applicant shall be prohibited from co-locating any wireless, Wi-fi, or private carrier on the Communications Tower.
- Condition #2. The Applicant shall provide a coverage map.
- Condition #3. There shall be appropriate screening, to include native softwood vegetation in an amount sufficient to screen the fence/enclosure, with proper maintenance of screening.
- Condition #4. There shall be no lighting / upward lighting surrounding/ around the Communications Tower.
- Condition #5. The construction of the Communications Tower shall not occur during such times and dates that would interfere with or disturb the long ear bats' mating/nesting/ migration season.
- Condition #6. The Tower Owner (RIEMA) shall at all times maintain appropriate insurance coverage and shall provide proof of the same to the Town.
- Condition #7. The Tower Owner (RIEMA) shall be solely responsible to deconstruct and remove the communications tower within 180 days of ceasing use of the tower, the Applicant shall provide a decommission plan for the removal of the tower within 45 days of Final Plan Approval.
- Condition #8. Repairs to the parking lot/existing roads if damage shall be the responsibility of the Tower Owner (RIEMA).

The Planning Board further finds that the proposed development, subject to the conditions imposed:

1. Is consistent with the Comprehensive Community Plan and has satisfactorily addressed the issues where there are inconsistencies in accordance with the Rhode Island General Laws Section 45-23-30;

2. Is in compliance with the standards and provisions of the Foster Zoning Ordinance in accordance with the Rhode Island General Laws Section 45-24;

3. Will cause no significant negative environmental impacts;
4. Will not create individual lots with any physical constraints to development 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.
6. Provides for safe circulation, adequate surface water runoff, suitable building sites, preservation of features that contribute to the attractiveness of the community, and allows for adequate delivery of municipal services;
7. Minimizes flooding and soil erosion.
8. The design shall allow for the adequate delivery of municipal services including, but not limited to: fire vehicle access, safety, rescue, solid waste and recyclables collection, school bus service and road maintenance/snow plowing.

Ms. Downes Fortune seconded the motion. Motion passed 6-0.

Mr. Renzi asked for a motion for the Dimensional Variance (UDR Zoning Relief).

Ms. Joyce made a motion to approve the application under the authority granted to the Planning Board by Rhode Island General Laws 45-23-50.1 and 45-24-46.4 and by the Town of Foster Zoning Ordinance, Sec 38-470. Specifically, the following dimensional variances are approved:

- Dimensional variance for approximately 22 feet of relief from the side yard setback (Sec. 38-192(1)).
- Dimensional variance for approximately 67 feet of relief from Sec. 38- 291(c)(3)(b).
- Dimensional Variance for approximately 22 feet of relief from Sec. 38-291(c)(3)(c).

Evidence of the standards found in Rhode Island General Law 45-24-41 and the Town of Foster Zoning Ordinance 38-324(d)(1) has been entered into the record of proceedings:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant excepting those physical disabilities addressed in § 45-24-30(a)(16);
- The hardship is not the result of any prior action of the applicant; and
- The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the Zoning Ordinance or the Comprehensive Plan upon which the Ordinance is based;

- In granting a dimensional variance, the hardship suffered by the owner of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience, meaning that relief sought is minimal to a reasonable enjoyment of the permitted use to which the property is proposed to be devoted. The fact that a use may be more profitable or that a structure may be more valuable after the relief is granted is not grounds for relief.

Further, it is proposed that the eight special conditions imposed above as part of the Preliminary & Final Plan Review, based on competent credible evidence on the record and allowed under Rhode Island General Law 45-24-43 and the Foster Zoning Ordinance Sec. 38-324(e), be applied to the decision in order to promote the intent and purposes of the Comprehensive Plan of the Town and the Zoning Ordinance.

Mr. Gibb seconded the motion. Motion passed 6-0.

Mr. Renzi asked for a motion to approve granting a special-use permit.

Ms. Joyce made a motion to approve the application under the authority granted to the Zoning Board of Review by Rhode Island General Law 45-24-57 and by the Town of Foster Zoning Ordinance, Sec 38-470. Specifically, the following special-use permit is granted:

- Special-use permit for Business Use #20, “Communications Towers and Antennas”; Section 38-191 of the Foster Zoning Ordinance

Evidence of the following standards, pursuant to Rhode Island General Law 45-24-42 and the Town of Foster Zoning Ordinance 38-323(a) and 38-324(d)(2), has been entered into the record of proceedings:

- The use will comply with all applicable requirements and development and performance standards set forth in articles VI and IX of this chapter;
- The use will be in harmony with the general purpose and intent of this chapter;
- The granting of the special use permit will substantially serve the public convenience and welfare;
- The use will not result in or create conditions inimical to the public health, safety, morals and general welfare; and
- It will not substantially or permanently injure the appropriate use of surrounding property; and
- In addition to the above, the zoning board of review has considered:
 - a. Access to air, light, views and solar access;
 - b. Public access to waterbodies, rivers and streams; and
 - c. The conservation of energy and energy efficiency.

- In granting a special use permit, the zoning board of review shall require that evidence to the satisfaction of the following standards be entered into the record of the proceedings:
 - a. The special use is specifically authorized by this chapter.
 - b. The special use meets all of the criteria set forth in the sections of this chapter authorizing such special use.
 - c. The granting of the special use permit will not alter the general character of the surrounding area or impair the intent or purpose of this chapter.

Further, it is proposed that the eight special conditions imposed above as part of the Preliminary & Final Plan Review following special conditions, based on competent credible evidence on the record and allowed under Rhode Island General Law 45-24-43 and the Foster Zoning Ordinance Sec. 38-324(e), be applied to the decision in order to promote the intent and purposes of the Comprehensive Plan of the Town and the Zoning Ordinance.

Mr. Gibb seconded the motion. Motion passed 6-0.

E. Public Hearing

Comprehensive Plan Amendment – Housing Chapter

- The entire Housing Chapter (Pages 152 – 170) is subject to amendment. The subsection of the Housing chapter titled “LMI Production Plan” (Page 166) is the primary text that is proposed to be amended.
- This subsection currently lists private properties without the authorization of property owners. It is proposed that these private properties be removed and a town-wide public discussion of compatible locations and housing types be held to better direct efforts to produce both affordable and low- or moderate-income (LMI) housing in Foster.
- Additional subsections targeted for amendment include “Housing Affordability” (Page 154); “LMI Housing” (Page 159); “LMI Housing Strategies” (Page 161); “LMI Housing” (Page 163); and “LMI Needs Assessment” (Page 165).

Mr. Renzi read aloud the notice and opened the public hearing. He explained that the Comprehensive Plan included some properties where the owners didn’t know about or approve their inclusion for potential LMI housing. Mr. McGregor explained that these properties had been left in the Comprehensive Plan since about 2005/2006 through multiple Planners. He mentioned specific issues/updates regarding this chapter as summarized in the provided handout for the public hearing, especially (1) Definitions—Summarized, and (2) Priority demographics. For (3) Properties of interest, Mr. McGregor noted that 7 out of 9 properties are private and most/some are not feasible, such as the state police training academy property, since they would be unlikely to give up that property for LMI housing development. Mr. McGregor said he is still studying the properties for other characteristics, such as low water table.

Rep. Mike Chippendale spoke in regard to item (4) Funding stream to help existing residents struggling to make housing payments. He said that there has been a lot of misinformation around LMI housing, and noted that the town's cost-burdened rate is consistent with the rest of the state. He listed the three elements of LMI: income level, deed restriction (30 yrs.), and government subsidy, and said currently there are about 4,000 homeless Rhode Islanders, and about 1,300 of these are veterans. Rep. Chippendale said Foster and to a certain extent Glocester have similar issues: How to prevent people from ending up on a waiting list for affordable housing. For example, residents who inherited a farm but can't afford to pay the taxes on it—he wants to see this counted as part of cost-burdened. In 2022 he submitted a bill to the legislature with a plan for temporary tax relief, but how does the town recover lost taxes? In his plan this would eventually become a revolving fund. Rep. Chippendale said he attended a Council of State Governments conference and they found his idea to be viable/have potential, but he would need a way to identify the amount of money needed to allow the town to get it started.

Mr. Ducharme asked what about the Elderly Tax Abatement, which is not counted. He said he still has a problem with the 30-year deed restriction and said it fosters “the poverty industry.”

Mr. Renzi asked how could his plan work in Foster? “We're broke, how can we get the town to give up more tax income?” He said we need to find a developer to build houses. The town should not be a developer but should facilitate LMI development. Rep. Chippendale noted that Vermont just made adjustments for this, why can't Rhode Island. He said we need to make sure our Comprehensive Plan stays up to date and checks the boxes or the state will come in and run roughshod over us; this should allow us to wait things out and see if the state budges. He mentioned a development on Route 101 in Scituate which has about 10-12 units; from the outside you can't tell the difference between the market and LMI units.

Mr. Renzi invited members of the public to speak.

Mike Fragementi said that he has recently returned to RI after working successfully in construction/development out-of-state. He said he bought some land on Route 6A where he wants to build public housing, such as a second version of Hemlock Village. He said he got the land cheap and has a crew of affordable workers. Mr. Renzi told him to stay in touch with Mr. McGregor (they have already met) and the planning board will do what we can to foster his development.

Jim Tull, 8 Mill Road, said he is a retired director of Amos House and said they might be responsible for the 10% LMI rule, since the homeless they served came from all parts of the state. He said he is concerned that the children of town residents can't afford to stay here, and noted there are very few affordable rentals either.

Ms. Joyce asked about item (6) LMI Production Plan. Mr. McGregor said we have to make updates to the Comprehensive Plan within 12 years of approval in order to keep it.

Mr. Carpenter asked about the people living in the Abbey Lane development and other parts of town (such as where Rep. Chippendale lives) where the wells and septic systems are too close together to be safe.

Mr. Renzi closed the public hearing.

For the following Items F and G, Mr. Ducharme recommended we approve these as currently written, but said some of the numbers don't work.

Mr. McGregor explained the "fee in lieu" cutoff of 22 acres.

Mr. Ducharme said the regulations pertaining to private roads still need work regarding safety. Mr. Carpenter suggested Mr. McGregor look at the Costa/Blue Dog Development (which was never built) from about 10-15 years ago for language regarding private roads.

F. Public Hearing – Chapter 32- Subdivision Regulations

1. Sec. 32-296 – Minor subdivision involving no road creation or extension

- Recommendation to amend the special provisions regarding minor subdivisions including increasing the number of lots which may be created under a minor subdivision application pursuant to RIGL 45-23-32 as amended.

2. Sec. 32-297 Minor Subdivision involving road creation or extension

- Discussion of road lengths and depths. All new roads will be recommended to be privately owned and maintained. Applies to subdivisions involving road creation/extension and 9 or fewer lots.

3. Sec. 32-298 – Major subdivision involving no road creation or extension

- Recommendation to add special provisions for major subdivisions not involving road creation or extension.

4. Sec. 32-299 Major Subdivision involving road creation or extension

- Discussion of road lengths and depths. All new roads will be recommended to be privately owned and maintained. Applies to subdivisions involving road creation/extension and 10 or more lots.

G. Old Business – Chapter 38 - Zoning

1. Sec. 38-192 – Dimensional Regulations

- Discussion of reducing minimum lot size for senior citizens group dwellings, multi-family residences, and the GB zoning district

2. Sec. 38-280 – House trailers or mobile homes

- Recommendation to permit individual manufactured homes in all zoning districts. Recommendation to prohibit manufactured home parks in all zoning districts due to the small lot sizes associated with manufactured home parks being incompatible with the landscape, soils, and sparsely populated, and rural character of the Town.

3. Sec. 38-281 - Development standards for multifamily dwellings and comprehensive permit applications for affordable housing.

- Proposes removal of the MI, NC, and R-SC in continuity with the proposed amendments to Sec. 38-132 – Official Zoning Map. Proposes addition of HC2 zoning district. Proposed reducing minimum lot sizes based on DEM approval

4. Sec. 38-284 - Development standards for senior citizens group housing

- Proposes removal of the MI, NC, and R-SC in continuity with the proposed amendments to Sec. 38-132 – Official Zoning Map. Proposes addition of HC2 zoning district.

5. Sec. 38-286 – Off-street parking requirements

- Discussion of amendment to add a licensing requirement.

Items F and G were held for a future meeting.

H. Old Business: Chapter 34 Taxation

1. Ch. 34 – Taxation - Article III – Tax Stabilization Incentive for Industrial, Commercial and Manufacturing Facilities

- Recommendation to create a tax incentive for new/existing business located in the GB or HC2 zoning districts or any environmentally remediated property. Following certificate of occupancy, property taxes would build by annual increments of 25% until the full post-improvement rate is required to be paid.

2. Ch. 34 - Taxation – Article IV – Partial Tax Exemption for existing commercial, manufacturing, and environmentally remediated facilities

- Recommendation to create a partial tax exemption for expansions and/or intensifications of existing commercial and manufacturing uses or uses of property that have undergone environmental remediation. Taxes would remain at the pre-improvement rate for three years following expansion or intensification of any use listed above.

Mr. McGregor said the planning board members should look these over and get back to him with any comments.

Mr. Renzi said that starting in May (through September) the planning board will be meeting once a month. Mr. McGregor said he would like to not have us doing so much legislative stuff during meetings so he will be posting ordinances to Dropbox for our review. Mr. Gibb recommended that any responses to items on Dropbox should go solely to Mr. McGregor to avoid quorum issues.

Adjournment

Mr. Renzi asked for a motion to adjourn. Mr. Gibb made a motion to adjourn. Motion passed 6-0. Meeting adjourned at 9:19 PM.

Respectfully submitted,

Hilary Downes Fortune, Secretary