



**Foster Planning Board
Meeting Minutes
Wednesday, April 18, 2007
Benjamin Eddy Building, 7:30 p.m.**

A. Call to Order

Julia Parmentier calls the meeting to order at 7:30 p.m.

B. Roll Call

Board members present were Julia Parmentier, Pat Moreau, Don Moyer, John Neale, Mike Carpenter, Tom Mercier, Helen Hardy, Ann-Marie Ignasher (town planner), and John Bevilacqua (town solicitor). Also in attendance were Brad Gorham, Ted Bentina, Brian Thalmann, Robert Silva, Christina DiComes, Ray Morocco, Ron Cervasio, Michael Hassel, Ken Borden, Audrey Carey, and Peggy Cost.

C. Approval of Minutes

1. Pat Moreau moves and Helen Hardy seconds to approve the minutes of December 20, 2006, however, after discussion, Helen moves to table these minutes until the next meeting. Motion carried unanimously.
2. Don Moyer moves and Pat Moreau seconds to approve corrected minutes of January 3, 2007. After discussion, motion carries 5-0. John Neale and Tom Mercier abstain.
3. Pat Moreau moves and John Neale seconds to approve corrected minutes of January 18, 2007. After discussion, motion passes 4-0. John Neale, Don Moyer and Tom Mercier abstain.
4. Pat Moreau moves and John Neale seconds to approve the corrected minutes of the meeting of February 21, 2007. After discussion, motion carries 5-0. Tom Mercier and Don Moyer abstain. Attorney Bradford Gorham asks the Board not to approve the minutes as he has an objection to the decision on Cucumber Hill Estates. Julia explained that this is the record of what happened, and that no board members objected to the minutes as corrected.

D. Correspondence

1. New England Onsite Wastewater Training Center noted.
2. Green Tourism Symposium noted.

E. Board Members' Reports

None.

F. Public Hearings

None.

G. Subdivisions

Master Plan Review: Informational Meeting

*Applicant: David & Lisa Costa; Item: Major Subdivision; No. of Lots: Eight (8);
Type of Meeting: Informational; Property Address: Gene Allen & Stone Dam Road;
Tax Assessor Information: Plat 18, Lot 25*

Julia Parmentier laid out ground rules for the public to ensure a business-like and decorous hearing. Planner Ann-Marie Ignasher reported that she sent Mr. Thalmann, the engineer, a letter certifying the incompleteness of the application (see letter from Ms. Ignasher, attached).

Town Planner, Ann-Marie Ignasher, stated she attended a meeting earlier today with Ray Goff, Gloucester Town Planner; Bradford Gove, Foster Public Works director, and representatives of Thalmann Engineering. During the meeting, questions were raised regarding the length and maintenance of the road, as well as various safety issues regarding the road.

Brian Thalmann of Thalmann Engineering presented for Mr. Costa. Mr. Thalmann reported that they went before the Town of Gloucester regarding the new road. He stated that the length of the road is 2485 feet in totality. Tom Mercier asked why the road length on the plan lists 3485 feet, and Mr. Thalmann answered that highway markers at the beginning of the proposed street actually started at 1000 feet, and therefore, the total length of the road is 2485 feet, with approximately 1200 feet being located within the Town of Gloucester. Mr. Mercier stated that the board is concerned over the total length of the street, and to say that 1200 feet of the road is in Gloucester and not under the purview of this board is not acceptable. The future landowners will be residents of Foster and this board must concern itself with the general health and safety of those residents.

There is a space in Gloucester at the west end of the road which is not attached to any lot. The owner's intention for this lot must be resolved. Helen Hardy noted that in lot 7, the septic system is encroaching on setbacks. Julia Parmentier noted this is also the case on lots 2 and 3.

Pat Moreau asked about the Class of the Survey, as a portion of the survey is labeled as Class IV when the survey should be a Class I. Mr. Thalmann explained that they did not have a Class I survey for that

particular area as the final boundaries must be resolved as there is a civil action pending in Superior Court with regard to the boundaries. Tom Mercier continued the questioning regarding the area of the Class IV survey. It is determined that the property is encumbered by a *lis pendens*, as the applicant Mr. Costa is involved in a boundary dispute with an abutter, Mr. Michael Hassel. Attorney Robert Silva, the attorney for Mr. Costa, states that the boundary dispute is still an active civil court matter in Rhode Island Superior Court. Attorney John Bevilacqua, Foster Town Solicitor, states that the Board will be instructed not to deal with, or approve, any subdivision where there is a dispute regarding boundary lines. Attorney Bevilacqua maintains that it is the obligation of the applicant to prove that the ownership of the property (subdivision land) is not in dispute and that they have a clear title.

Julia Parmentier notes that some of the driveways will require wetland alteration permits. Mr. Thalmann responded that in lot 5 the forested wetland is less than three acres, and therefore is exempt from DEM jurisdiction, and therefore no special permits will be required. There is a question whether lot 4 is a wetland, Mr. Thalmann noted that it is an intermittent storm runoff and is subject to storm flow (SSF).

Helen Hardy notes that on Lot 5, the drive is within the set back, on the property line (this is to avoid the marked wetland).

Julia asks about the dimension of the wetland area, which is told to be 60,000 square feet.

Helen Hardy asks about using a cul-de-sac for frontage on Lot 4.

Tom Mercier questions the length of the road. Regulations prohibit a dead end road in excess of 1200 feet, since the road in Foster is in excess of this (1285 feet). The answer was that this is where the applicants need advice from the board. This is a unique land-locked piece of property, and we can access the property through the Town of Glocester. Mr. Mercier points out that the regulations say you have to provide alternative access. The board may require a road for that access. The answer is that regulations also have provisions for waivers and modifications in certain cases. Mr. Mercier points out that right now you don't have those variances. Julia Parmentier notes that the road access is a safety issue in that the people would be trapped without egress or access by emergency vehicles and maintenance equipment. Julia notes that it is the burden of the applicant to demonstrate that this means of access and egress is as safe as any other subdivision which does have more than one access in order to get a variance.

John Bevilacqua notes that page four of the plan shows abandonment of an existing drive and construction of a new drive to the existing house. John questions the length of the drive. Mr. Thalmann states it is 2400 feet. John Bevilacqua questions where the turnaround is and if there was enough space in the turnaround. Mr. Thalmann states that there is adequate space to the west of the house. John questions if there is water access for fire trucks. Mr. Thalmann says there is a plan for a network of cisterns and that there is also access to the pond.

Julia Parmentier questions if there is a pre-existing dwelling, is there is a requirement to bring the existing drive up to the level required for a new drive? John Bevilacqua states that it is a Health and Safety issue and that it is up to the Board, and that they may require the upgrade if they feel it is necessary

Julia Parmentier determines that there are no other questions from the board and opens the meeting to the floor.

Ted Benthinen, abutter to the property, brings up a number of questions and concerns:

1. The stream that leaves his property (lot 23) is regulated by DEM as a wetland and does flow into this property.
2. He asks what would happen if he decides to turn his land into a working farm. Julia Parmentier replies that since he is in an Agricultural-Residential zone that it is his right to do so.
3. He asks what the distance is from his property line to the other dwellings and how this would impact on his hunting in the area.
4. What happens if his water quality and quantity is affected by the development? The board feels that water quality is an issue that will be addressed.
5. The proposed road will have a major impact on Gene Allen Road. Mr. Benthinen owns 2000 feet on both sides of Gene Allen Road. For safety reasons, he would object to having Gene Allen Road paved, and he would object if the road would take property from him on both sides.

Christina DiComes, abutter to the property, brings up a number of concerns:

1. How does the town look at a non-conforming lot? Because basically that's what this parcel is right now. And what is allowed to happen on a non-conforming lot? Answer from board is that this is a difficult situation that is presented, it is presently a land-locked parcel in Foster, but the owner does own property in Glocester which is not land-locked. Ms. DiComes points out that the parcel is non-conforming in Glocester as well. If a parcel is non-conforming to begin with, you cannot make it even more non-conforming. Attorney Bevilacqua that is an issue that will have to be addressed. Mr. Thalmann states that they are trying to make it conforming by adding adequate frontage.
2. Ms. DiComes states that they are also asking for a great variance in the length of the roadway. Mr. Bevilacqua points out that this will have to be addressed and coordinated with the town of Glocester.
3. At one time Mr. Costa owned property that fronted on Gene Allen Road and he created his own hardship. Is the board is aware of this.
4. Questioned what is the current application from DEM is. Town Planner Ann-Marie Ignasher replies that it is just a delineation of wetlands.

5. She asks about approving a plan without DEM approval. Town Planner Ann-Marie Ignasher explains that there are different steps along the way and that each has its own requirements.
6. She asks if the towns require Mr. Costa to improve Stone Dam Road or Gene Allen. Attorney Bevilacqua states no, the town can't require anything but repair of damage (which would be required for a dirt road.)
7. She questions if the Board had received anything from the Providence Water Supply board as far as the impact on the watershed. Town Planner Ann-Marie Ignasher answers not yet.
8. She asks when the applicant will provide a list of variances. Attorney Bevilacqua replies that we would require it from this point forward because of the questions that have been raised. Answer is that they must first receive approval from the board that it is a legitimate project
9. She asks if anyone has walked the site. Town Planner Ann-Marie Ignasher replies that she and Bradford Gove and Robert Fallon have walked the site.

Ray Morocco, an abutter to the property, brings up concerns:

1. He states that Mr. Costa showed him a deeded right-of-way to his property from Route 101, and he would like to see traffic flow another way. Town Planner Ann-Marie Ignasher states that they have not seen this document, and that the board doesn't know what the right-of-way allows, but that they have requested the document.
2. He asks that the water retention be located in a different place.

Ron Cervasio states that he would like to remind the board that the Dexter subdivision has a driveway on the property line. The Spears Path residential compound has frontage on a cul-de-sac. Snagwood Road allowed three driveways on a residential compound.

Town Planner Ann-Marie Ignasher reminds Mr. Thalmann that the application requires a tax lien certificate stating that all taxes are paid and up to date.

Michael Hassel, an abutter to the property raised a number of issues:

1. He has a disputed property line with Mr. Costa – Mr. Hassel is the other party to the civil suit in RI Superior Court, and *lis pendens* is a result of this particular civil suit. Even Mr. Costa and his Attorney Robert Silva agree that the property cannot be subdivided until the property line is resolved. Attorney Bevilacqua requests the case number of the Superior Court matter so he can look into the circumstances surrounding the case.
2. Mr. Hassel further states that Mr. Costa sold approximately 600 feet of frontage on Gene Allen Road and therefore created his own hardship. He states that Mr. Costa was not forced into the current situation.
3. Mr. Hassel attended a meeting in Glocester, and it became clear that there is another eight lot subdivision planned for Stone Bam Road by another Glocester land owner which means that the road will have to service an additional sixteen house lots all total.

Ken Borden, an abutter, stated that the new road being created will be up to standard, however, Gene Allen is a one-lane dirt road going up a hill, and will have grave safety problems. Foster apparatus will have to go up that hill, which would be problematic, especially if you have one truck going up and one coming down. He asks for serious consideration of the access problems.

Audrey Carey inquires if there will be any affordable housing going up. The reply is that the houses are not intended to be affordable housing.

Christina DiComes stated that for the length of the road of 1200 feet ending in a cul-de-sac, there are eight houses, one house also in Glocester (making nine) and that there was a discussion of two lots in Glocester at the Glocester meeting, which exceeds the number of lots allowed for this type of road. The board replies that the road was longer than that allowed so that these are all issues that will be addressed.

Ted Bentinen requested that he would like notice of any hearing about this project because he wishes to be present or have legal council present at any meeting. Ann-Marie Ignasher states that if there is going to be a public hearing, he will be receiving mail informing him.

Peggy Cost, an abutter to the property, raised concerns:

1. She has 160 acres which abuts the property in Foster and Scituate. Since the clearing of land for the new school, there has been an increase in predator problems. This has caused major changes in their farming practice. She is unable to free range her animals, and has to build sturdier containments. She is concerned about the additional pressure on her property.
2. Also, the pond is 32-40 acres and has endangered species, such as Red-Spotted Turtles. There is also a dam on that pond which is located along the right-of-way to Route 101. She has called and expressed concern to the Providence Water Supply Board. Pat Moreau suggests Ms. Cost notify the Water Supply Board in writing. Ms. Cost says she will do that.

Audrey Carey asks who notifies the abutters when there is a hearing. Ann-Marie Ignasher states that the Zoning Board Clerk sends them out Certified Mail with Return Receipt Requested.

Abutter Ted Bentinen questions what will happen next. John Bevilacqua states that he needs to speak with the attorney for the Town of Glocester, and also investigate the property dispute. At this point in time there are numerous items that need to be addressed before proceeding, such as:

1. How will Mr. Costa work with Glocester on this project?
2. What subdivision standards will be utilized for the road?
3. Ownership of disputed boundaries must be resolved.

Ann-Marie Ignasher states that at this time the application is still incomplete.

Julia Parmentier states that if there are no further comments, the public comment section of the Informational Meeting will close. She states that they will not be able to schedule a meeting at this time, but there will be notice sent and meeting agendas posted when a date is determined.

Brian Thalmann says his impression was that a public hearing would be at the Preliminary stage if approval is granted at the Master Plan stage. Ann-Marie Ignasher and John Bevilacqua state that there will be a public hearing at each stage of a major subdivision including the Master Plan and the Preliminary approval.

H. Concerned Citizens

None.

I. Commercial Site Review

None.

J. New Business

None.

K. Old Business

Ordinance Revision is tabled until after the Town Council meets.

L. Planner's Report

Grow Smart "Making Good Land Use Decisions" Seminar May 15th, May 23rd, and May 30th. Ann-Marie is having this arranged and needs to submit a proposal to the R.I. Foundation to help finance it.

M. Future Agenda Items

- a. Subdivision regulations pertaining to alternative septic system designs
- b. Ordinance revisions
- c. Scenic Roads – Public Hearing
- d. Possibility of having a Subdivision Suitability workshop
- e. Comprehensive Permitting Process Review by the Town Solicitor
- f. Mike Carpenter asks if we can request a 1/25-inch scale map which is easier to read.
- g. Ann-Marie downloaded the State required findings of fact to be considered when we render decisions.

N. Adjournment

Tom Mercier moves to adjourn at 9:44 p.m. Motion carried unanimously.

Respectfully Submitted:

Helen Hardy
Secretary