



**PLANNING BOARD MEETING
MINUTES
TOWN OF FOSTER
Wednesday, July 18, 2007, 7:30 p.m.**

A. Call to Order

Meeting was called to order at 7:30 by Julia Parmentier, Chair.

B. Roll Call

Boardmembers who were present were Julia Parmentier, Chair; Pat Moreau, Vice Chair; Helen Hardy, Secretary; John Neale; Tom Mercier; and Don Moyer. Mike Carpenter was excused. Administrative Staff: Ann-Marie Ignasher, Town Planner; and John Bevilacqua, Town Solicitor.

Also present from the public at large were John Lewis, Town Councilman; Marcia Bowden, Conservation Commission Secretary; Mike Polouski, Recreation Director; Brian P. Thalmann, Engineer; Michael Hassell, Ray Morrocco, August Saccoccio; Kenneth Borden; Christina DiComes; Donald Parillo, Jr.; Deborah Parrillo; Norbert A. Therien, Engineer; Atty. Andrew Gilstein; Ralph Vossler; Atty. Robert Silva; Joanna Lusignan; Matthew Lusignan; Preston and LaDelle Arnold; Franklin and Natalie P. Arnold; Ron Cervasio, School Committee .

C. Approval of Minutes

Tom Mercier moved to accept the minutes of May 16, 2007. John Neale seconds. John Neale, Tom Mercier, Don Moyer, Pat Moreau and Helen Hardy vote aye. Julia Parmentier abstained.

Tom Mercier moves to accept the minutes of June 6, 2007. Pat Moreau seconds. Don Moyer, John Neale, Julia Parmentier, and Pat Moreau vote aye. Tom Mercier and Helen Hardy abstained.

D. Correspondence

- RIDEM, Draft of Septic System Regulations regarding ISDS systems, now called OWTS, June 13, 2007 (no action)
- Clean Business in the Watershed Newsletter (no action)
- Weston Letter regarding water testing on Danielson Pike, CERLIS issue. (no action)
- Letter from John Neale to be considered under New Business

E. Board Member's Report

John Neal reports that the Land Trust is looking at a property for purchase and looking for funding for maintenance of Land Trust properties.

F. Planner's Report

New spreadsheet was presented listing subdivisions for July 2007.

The Town Planner will have the Planning Clerk submit copies of the monthly planner's report to the Planning Board at the next meeting.

G. Administrative Subdivisions

Mt. Hygeia Road / Ralph Vossler
AP 14 – Lot 83, 84, 84A – Existing size: ±77 acres
Proposed Number of Lots: two (2)
A to be 7 acres, B to be 70.2306

Though this is an application for an Administrative Subdivision, the Town Planner chose to submit this application to the Planning Board for their review, and possible approval. As presented, the maps before the Planning Board refer to a Lot 84, 84A and a portion of Lot 83. The maps also show a proposed right-of-way from Mt. Hygeia Road in and to Lot 84A.

The Town Planner stated that during a prior meeting with Mr. Vossler and his engineer, August Saccoccio, the Planner was informed that Lot 84 and 84A were created with the approval of the prior Town Planner and the prior Town Solicitor; however, there was no mention of an approval of a Minor Subdivision by the Town's Planning Board. The Town Planner, therefore, did some research into the circumstances regarding the listed Lots 84 and 84A; and she discovered that there was no application for a subdivision, and that the listed Lots 84A and Lot 84 were always owned by the same party, and that they were always joined at one point. And therefore, underneath our zoning ordinances, they were one lot, and only one lot.

The confusion regarding this occurred when a group of people, namely Marilyn H. Fetterman, Daniel Davey, and RV Associates, LLC, worked together and entered into a property line agreement to resolve an issue Mr. Davey had regarding the legal description for the parcel of real estate he owned on Mt. Hygeia Road. During the resolution process of this problem, the following seems to have occurred: that a deed was recorded from Marilyn H. Fetterman to Daniel Davey giving him all and any rights and interests she may have to an area known as Parcel C on that particular property line agreement subdivision. Then there was a deed recorded from RV Associates, LLC, to, again, Mr. Daniel Davey, also releasing any rights, title, or interest RV Associates, LLC may or may not have into that Parcel C which appears on the property line agreement. Finally there was a deed from Mr. Daniel Davey in to Mr. Daniel Davey conveying his whole lot which consisted of Parcel A and Parcel C as shown on the subdivision on that property line agreement.

It is noted however, that the "lot (s) 84 & 84A" have always shared a common point, have always been owned by the same parties and therefore are indeed one lot and only one lot. However it should be noted that even with 84 and 84A being one lot, that lot had only 160 feet of street frontage on Mt. Hygeia Road. It appears what occurred through no fault of Mr. Vossler or RV Realty Associates, LLC, was that the prior Town Solicitor and prior Town Planner were trying to assist Mr. Vossler (RV Realty Associates, LLC) and tried to make the legal description more understandable by referring to a Parcel One and Parcel Two, and inadvertently created an illegal subdivision, as there was truly only one lot in the legal description.

After explaining all of the above, the Town Planner requested the opinion of the Town Solicitor, John Bevilacqua, and Mr. Bevilacqua agreed that there was no ill intent on any party, however, there was nothing in the record to make the subdivision of Lot 84 complete and he stated that people gained the impression that it was two separate lots from the "simplified" legal description, when it was still the same lot.

At this time there was some discussion of exactly what the Planning Board should take into consideration at this time and what procedures should be taken. The Town Planner stated she believed that this all came about as Mr. Vossler was preparing to sell the land to a gentleman by the name of Donald C. Parrillo, and that Mr. Parrillo was there in the audience, however, Mr. Parrillo did not speak to the matter. So an issue was raised as to whether it would even be necessary for a subdivision of the property to occur or if this indeed could be handled by an Administrative Subdivision if new maps were submitted.

Julia explained that possible actions were to approve the Administrative Subdivision of transfer of land from Lot 83 to Lot 84 or to ask the owner to go back and rethink a subdivision application. Helen Hardy stated that since there was a substandard lot in common ownership with a standard lot, she would support allowing Mr. Vossler to start over with a minor subdivision.

It should be noted that Tom Mercier listed several problems with the accuracy of the survey map; such as incorrect boundary lines and incorrect lengths of boundaries.

Andrew Gilstein, attorney for Mr. Vossler, asked whether the right-of-way would be approved. John Bevilacqua, Town Solicitor, and Julia Parmentier, Board Chair, explained that the back lot could not be landlocked. The plan could not be approved as presented.

Tom Mercier moved, and Don Moyer seconded to table the decision without prejudice until a future meeting in which Mr. Vossler would be allowed to submit a new plan.

H. Minor Subdivisions

Moosup Valley Road / Franklin & Natalie Arnold

AP 2 – Lot 79 – Existing size 43.9211

Proposed Number of Lots: two (2) A. to be 7 acres; B to be 49 acres

PRE-APPLICATION / CONCEPTUAL REVIEW 5/16/07

CERTIFICATE OF COMPLETENESS issued 6/18/07

Purpose: request for Preliminary Approval

The Zoning Board had to table the Arnolds' request for a setback variance for the ISDS. It should be noted that DEM did not have a record of the ISDS submission. Mr. Therien, surveyor, said these were submitted the beginning of July. Julia Parmentier asked if the Arnolds will also go for a variance for the stream setback, which she says is only 119 feet. Tom Mercier moves to table this application until the Arnolds have the appropriate approvals and variances from the Zoning Board. Pat Moreau seconds the motion. Motion carried 6-0.

Residential Compound

Moosup Valley Road / Joanna Lusignan

AP2 – Lot 74A – Existing size 40.91 acres

Proposed Number of Lots: three (3) A to be 14.04 acres; B to be 12.40 acres; C to be 14.47 acres

Purpose: Pre-application / Conceptual Review

The Lusignans were present to get the Board's opinion on the proposed parcels with regards to the proposed residential compound. Ann-Marie Ignasher, Town Planner, said the land in Coventry needs to be identified as to its use. Coventry should be notified as to what is happening to the Foster property. Tom Mercier suggested that the Coventry piece become land owned in common, kept within the compound and undeveloped. There was some discussion on the use of the shared driveway and its maintenance. John Bevilacqua, Town Solicitor, advised that the applicants specify this in the deed. It was also suggested that they consult the Fire Department on whether the drive needs an upgrade, and if so, DEM may need to do a wetland survey. Matthew Lusignan asked what it would take for him to be able to get a deed showing that he owned a title to a portion of the property. Julia Parmentier informed him that as they were only here for a pre-application/conceptual review, that he would not be able to prepare the deed yet, that there would have to be completion of a survey and ISDS approval or at least, preliminary approval. As this was a pre-application/conceptual review, no action was taken, and we await the actual application.

I. Major Subdivisions

Gene Allen & Stone Dam Road / David & Lisa Costa

AP 18 – Lot 25 – Existing size 101 acres

Proposed Number of Lots: eight (8)

A to be 46.36 acres; B to be 4.63 acres; C to be 4.64 acres; D to be 13.41 to be acres; E to be 12.51 acres;

F to be 8.78 acres; G to be 4.56 acres; H to be 4.59 acres, (Lot in Gloucester 29.94 acres)

CERTIFICATE OF INCOMPLETENESS issued 3/27/07 and 5/3/07

Purpose: Information / status review

Attorney Robert Silva, Esq., represented the Costas. He wanted to make some corrections to the letter he presented to the Planning Board and Town Solicitor as follows: Item number 2 of the letter says that the disputed property involved in a civil suit with Michael Hassell is not an issue in this subdivision since it is not involved in the division of the property.

Item number 3, the driveway in lot 5: This is being reconfigured and resubmitted to DEM and the Planning Board will get a copy of the revised plan. This also resolves the driveway on Lot 6.

Atty. Silva asks what they still need to do to get a Certificate of Completeness. John Bevilacqua, Town Solicitor, states there is still a question of the road: since the access road, Stone Dam, is in Gloucester. The access and use of this road must be addressed by both Foster and Gloucester. A meeting with Foster and Gloucester Department of Public Works directors, town planners, and solicitors is needed to determine the condition of the road, the amount of traffic it will bear, degree of maintenance, etc. Atty. Bevilacqua points out that the road is 1200 feet in Gloucester and 1200 feet in Foster. Atty. Silva says that the issues surrounding the roads must be completed before coming to the Planning Board. Julia Parmentier points out that the road is in essence a 2400 foot cul-de-sac, and saying that 1200 feet in each town does not circumvent the safety issue; there is a reason to limit the length of the road to this size: for emergency access and egress, and this may be an insurmountable safety issue for a subdivision of this size. Atty. Silva says that probably the police, DPW, and fire chiefs will need to be consulted. Christine DiComes, abutter, spoke regarding the safety issues and said that it is up to the Planning Board who have the authority to make the decision. Julia Parmentier and Helen Hardy agreed with her, however, Julia stated that the board cannot make the proper decision without the proper information and expert input. Ms. DiComes then pointed out that this is one lot, and it is a substandard lot of record. Ms. DiComes stated that Mr. Costa created his own hardship and he should not benefit financially because he sold off his second means of ingress and egress from the original lot.

Ray Morrocco, abutter, says that he is frustrated because these are all the same questions discussed previously and nothing has been resolved. Town Solicitor, John Bevilacqua, says he has met with Atty. Robert Silva but that they can only act in an advisory capacity. Ann-Marie Ignasher, Town Planner, reminded Mr. Morrocco that this is an informational update only.

Michael Hassell says that the letter from Mr. Silva regarding the boundary dispute is not correct and that Mr. Silva is totally misspeaking about the case. Mr. Hassell referred to the deposition of Mr. Costa with regards to this civil matter. However Atty. Silva reminded Mr. Hassell that they were not talking about Mr. Costa's deposition, that they were talking about the original complaint and answer thereto.

Julia Parmentier summarizes: the next step is that the town planners, solicitors and applicants need to resolve the issue of the road. The abutters may contact the planner to be advised on what occurs at this meeting.

This matter was continued until such time as the town solicitor and town planner have had a meeting with the Gloucester town planner and appropriate parties, and will appear on a future agenda for another update. No action was taken.

J. Non-Commercial Site Review

Town of Foster, Capt. Isaac Paine School, Little League Field AP 14 – Lot 103 – Foster Center Road Applicant: Foster Recreation / Mike Polouski

Ann-Marie Ignasher, Town Planner, said that the fences around the Little League Field pose a problem for the currently installed ISDS. The planner stated that she had met with Bob Fallon, the zoning official, and he suggested an alternative manner to secure the fencing so there was no need to "dig a hole through the ISDS system." What Mr. Fallon proposed was two steel flat rods approximately 3 inches wide by 12 inches in length to be joined together in an X-format. The pole holding the fence would be joined to that X and a steel netting would be dropped over the fence pole and lay on top of the X and hold that X securely into the ground and topsoil would be put all around it.

Brian Thalmann, Thalmann Engineering, says that DEM has significant concerns and will not permit this routinely but that it would probably take 18 months due to the need to take wildlife habitat survey.

Ron Cervasio, School Committee member, and Recreation Committee Chair, said he had not seen the map nor had the rest of the School Committee members. He stated that he spoke to Joseph McGovern, facilities manager of the Paine School, regarding the directive to move/remove swings and that this was a problematic issue. Also, this is at a school facility, so that if it takes away from the use of the facilities by the Paine School students, the School Committee would not be in favor of the proposal.

Pat Moreau reads from the letter of February 20, 2007, written to John E. Ayotte of Thalmann Engineering Co, Inc., from DEM presenting some objections DEM has to the proposal (Appl. #06-0487, November 22, 2006) part of which is quoted below:

As presented, the proposed site for the ball field would be difficult to permit, due to the value of the wetlands which would need to be disturbed to accommodate for this project. It was suggested that the ball field be relocated to a site closer to the school which is already disturbed. It was noted that this area contains manhole covers which could pose a hazard for ball players, and that relocating the ball field to this already-disturbed area may involved a field that would be smaller than a regulation-size field.

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Another issue for the Town of Foster to consider in constructing a ball field at this location is floodplain. The floodplain area on the map is shown as an approximate delineation. An

engineering study may be required in order to establish the floodplain elevation and to assess flood plain impacts at the site.

If agreement is reached on relocating the ball field to a spot within the existing disturbed areas at the site, the Town would be advised to stay out of the 50-foot wetland perimeter, as well as minimize encroachment to undisturbed portions of the riverbank wetland in this area in submitting any future Preliminary Determination application to the Department for review.

David Costa said that the original proposal showed the field going in a different direction and did not take away from the school area.

John Lewis, Town Councilman, says that he has spoken with Building Inspector, Bob Fallon, and that they feel there are so many issues with DEM that the plan will probably not be allowed. It might be better to look for another location rather than wait, and be denied. Ron Cervasio agreed, saying that we need new space that will fit the recreational need in the future.

Julia Parmentier says that the Board has done what it can to review the plan. Let DEM go through the process and then see what the School Committee wants to do. At this point no further action can be taken by the Planning Board.

Tom Mercier requests a 5-minute recess. Meeting recessed at 9:35 and reconvened at 9:40.

K. New Business

1. Housing Board needs to be able to have a quorum and will be able to do so if the Planning Board and Land Trust liaisons are allowed to vote. John Bevilacqua, Town Solicitor, asked if the Planning Board has the authority to give the Planning Board and Land Trust liaisons a vote. John Lewis, Town Councilman, says that the Town Council sent this request to the Planning Board for an advisory opinion. John Lewis notes that the Affordable Housing Board was constituted by the council on the recommendation of the Planning Board. Mr. Bevilacqua asks what would happen if an issue came before the Planning Board that was a possible conflict. Helen Hardy states that the representative could recuse himself from the Planning Board because there are enough members on the Planning Board to vote if one member recuses. Tom Mercier suggests that the Town Council intended the representatives to vote. John Lewis says that is true, but that the way it was written makes it unclear. Julia Parmentier states that she would entertain a motion that the Planning Board recommends that the liaison to the Housing Board be allowed sit as a voting member of the Housing Board and to vote on Housing Board issues. Pat Moreau so moves, John Neale seconded. Motion carried 6-0. A second motion was made by Pat Moreau with the recommendation that the Land Trust liaison be allowed to be a voting member of the Affordable Housing Board and vote on Housing Board issues. John Neale seconded. Tom Mercier recused himself because his wife is the Land Trust liaison to the Housing Board. Motion carried 5-0.
2. Borderlands Project plan from the RI Economic Development Corp. and Nature Conservancy. A meeting was held in West Greenwich on June 28th which was attended by the Town Planner, Ann-Marie Ignasher. At that time it was learned that the Borderlands Project was looking for a town in Rhode Island as well as a town in Connecticut to use as model towns. They had a grand total of \$250,000 to put towards the project so they were looking at approximately \$125,000 per town to assist in paying for expertise to assist the towns in the planning process for a village concept design. The village concept includes a mix of commercial, residential, and open space which is compatible with the community and local environment. The Town Planner, is going before the Town Council on July 26th to report on the meetings attended in June, and requested the support of the Planning Board to move forward with the project and to submit the required town survey on or before August 1st. The Planning Board members pointed out that the project is exactly what they are trying to do on Rte. 6 in the Re-zoning meetings. Tom Mercier moves to pursue the Borderlands Project and allow Ann-Marie Ignasher, Town Planner, to submit a survey. John Neale seconded. Approved 6-0.
3. Land Trust Project letter from John Neale regarding a land parcel offered to the Land Trust for purchase for future use for the town. It was originally proposed by Walter May once before, but the Town Council did not want to pursue it. Pat Moreau stated that it must go before a Financial Town Meeting. There was a discussion on whether land acquisitions can be discussed or whether it is too sensitive an issue. Julia suggests that the Planning Board make a determination of town needs and then make a recommendation to the Town Council for acquisition of an appropriate property. No action taken.

L. Future Agenda Items

- Future town land needs
- New form for subdivision approval and Findings of Fact
- Materials required for a subdivision application
- Visit by DEM; try to set for August 1, 2007
- Five year road plan, August 1, 2007 meeting

M. Adjournment

Tom Mercier moves to adjourn at 10:20 p.m., Pat Moreau seconds. Motion carried unanimously.

Respectfully submitted,

Helen Hardy, Secretary