



**PLANNING BOARD MEETING MINUTES
TOWN OF FOSTER**

**Benjamin Eddy Building, 6 South Killingly Road, Foster, RI
Wednesday: December 17, 2008 7:00 p.m.**

A. Call to Order

The meeting was called to order by Julia Parmentier, Chair at 7:00 p.m.

B. Roll Call

Present from the Planning Board were Julia Parmentier, Chair; Pat Moreau, Vice Chair; Helen Hardy, Secretary; members John Neale, Marcia Bowden, and Tom Mercier. Mike Carpenter was excused. Also present were Ann-Marie Ignasher, Town Planner; Raymond DiFazio, Robert Nelson Sr., Robert Nelson Jr., Brad Gorham, Amy and James Bryant, Brian Carpenter, Norbert Therien, Ed Hart, Virginia Bassett, Louis Pezza, and Amy Sonder.

C. Approval of Minutes

Tom Mercier moved, John seconded to approve the minutes of December 3, 2008.
Motion carried unanimously 6 - 0.

D. Correspondence and Review

None

E. Board Members' Reports

None

F. Planner's Report

November Report - noted

G. Commercial Site Reviews

None

Pat Moreau made the motion to move the Nelson/Bryant compound proposal to before all other subdivisions.
John Neale seconded. Motion carried 6 - 0.

41 Johnson Road / Amy Nelson & James Bryant

AP 2 - Lot 12 - Existing size 110 ± acres

Proposed Number of Lots: three (3)

Proposed areas: Lot 1 to be 4.6 ± acres, Lot 2 to be 18.5 ± acres; Lot 3 to be 87± acres

PRE-APPLICATION ON 03/19/08 - CONTINUED TO 04/16/08

*Request for Waiver
Discussion / Decision*

A letter from Virginia Bassett's lawyer regarding the granting of a waiver was read into the record. There were three major points the attorney's letter made: 1) "This letter is to advise you that Ms. Nelson and Mr. Bryant do not have (an) easement over the Bassett property to access their property."; 2) "I respectfully submit, that the Planning Board does not have the authority to grant a waiver of the required frontage."; 3) "Virginia Bassett objects to the proposed plan as submitted, as it obviously impinges on her property." {A copy of the attorney's letter is attached hereto for reference purposes only.}

Completion of a Class I Survey showed the frontage to be 41.5 feet and shows the access to the Nelson property as an easement on the adjacent property belonging to Virginia Bassett.

Brad Gorham represented the applicants right-of-way into the property is on record since the 1800's, and that the current owners' "passing and repassing" for 10 years or more constitutes a right-of-way.

A formal application for a residential compound cannot be made until there is a waiver of the frontage requirements of 50 feet for a residential compound. (NOTE: The lot in question was created prior to July 1, 1967 and therefore needs only 50 feet of frontage and not 300 feet.)

Julia Parmentier and Tom Mercier asked if the driveway could be reconfigured to put the drive/access on the 41.5 feet of frontage and the answer is no, due to the wetlands and West Brook.

Virginia Bassett showed pictures of the drive and the brook. She disagreed with Mr. Gorham about the use and even the existence of an easement; however, she is willing to grant a formal easement if there is an insurance policy, upon which she is named as a secondary insured, in the stated amount of \$1million (\$1,000,000.00).

Mr. Gorham stated that the agreement sent tot him by Ms. Bassett's attorney clearly states that if the insurance (referenced above) lapses for any reason the easement would cease to exist, and that is unacceptable to him or his clients.

Tom Mercier stated that the board can't resolve whether there is or is not an existing easement. The only item the board can consider is the granting or denial of a waiver, as that is the only item in the board's purview. Ann-Marie Ignasher agreed with Tom Mercier, as she stated that only way to resolve the easement issue is if the neighbors / abutters came to a mutual agreement between themselves, or if the question was resolved by a court of law.

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Ann-Marie Ignasher, Town Planner, stated that under Rhode Island General Law and our own subdivision regulations it is required that – “All proposed land developments and all subdivision lots have adequate and permanent physical access to a public street.” RIGL §45-23-60(5) – and unfortunately, with the letter from Mrs. Bassett’s lawyer, the question has been raised whether an easement does or does not exist.

Marcia Bowden asked whether the board even discuss a waiver if there is no defined and agreed to access between the parties. She feels any decision, regarding a waiver, by this board depends upon the resolution of the easement issue prior to that discussion of a waiver taking place.

Tom Mercier suggests that we table this until the easement issue is resolved. He feels that even if the board was to grant a waiver, the applicant’s could not move forward until the issue of the easement gets resolved.

Brad Gorham asked why should the applicants resolve the easement if they can’t get a waiver.

Julia Parmentier gave Mr. Gorham two options:

Option 1 – The applicants can go to zoning for a variance because of the high percentage of the lack of frontage and amount required to be waived. That would be an additional application process.

Option 2 – The applicants can resolve this issue of the easement and come back before the planning board..

John Neale asked if there was a liability to the Planning Board if they grant the waiver and the lot can’t be developed. Ann-Marie Ignasher stated that the Planning Board cannot put themselves in a position where it could be perceived that they gave an applicant possible rights in and to a subdivision/development when not all of the legal criteria have been met. She also stated that the lot should be certified as a substandard lot of record. Finally, she stated that the board had at a previous meeting (pre-application / conceptual review) stated that the property lends itself well to a residential compound development.

Discussion continued around the issues of the easement and frontage variance or waiver.

Tom Mercier moves to table this until the issue of the access is resolved. Marcia Bowden seconded.

Discussion - John Neale is concerned that this might be a lengthy process and would be an undue burden. Tom Mercier points out that the applicants can decide on the own to go to Zoning. Ann-Marie Ignasher points out that the board cannot get involved in a private matter between to private parties.

Members voting to approve : Julia Parmentier, Pat Moreau, Helen Hardy, Marcia Bowden and Tom Mercier.

Members Opposed: John Neale.

Motion Carries: 5 to 1

I. Minor Subdivisions

Luther / Howard Hill Road / **DiFazio, Raymond**

AP 5 – Lot 64 – Existing 160 acres +/-

Proposed number of lots: two (2)

Proposed: Lot A – 5.0 acres +/-

Proposed: Lot B – 155.00 acres +/-

PRE-APPLICATION / CONCEPTUAL REVIEW 10/18/2006

PRELIMINARY PLANS APPROVED 10/15/2008

*Final Review
Discussion / Decision*

Ann-Marie Ignasher, Town Planner summarized this application.

John Neale moved to approve the final application of Raymond DiFazio to subdivide the real estate located at Luther Road, Foster, RI 02825, a/k/a Tax Assessor’s Plat 5 Lot 64 into two (2) separate and distinct parcels as shown in the following plan entitled “Final Subdivision Plan “MONDO ESTATES” Assessor’s Plat 5 Lot 64 Luther Road & Howard Hill Road, Foster, Rhode Island Scale: 1”= 50’ date: November 14, 2008 Job no.: SS2163 Drawing no.: SS3539, by Scituate Surveys, Inc., 410 Tiogue Avenue Coventry, Rhode Island 02816 (401) 821-8101.” With the following conditions:

- 1) That the back up power systems for the OWTS is installed.
- 2) That all conditions of the preliminary approval are included and incorporated into this final decision.

Tom Mercier seconded the motion. No further discussion on the matter.

Motion carried unanimously 6 – 0.

Cucumber Hill Road / **Brian Carpenter / David & Karen Bush**

AP 7 – Lot 20 – Existing size 43.9211 acres

Proposed Number of Lots: three (3) **Residential Compound**

Proposed areas: Lot A=7.8119 acres, Lot B=22.3363 acres, Lot C=13.7650 acres

PRE-APPLICATION / CONCEPTUAL REVIEW 5/16/07

PRELIMINARY PLANS APPROVED 10/17/07

*Final Review
Discussion / Decision*

Ann-Marie Ignasher, Town Planner summarized this application and requests that Trash (town services not provided) must be added to Restriction 2.

Tom Mercier moved to approve the final application of David Bush to subdivide the real estate located at Cucumber Hill Road, Foster, RI 02825, a/k/a Tax Assessor’s Plat 7 Lot 20 into three (3) separate and distinct parcels as shown in the following plan entitled “Compound Subdivision Existing Conditions Plan David Bush AP 7 Lot 20 Cucumber Hill Road Foster, Rhode Island”, Prepared by National Surveyors-Developers Inc., 42 Hamlet Avenue Woonsocket, RI 02895 401-769-7779 dated 7-22-08 as revised. With the following conditions:

- 1) That all conditions of the preliminary approval are included and incorporated into this final decision.
- 2) That the recorded plan and deeds must state (include) “nor shall rubbish or garbage pick up be made on the common right-of-way.”

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3) That all restrictions and 50 foot easement description must be referenced on all deeds.

Pat Moreau seconded the motion.
Motion carried unanimously 6 – 0.

Winsor Road / **Turnquist Lumber Co. / Brian Carpenter**
AP 17 – Lot 82 existing 32.4580 acres +/-
Proposed number of lots (3) three
Proposed Lot A – 13.7435 acres +/- (frontage 356.99')
Proposed Lot B – 12.4964 acres +/- (frontage 300.53')
Proposed Lot C – 6.2180 acres +/- (frontage 346.22')
PRE-APPLICATION 03/16/2005
PRE-APPLICATION 06/18/2008
PRELIMINARY PLANS APPROVED 08/20/2008

*Final
Discussion/Decision*

Ann-Marie Ignasher, Town Planner summarized this application.

Pat Moreau made the motion to approve the final application for Turnquist Lumber Co., to subdivide the real estate located at Winsor Road, Foster, RI 02825, a/k/a Tax Assessor's Plat 17 Lot 82 into three (3) separate and distinct parcels as shown in the following plan entitled "Final Minor Subdivision Site Plan, Turnquist Lumber Company 180 Hartford Pike Foster, RI 02825 AP 17 Lot 82 Winsor Road, Foster, RI 02825, Prepared by National Surveyors-Developers Inc. 42 Hamlet Avenue, Woonsocket (401)769-7779, dated September 2008 as revised."
With the following conditions:

1) That all conditions of the preliminary approval are included and incorporated into this final decision.

John Neale seconded the motion.
Motion carried unanimously 6 – 0.

Walker Road / **Thatcher, William**
AP 5 – Lot 41 – Existing size 13.3178 +/- acres
Proposed number of lots: two (2)
Proposed areas: Lot 1 8.6056 +/- acres, Lot 2 4.7121 +/- acres

*Pre-application / Conceptual Review
Discussion / No Action*

Norbert Therien, surveyor; presented this application.

Tom Mercier asked that the streams be delineated on the entire length of the property.

Ann-Marie Ignasher and Julia Parmentier asked if the FEMA maps be referenced – flood plain, and are there any endangered species present.

H. Administrative Subdivisions

Paine Road / **Dolce, David - Spencer, Linda** -
AP 14 – Lot 05 existing 8.70 acres +/-
Proposed lot 9.39 acres +/-

*Planner's Decision
Report to Board*

Report from Planner – lot line move to enable a two (2) lot subdivision.

J. Major Subdivisions

None

K. New Business

Election of Officers - Discussion / Action

Tom Mercier moved for the following slate: Julia Parmentier – Chair
Pat Moreau – Vice Chair
Helen Hardy – Secretary

Marcia Bowden seconded the motion. No discussion. Motion carried unanimously. 6 – 0.

Capital Improvement / Budget Projects – Discussion / Action

National Flood Insurance Program

School Capital Improvements, as it's the only approved shelter

Hazard Mitigation Plan – school approved for shelter

Replacement of culverts – in danger of road flooding

Notification of campground residents on where to go in an emergency.

Previously there was a Board that consisted of DPW Director, Police Chief, Fire Chiefs etc. that hired consultants who developed above conditions, which have been met.

To develop a new plan – reps of Town Council, Planning, Zoning etc must agree

Capital Budget: consulting fee for Emergency Plan – AMI will request \$30,000.

L. Old Business

National Flood Insurance Program-

John Neale moves that the Town Planner and Chair meet on Monday to review and finalize the Draft Ordinance for the Special Flood Hazard Areas Ordinance.

Tom Mercier seconded. Motion carried unanimously 6 – 0.

M. Future Agenda Items

January 7 - Capital Improvement Budget Workshop

January 21 – Thatcher, William – Pre-application

Outdoor Hydronic Heaters – Draft Ordinance

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N. Adjournment

Tom Mercier moved to adjourn at 8:58 p.m.
Motion carried unanimously 6 – 0.

Respectfully submitted,

Helen Hardy
Secretary