



**PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building, 6 South Killingly Road, Foster, RI
Wednesday: May 19, 2010 7:00 p.m.**

A. Call to Order

Meeting was called to order at 7:01 p.m.

B. Roll Call

Present from the board were Pat Moreau, Chair; John Neale, Vice Chair; Helen Hardy, Secretary; members Tom Mercier, Marcia Bowden, and Julia Parmentier. Member Mike Carpenter was excused. Also present were Brian Carpenter, David Dolce, Linda Spencer and Bev Wiley.

C. Approval of Minutes

Rte 6 Rezoning Workshop March 20, 2010 - need notes

Tom Mercier moved to table the minutes of March 20, 2010 to June 2, 2010, seconded by John Neale, motion carried unanimously. 6 - 0

Planning Board Meeting May 5, 2010

Tom Mercier moved to approve the minutes of May 5, 2010, seconded by Marcia Bowden, motion approved by Tom, Patti, and Helen. John and Marcia abstained.

Rte 6 Rezoning Workshop May 8, 2010

Rte 6 Rezoning Workshop May 15, 2010

John Neale moved to table the minutes of May 8, 2010 and May 15, 2010 to the meeting of June 2, 2010, seconded by Tom Mercier, motion carried unanimously. 6 - 0

D. Correspondence and Review

None

E. Board Members' Reports

None

F. Planner's Report

None

G. Zoning – Opinion Requested

None

H. Commercial Site Reviews

None

I. Administrative Subdivisions

South Killingly Road / Matteson, Lewis

AP 7 Lot 63 – 30.5 acres

Proposed lot – 28.035 acres

AP 7 Lot 63B – 3.8 acres

Proposed lot – 5.026 acres

*Planner's Decision
Report to Board*

John Neale moved to accept the Planner's Decision on the Administrative Subdivision of AP 7 Lot 63. Tom Mercier seconded. Motion carried unanimously 6- 0.

J. Minor Subdivisions

47 Kennedy Road/ Papavasilou, Stacy

AP 4 Lot 0005

Existing acreage 14.9427 +/-

Proposed Lot numbers – 2

Proposed Lot A – 10.3513 acres +/-

Proposed Lot B – 4.5914 acres +/-

*Pre-application / Conceptual Review
Discussion / Decision*

This application was presented by Brian Carpenter. Marcia asked about the location and length of the drive. Helen had concerns about the exact measure of the front lot line, which gives exactly 100' from the septic to side lot line and exactly 300' for the new lot line, she thought that was remarkable.

41 Paine Road / Marjorie & Linda Spencer

AP 14 Lot 0005

Existing acreage 9.39 +/-

Proposed Lot A 4.59 acres +/-

Proposed Lot B 4.80 acres +/-

Pre-application Conceptual Review – 09/02/2009

Preliminary Review – 11/18/09 (cont'd to arrival of ISDS)

*Preliminary Review
Discussion /Action*

Applicant(s) and application: Marjorie T. Spencer is the current owner of the real estate, and Linda J. Spencer is her daughter. The purpose behind this application is to allow Mrs. Spencer and her daughter to subdivide the single parcel into two smaller parcels (A-4.59 acres and B-4.80 acres). Once the property is subdivided they will build a house on the undeveloped lot which they will live in and sell the original house to someone else. Mrs. Spencer recently completed an administrative subdivision with her neighbors thereby making sure this current lot would have enough acreage and frontage in order to complete the minor subdivision.

Previous Appearances before Planning Board: 1) Pre-application, Conceptual Review Meeting – 09/02/09, 2) Preliminary Review – 11/18/09, continued until the applicants had an approved OWTS system from RI DEM

Documents which are part of this decision: 1) Application fee in the amount of \$400.00; 2) Completed application dated 11/02/09; 3) Owner Authorization dated 08/20/09; 4) Site Walk Authorization; 5) Deeds into the present owners; 6) Aerial Photo Map; 8) Tax Assessor's Plat Map; 10) Municipal Lien Certificate(recorded); 11) OWTS Permit, App#0612-0338, date of approval 4/1/10, date of expiration 4/1/15.

Applicant's Presentation: Applicant Linda Spencer and her brother-in-law, David Dolce appeared before the planning board to present the application. Mr. Dolce stated that they were before the planning board in November, and at that time they did not have the approval for the OWTS system; on April 1, 2010 RI DEM approved their OWTS design. They are asking the board for preliminary approval at this time.

Tom questions the placement of the driveway in relationship to the stone walls. Ms. Linda Spencer explains that the plan is to maintain the stone wall and that the driveway will go in where there is already a gap in the wall. Mr. Dolce shows the board where the gap is located.

The planning board members explain that a back up generator will be required for the OWTS (which is a bottomless sand filter system). John and Tom tell them that in practice we require the generator, and that the State's requirement is to record the service contract. They also comment that the words "Minor Subdivision" needs to be added to the map, as it reads now it still states that it is an "Administrative Subdivision".

Waivers: The applicants are requesting a waiver of payment of the fee in lieu of land dedication, because Mrs. Marjorie Spencer had dedicated 146 acres of land to the Foster Land Trust which was recorded on August 20, 1999 in Book 85 at page 550. The planning board will consult with the Town Planner, Ann-Marie, and the Town Solicitor to get a legal opinion and then let the applicants know at the time of the final plan if they can waive the fee in lieu of, at that time the board will state their findings of fact with regard to this particular matter. Board member, Helen Hardy gave the applicants a good explanation of the reasoning behind the fee in lieu of land dedication, and she explained that the donation made by Mrs. Spencer was one of the first significant offerings to the Land Trust and is highly regarded by the Town and the community. Tom explains that the Board cannot give them a decision regarding their request for the waiver this evening.

FINDINGS OF FACT

- 1) The applicants and landowners are properly before this board.
- 2) The proposed development is consistent with the comprehensive community plan.
- 3) The proposed development is in compliance with the standards and provisions of the Town's zoning ordinance.
- 4) There will be no significant negative environmental impacts from the proposed development as shown on the preliminary plan, with all the required conditions for approval.
- 5) The subdivision as proposed will not result in the creation of an individual lot with any physical constraints to development that building on that lot according to pertinent regulations and building standards would be impracticable.
- 6) All proposed land development and all subdivision lots have adequate and permanent physical access to a public street.
- 7) The proposed development, as designed will protect the existing natural and build environment, and/or mitigate significant negative impacts on the existing environment.
- 8) The proposed development will be well integrated with the surrounding neighborhood, and concentrate development in areas which can best support such development.
- 9) The applicant has requested and received all of the required necessary permits from the State of Rhode Island to wit: 1) wetlands permit; and 2) OWTS permit.

WAIVERS

Though the plan itself, as presented, does not require any waivers from the planning board with regard to zoning issues; however, the applicant has approached the board and requested a waiver from the payment of the fee in lieu of land dedication. The applicant's reason for this request is based upon the fact that applicant (and/or applicant's family) transferred ownership of over 100 acres +/- to the Land Trust by that deed dated August 20, 1999, and recorded on August 30, 1999 at 9:50 a.m. in book 85 at page 550. The board members recognized the importance of this particular transfer to the Foster Community; however, they will not be able to give any response to the waiver request until the time of the final plan review. Due to the nature of the request, the board will need do some research into the matter before rendering their decision.

ADDITIONAL CONDITIONS OF APPROVAL

1) Are there any conditions that the planning board would like to place upon the proposed subdivision to make the subdivision more suitable for the Foster Community?

A) That the applicants correct the drawing title to reflect "Proposed Minor Subdivision" and that the applicants correct the date and revision date of the proposed plan prior to the applicants submitting their application for final plan review and approval;

B) That a maintenance contract be maintained on the bottomless sand filter type of OWTS that will be installed; and that copies of the contract be 1) recorded in the land evidence records for the Town of Foster, and 2) given to the Building / Zoning Official's office to be maintained as part of the Town's permanent records.

C) That a generator be installed as a back up to the electrical system for the bottomless sand filter OWTS. The reason behind this condition is due to the nature and severity of winter storms known to frequent our area.

D) That the two conditions (B, C) regarding the OWTS must appear on both the final (recorded) plans, and must appear as restrictions on the title deed for the new parcel.

CONCLUSION/MOTION TO APPROVE

John Neale made a **Motion to Approve** the application of Marjorie T. Spencer and Linda J. Spencer to subdivide the real estate located at 41 Paine Road, Foster, RI also known as

tax assessor's plat 14, lot 0005 consisting of approximately 9.39 +/- acres; into two separate and distinct parcels; proposed Lot 5A to contain 4.59 acres and proposed Lot 5B to contain 4.80 acres all as shown on that plan with the project title of "AP 14, Lot 5, Paine Road, Foster, Rhode Island, Issued for Marjorie Spencer, Paine Road, Foster, Rhode Island, and prepared by Northeast Engineers & Consultants, Inc., 55 John Clarke Road, Middletown, RI 02842, phone 401-849-0180 by Roger F. Lizotte, Professional Land Surveyor."

This motion is made based upon the above listed Findings of Facts, consideration of the above Waiver Request, and the Additional Conditions of Approval, which are incorporated into this decision and are a part hereof.

Tom Mercier seconded the above motion. There was no further discussion.

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

Members voting to deny: None.

Motion Passes: 6 to 0.

K. Major Subdivisions/Land Development

None

L. New Business

Tom asked about summer meetings. Tentatively the board will consider not holding the workshops July 7 and August 4. Pat suggested meeting at 6:00 p.m. for the summer meetings. The board will discuss this at the June 2, 2010 meeting.

M. Old Business

N. Future Agenda Items

May 22, 2010- Rte 6 Rezoning Workshop

June 2, 2010 - Workshop

June 16, 2010 – Pre application - Barrett, Gerard/ Belisimo, Adam 123 East Killingly Road

O. Adjournment

Meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Helen Hardy, Secretary