



**PLANNING BOARD MINUTES**  
**TOWN OF FOSTER**  
**Benjamin Eddy Building, 6 South Killingly Road, Foster, RI**  
**Wednesday: May 09, 2012**  
**7:00 p.m.**

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**COMPREHENSIVE PLAN WORKSHOP**

**A. Call to Order**

Meeting was called to order by Tom Mercier, Chair at 7:02 p.m.

**B. Roll Call**

Present from the Planning board were Tom Mercier, Chair; Julia Parmentier, Vice Chair; members Sisan Smallman and Mike Carpenter. Ron Cervasio arrived at 7:15. Helen Hardy, Secretary and member Susan Mara were excused. Also present was Ann-Marie Ignasher, Town Planner; and Joe Walsh, Zoning Board.

Julia Parmentier moved to move item F New Business to be next on the agenda, seconded by Sisan Smallman. Motion carried unanimously 4 – 0.

**F. New Business**

*Discussion / Action*

Review comment letter to DEM – Cobble Hill Development LLC

At the last meeting the board considered how to respond to a letter from DEM concerning a proposal for a house on Plat 3 Lot 0046A on Victory Highway. Ann-Marie explained that she had learned some new information that might put a different light on the matter. Therefore, she was requesting that the board revisit the issue tonight.

In 2004, the Martinelli's received DEM approval for a septic system and wetlands alteration. They then appeared before the Foster Zoning Board to request dimensional variances needed for house construction due to presence of a stream and wetlands. The Zoning Board denied their request for dimensional variances and it was this letter that the board reviewed at the last meeting. Several members were mistakenly picturing the adjacent lot where the board had made a site visit instead of the actual lot in question and were under the impression that DEM had denied them a permit. In fact, DEM had already issued the permits but later issued a letter of non-conformance and shut down the work because it exceeded and differed from what was supposed to have been done. They were required to complete restoration of the lot before being able to reapply for permits.

The family appealed the Zoning Board decision to the Superior Court. The court overturned the Zoning Board decision, citing a lack of proper legal support for the denial of variances. The court noted that Foster's zoning standards are not in conformance with state law, while it is permissible to have a more stringent standard, the court found that the ordinances lack specific criteria for decision making and clear rationales for departing from the state standards. The appellant provided convincing expert witnesses which the Zoning Board failed to counter, it's not enough simply to disagree without supporting documentation. The court remanded the matter back to the Zoning Board.

The matter is now being represented by Cobble Hill Development. After restoration of the site was completed and a one-year waiting period, they reapplied to DEM for OWTS and wetlands alteration permits. The current lot plans shows modifications since the original was made. The new application is the reason DEM has sought comment again.

Board members expressed similar concerns as noted last week with an awareness that the court has determined that the town's zoning ordinances lack sufficient specificity. Ron indicated no reservations about the proposed development of the lot and stated his belief that the town lacks sufficient expertise to exceed state standards. Julia noted discomfort with a request requiring so many dimensional variances, given that our setback dimensions are based on vital issues of environmental and water supply sensitivity. Sisan concurred. Ann-Marie added that since the developer had already failed to follow DEM's proscriptions for wetlands alteration, there may be some justifications for questioning their good faith in another effort.

Joe Walsh, Chair of the Zoning Board reiterated that the town's zoning ordinances do lack consistency and clarity, and variance requests are considered in the absence of procedural guidelines and criteria. He is hoping the Comprehensive Plan will offer guidance for reworking the ordinances. Tom noted that one of the Planning Board's goals is to meet and coordinate with other boards, and to work on bringing zoning regulations and subdivision regulations into compliance with the Comprehensive Plan and state statutes, and ensure that they include clear rationales to guide decision making.

Ann-Marie will complete a letter to DEM incorporating ideas expressed by the board.

**C. Goals, Objectives, Policies and Actions**

*Discussion / Action*

Comp Plan – Land Use

The board went through the Land Use section and made some changes.

Open Space

Economic Development

**D. Time frame for section(s) progress**

*Discussion / Action*

The public is welcome to any meeting of the Planning Board. If communication assistance (readers/interpreters/captions) is needed or any other accommodation to ensure equal participation, please contact the Town Clerk's Office 392-9200 at least two (2) business days prior to the meeting.

**E. General Business**

**G. Future Agenda Items**

Future – Update/revise to comply with Comp Plan

- Subdivision Regulations
- Zoning Ordinance
- 5 year road plan

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- Conservation Development
- Meet with other boards

Julia Parmentier moved to add a workshop session on May 23, 2012 at 7 p.m.; seconded by Mike Carpenter, motion carried unanimously 5 – 0.

**H. Adjournment**

Ron Cervasio move to adjourn at 8:48 p.m.

Respectfully submitted,

Sisan Smallman, Acting Secretary