

**0Foster Zoning Board of Review  
Minutes of the January 10, 2007 Meeting**

Vice Chairman William Gibb called the January 10, 2007 meeting of the Foster Zoning Board of Review to order at 7:05 PM in the Benjamin Eddy Building. The following members were present:

William Gibb, Vice Chairman

Heidi Colwell, Secretary

Lori Mihailides

Carl A. Saccoccio

John Vorro, Alternate

Also present were John J. Bevilacqua, Town Solicitor, Robert Fallon, Building Official. Court stenographer Carole Malaga was absent.

**Minutes:**

The minutes of the December 13, 2006 meeting were approved as published.

**New Member:**

Carl Saccoccio was welcomed to the board as a new member.

**Planning Board Letter:**

A letter from Julie Parmentier, Planning Board chairwoman, inviting the Zoning Board members to a meeting January 20<sup>th</sup> regarding a workshop on Rt. 6 Rezoning was read.

**Ronald Rogers vs. Town of Foster:**

A letter was received for S. Paul Ryan, Esq. 670 Willet Avenue, East Providence, stated the court case, Ronald J. Roger and William G. Roger vs. Town of Foster Zoning Board has been dismissed without prejudice.

**Hearing Continued: #06-14 Philip Hauser, 124 Old Plainfield Pike, Plat 6, Lot 41**

Application #06-14 for Philip Hauser for a variance for a saw mill under Article 5, Section 7 of the Foster Zoning Ordinance was read. Mr. Hauser and his attorney, Robert Craven, were given the oath by Town Solicitor John Bevilacqua.

The board asked the building official at the last meeting to check the noise level at the saw mill site. He reported he checked and found the noise level to be within a safe range. Mr. Craven stated that the location of the building (saw mill) is 300 ft. from the nearest property line on one side and 1200 feet to the nearest property on the other side. Going from side to side from property lines on the street it is 650 ft. and to the back line it is 220 ft. This map was presented as Exhibit A.

Hours of operation are 7am to 4:30 pm Monday thru Friday and Saturday 8am to 12 noon as stated in a schedule presented by Mr. Hauser. Mr. Fallon said that you can hear the chipper, debarker and the saw mill but it is so far off the road that the noise is not overwhelming. Mr. Hauser said he uses a generator for electricity.

Carl Saccoccio asked Mr. Hauser if the saw mill has been in operation since 1938 and Mr. Hauser said it has been since 1978. Therefore, it is not grandfathered in because zoning was adopted in July of 1967.

There hasn't been any recent complaints from the neighbors. One neighbor complained several years ago but the problem was corrected and there haven't been any complaints since. Mr. Craven stated for the record that Mr. Hauser has had no zoning violations since he started his business in 1978. Mr. Fallon said Mr. Hauser had a company install sound prove insulation for the noise. The zoning board does not have the authority to adopt a standard for noise. The noise

standard which would be suitable for this type of business and where it is located would have to be set by the Town Council.

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Mr. Gibb asked if anyone would like to speak in favor of the application. No one spoke.

Mr. Gibb asked if anyone would like to speak against the application. No one spoke.

Mr. Craven said the reason Mr. Hauser is asking for this variance is because he now has a special use permit which requires him to come before the board every three years to have it renewed. He has been before the board nine times since 1978 for the renewal of the special use permit. Mr. Craven said if Mr. Hauser transferred the business to someone else that individual would have to come back to the board and state what they intended to do with the property. What Mr. Hauser is looking for is what is called grandfather rights so he will not have to come back to the board every three years with the uncertainty of some board in the future saying no.

Mrs. Colwell asked if this variance will go with the property if it is sold. Mr. Bevilacqua said that if the new owner wishes to do the same thing (saw mill operation) the variance has already been granted. The building inspector would have to insure that the new owner follows in the same way. If the new owner intends to make any expansions, modifications or changes then they would have to come before the board.

Also for the record it is noted that Mr. Hauser has been operating since 1978 and has received a number of approvals by this board and that no violations have ever been lodged against him.

**Finding of Facts:**

The board makes the specific findings of fact:

The petitioner has presented testimony and exhibits that support the granting of said motion:

1. That he has been operating this facility as a saw mill since 1978 with no violations has been verified by the building official of the Town of Foster
2. That he has modified his equipment to satisfy whatever concerns the neighbors have had during the course of the years since 1978 by putting in certain sound proofing and other improvements to the saw mill operation. That the distances from his property lines are more than adequate and sufficient to maintain this as a more permanent type of operation without disturbing the neighbors
3. That he is in conformance with the comprehensive plan in that he is maintaining the rural character of the town and we are encouraging these types of businesses which compliment the rural nature and the social and economic growth of the Town.
4. Also for the record it is noted that Mr. Hauser has been operating since 1978 and has received a number of approvals by this board and no violations have ever been lodged against him.
5. The board makes these findings and approves the request for the variance with the following conditions

**Decision:**

Mrs. Colwell moved and Lori Mahailides seconded the motion and it was so voted to approve application #06-14 for a variance for Philip Hauser, 124 Old Plainfield Pike, Plat 6, Lot 41 under Article #5, Section #7 of the Foster Zoning Ordinance with the following stipulations:

1. The hours of operation shall be in accordance with the schedule that the petitioner presented. Times of operation are Monday thru Friday from 7am to 4:30pm and Saturday 8am to 12 noon

2. That the map that was submitted by the petitioner (Exhibit A) outlining the distances from the actual saw mill property lines demonstrates that there is sufficient space between the building in operation and those boundary lines will be adopted and accepted by the zoning board. The petitioner will prepare the

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3. appropriate document for recording and will also prepare a deed which will refer to the document so that any examination or future owner will be placed on notice as of the conditions that applied of this particular variance that is granted on January 10, 2007.
4. The petitioner will be required to prepare those conditions and stipulations which are necessary in ordering the granting of this variance and present those documents to the solicitor for approval and recording.

The following members voted:

Lori Mihailides Approve  
Carl Saccoccio Approve  
John Vorro Approve  
Heidi Colwell Approve  
William Gibb Approve

**Hearing: - #06-15 - Deborah Defazio – Plat 2, Lot 57 - 36 Howard Hill Road**

Application #06-15 for Deborah Defazio, 1725 Plainfield Pike, Johnston, for a dimensional variance to create a new lot line between two residence under Section 13, Article IV was read.

The property is owned by Mrs. Defazio's mother, Blanch Rambone.

Deborah DeFazio and Stephen Deming, engineer for Coventry Surveys, were sworn in by Town Solicitor John Bevilacqua.

Mr. Deming said that they plan to create two lots, one being five acres with an existing house, barn and outbuilding and the other being 27 acres with an existing house and out buildings. In order split to the property a variance will be needed for three buildings that are too close to the property lot line. Mr. Saccoccio asked if there were any animals housed in any of these building and Mr. Deming said no.

Mr. Gibb asked if anyone wished to speak in favor of the application. Mrs. Evelyn Murray asked to look at the property line on the survey. She said that she did not have a problem with the variance. Mr. Paul Morrissey, an abutting property owner, said he did not have a problem with the application.

No one spoke in opposition.

**Findings of Facts:**

The Board also finds that based on the facts presented and its own knowledge of the property that the dimensional lot line variance will have little or no impact on the adjoining property.

- A. It will be compatible with the neighborhood land use.
- B. It will not create nuisance in the neighborhood
- C. It will not hinder the future development of the Town
- D. It will be in conformance with the Comprehensive Plan of the Town of Foster

**Decision**

Mrs. Colwell moved, Carl Saccoccio seconded the motion and it was so voted to approve application #06-15 for the following dimensional lot line variances under Section 13, Article IV:

1. 10 ft north side lot line variance from dwelling
2. 22 ft north side lot line variance from shed on the north side lot line

3. 40 ft south side lot line variance from garage on the south side lot line.

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The following members voted:

Lori Mihailides	Approve
Carl Saccoccio	Approve
John Vorro	Approve
Heidi Colwell	Approve
William Gibb	Approve

The meeting adjourned at 8:07PM

Attest:

Heidi A. Colwell  
Secretary