

## **Foster Zoning Board of Review Minutes of the May 9, 2007 Meeting**

Chairman Carl A. Saccocio called May 9, 2007 meeting of the Foster Zoning Board of Review to order at 7PM in the Benjamin Eddy Building. The following members were present:

Carl Saccocio, Chairman

William Gibb, Vice Chairman was absent

Lori Mihailides, Secretary

Heidi Colwell

Scott Pollard

Joseph Walsh, Alternate

Paula Mottshaw, Alternate

John J. Bevilacqua, Town Solicitor and Robert Fallon, Building Official were also present

Minutes:

Lori Mihailides moved, Scott Pollard seconded the motion and it was voted to approve the minutes of the April 11, 2007 meeting as published.

### **Decisions:**

There were no decisions made on the April 11, 2007 meeting.

### **Hearing #07-04, John Pagliaro-Intrica Group, Plat 4 Lot 87:**

Carl Saccocio read the Notice of Appeal of Planning Board and Stay of further Proceedings regarding Cucumber Hill Estates-Jon Pagliaro, Intrica Group, LLC, Plat 4 Lot 87. The Zoning Board of Review was scheduled to hear request for a variance for the referenced subdivision, however the request can not be acted upon until after the appeal is resolved. The Zoning Board is to determine a date to hear the appeal. Three dates have been given, May 30, 2007 has been selected.

### **Hearing #07-05, Brian E. Carpenter for John and Ann Lucas, Plat 10, Lot 28 Danielson Pike**

Hearing #07-05 for Brian Carpenter representing John and Ann Lucas, Plat 10 Lot 28 Danielson Pike, applicant is requesting a 35ft dimensional variance from the east property line for the installation of a septic system for a single-family home.

Brian Carpenter speaks in favor of the application

John Lucas speaks in favor of the application

Edward Provost of 4A Whippoorwill Trail, an abutting property owner spoke in opposition to the application, stating that he was concerned that the proposed septic system would be too close to his existing well. After discussing with the board, it was decided that Mr. Provost mistakenly thought the requesting variance was off his property line.

Heidi Colwell moved, Lori Mihailides seconded the motion and it was so voted that a 35' dimensional variance from the east property line for the installation of a septic system for a single-family house under Article 6, Section 6; Article 7 Section 1 & 2 was granted.

**Hearing #07-06, Northwest Community Health Care, Plat 10, Lot 20 at the intersection of Danielson Pike and Shippee Schoolhouse Road**

Hearing #07-06 for Northwest Community Health Care, Plat 10 Lot 20 at the intersection of Danielson Pike and Shippee Schoolhouse Road, applicant is requesting relief of front yard depth and buffer strip- 10 feet, maximum building coverage and dimensional relief for the 8000 square foot building size.

Heidi Colwell is recused from this hearing.

Letter of Authorization by land owner, John E. Shekarchi was read, giving Northwest Community Health Care and its attorneys with the law firm of Taft & McSally LLP to submit the appropriate applications and plans to the Foster Zoning Board of Review for consideration of a new office building on his property.

Robert D. Murray of Taft & McSally, llp, Cranston, RI speaks in favor of the application.

Peter Bancroft, President of Northwest Community Health Care speaks in favor of this application. Mr. Bancroft sates the following:

- This center is a nonprofit organization, organized 98 years ago.
- The center has entered a purchase and sale agreement with John Shekarchi subject to obtaining certain approvals.
- The center monitors public health for 5 towns in the northwest corner of this state including Foster.
- The federal government has designated this town as having a shortage of primary care physicians.
- They have done studies and surveys in this community regarding health care services and access to health care services, the results were that 40% of people accessing health care services had to travel in excess of 20 miles.
- They have spent a better part of the year looking for a site that could accommodate the safety code and regulations of the Department of Health. None of the existing facilities could meet these requirements. Any buildings they previously looked at would have to be demolished.
- This site seems to have potential, surveys of people said that 90% of the people that responded said they would seek care at this location.
- The size of the facility 8000 square feet would be needed to meet the requirements of the safety codes and regulations.
- The center would operate 5 days a week, possibly 6 days in the future 8:30am to 6:00pm.
- The center would provide medical, dental, and mental health services.

Robert D. Murry introduces Richard Lipsitz of Waterman Engineering, East Providence, RI and asks that his credentials and testimony as an expert land surveyor and his resume be entered as Exhibit A.

Scott Pollard moved, Lori Mihailides seconded the motion and it was so voted to grant a motion to recognize Richard Lipsitz as an expert land surveyor in this hearing.

Richard Lipsitz states the following:

- That he believes the proposed site for the building is the best location. He also states the relief they need is the 10 feet from the front yard depth and buffer strip and the maximum building coverage and dimensional relief for the 8000 square foot building size.
- There is efficient space for required parking
- 25% of the lot or 6000 square feet is the
- In regards to the DEM, test holes approved for a septic system and wet lands have been flagged, we have the information we need to go forward, if we get what we need from the zoning board we will go forward design the septic system and storm water management systems and then we would have to go back to the planning board.
- We would probably go with the bottomless Advantex System for septic system.
- Required to stay outside the 50' perimeter wetlands. If building were to be moved it would be fair to say that it would be in the wetlands.

Carl Saccocio asks about the parking and states that the entrance to the medical center is on Shippee Schoolhouse Road and asks if there has been any consideration to the exit being on Shippee Schoolhouse Road.

Robert D. Murry states that there will be a testimony regarding traffic.

Mr. Murry requests that Mr. Sweeney be qualified as a real estate expert.

Thomas O. Sweeney of Sweeney Real Estate speaks in favor for the applicant and states the following

- Mr. Sweeney states his credentials and experience

Lori Mihailides moved, Joe Walsh seconded the motion and it was so voted to grant a motion to recognize Thomas O. Sweeney as an expert in Real Estate in this hearing.

Mr. Sweeney's qualifications and report has been marked Exhibit B

Mr. Sweeney states the following:

- He has visited the proposed site for the health care facility and is familiar with its characteristics and surrounding area.
- He has summarized his findings in a report given to the board
- Property is zoned highway commercial which permits this type of use.
- Due to the location of the wetlands that is the driving force to move the building towards the front of the lot within the buffers.
- Granting the requested variances would not alter the general character of the surrounding area or impair the intent of the purposes of the zoning ordinances with the comprehensive plan for Foster.
- The relief being sought is the least relief necessary.
- Based on the information he has received granting the application would serve the public's need with affordable medical care.

Paul J. Bannon, President of RAB of Cranston, Rhode Island speaks in favor of this application and states the following:

- He is responsible for the oversight of all the engineering and traffic study that have been completed by RAB.
- Employed in the private sector of transportation for over 23 years in Rhode Island.
- Gives his qualifications and experience.

Lori Mihailides moved, Joe Walsh seconded the motion and it was so voted to grant a motion to recognize Paul J. Bannon as an expert in Traffic in this hearing.

Mr. Bannon's qualifications and report has been marked Exhibit C

Mr. Bannon states the following:

- He is familiar with the site and the surrounding area and has reviewed the plans submitted to the board.
- Access would be limited from Shippee Schoolhouse Road with proper traffic controlled intersection, including stop signs, flashers to alert motorists.
- Reviewed traffic data for six hour periods in both morning and afternoon.
- Have retained accident information from the police department.
- The intersection has sufficient stopping site distance in access of 700 feet in both directions, with speeds up to 65 mph.
- 5 accidents have occurred in this general area per year. Many of the accidents were minor rear end type, people not paying attention, some one pulling out, left turning traffic into Cucumber Hill Road. Several of the accidents that occurred were people turning when they did not have the opportunity to turn.
- Times the traffic data was collected were between 7 and 8 am and at 5 and 6 pm., peak hours of traffic. Approximately 20 vehicles per hour traveled on Shippee Schoolhouse Road.
- In respects to parking the design for the parking lot it is typical standard highway parking stall is sufficient for low turn over.
- Based upon the study granting the requested relief would not have an adverse affect on the traffic safety laws.

Mr. Saccocio asks if the study has been completed. Mrs. Bannon states that is has been done, they have a draft, and is waiting additional information to the state to add a sentence or two.

Jose Walsh asks how many employees the health center will have. Mr. Bancroft states that there will be approximately 16, with 2 doctors 3 dental professionals. Mr. Pollard asks if traffic would double with the center there. Mr. Bannon states that would not be the case. Mr. Walsh asks if there were only 5 accidents. Mr. Bannon states it is an average of 5 in three years.

Mr. Murry states Northwest Community Health Care would very much like to have a service in the Foster community in this location. Mr. Bancroft testified that they have looked at other locations and this was the best location available.

Shelley Pezza of Shippee School House Road speaks in opposition to the application. Shelley Pezza states:

- She has two small children she takes to school every morning and is concerned about the traffic on Shippee School House Road and would not be opposed to the entrance and exit being on Rte 6
- She moved to her location because it was a residential area. Leaving Shippee is not easy between traffic coming up from 395 and down from Rte 6. There is an existing stop sign and blinking red light but you are more than doubling traffic in this area.
- Concerned for the safety of herself and her children.

Steven McNally of Providence Pike speaks in opposition to the application. Mr. McNally states:

- His well is 10 feet off of Shippee Schoolhouse Road and is concerned that the new septic system will have an impact on his well.
- He believes that there are other sites along Rte 6 that are available.
- Concerned about drug use and the health care facility introducing needles and blood into well water.
- Concerned about the accidents on Rte 6, the tractor trailers, Harley Davidsons doing above the speed limit in this area.
- He supports the Health Center but in a better spot on Rte 6.

Thomas Bates of Shippee School House Road speaks in opposition to the application. Mr. Bates states

- Has two small children and is concerned about the safety and traffic.
- Concerned about the well water and needles.

Rebecca Bates of Shippee Schoolhouse Road speaks in opposition to the application. Ms. Bates states:

- She does not agree with the accident count
- Wants to know if they have considered putting a stop light at the intersection.
- States that it is very dangerous coming from Connecticut and turning into Shippee Schoolhouse Road
- Also concerned about the view changing from woods to a building.

Mr. Lipsitz responds some of the concerns stated in regards to the septic system, will be designed according to the DEM rules regulations, one of them being minimum setback from wells. We would not ask for a variance to be closer to your well, we would need to be more than 100 feet away from any well. As far of the view of trees, this is a permitted use of the zone, in his opinion that this is better than some of the other alternatives for this sight. Would be glad to work with some of the neighbors to try to alleviate concerns with landscaping.

Mr. Pollard asks Mr. Lipsitz if they know where the neighboring wells are located. Mr. Lipsitz states he does not, they have started to look, they have to design a public well.

Mr. Bancroft responds to some of the concerns of blood and needles, he states:

- The handling of biological waste is regulated by the Department of Health, you need a license to store medical waste on site and is not put in the drains or water but is hauled off site.
- There would be a security system.
- There are traps on the drains in the dental room
- There is no substance abuse program.

Mr. Walsh asks about the dentist office and the drains in their office. Mr. Bancroft states that there would be traps in place and all waste is hauled away and disposed of.

Mr. Pollard expresses his concerns about traffic. Mr. Bannon states they have been researching and investigating the intersection and the reason for the flashing light. A full traffic signal requires what we call warrants that has to satisfy a certain warrant criteria, there are 8 warrants we look at and safety is one of them, typically they are driven by hourly volumes and you have to meet certain thresholds which are regulated by the Department of Transportation. The town would have to write letter to The Department of Transportation to request a traffic light and he believes that the flashing light that is there at this time was a result as part of that process. Mr. Saccocio states that the town has tried for years for a traffic light to be installed at the intersection of Rte 6 and Rte 94.

Edward Provost speaks in opposition to the application and states that he was an EMT and now is a fire fighter and has been in the transportation and trucking industry for over 30 years. Mr. Provost states Rte 6 that his fire department monitors is within the top 10 of the most dangerous roads in this country. Thinks it is a great facility but thinks there should be more concern about the traffic safety in that area.

Mr. McNally states the owner is trying to make a profit and the reason he came to Foster to get away from the busy life and does not want this town to turn in to so many other busy towns. Mr. McNally states that TV has called Rte 6, suicide six.

Mr. Murry states that all people here testifying are representing Northwest Community Health Care and not the owner of the property.

Gordon Rogers of Cucumber Hill Road speaks in favor of the application and states:

- He has lived in this town his whole life and his mother is getting elderly
- He has young children and would see the building every day
- States that what could possibly go there, like a 24 hour truck stop. He would rather see this health center than a truck stop.
- This property is zoned highway commercial.

Shelley Pezza adds that she is not against the health center, but what if this brings in more employees, and more traffic than you anticipate. She thinks the building should be built on the other side of the wetlands and believes it would be safer in that area. Thinks it would be a big addition for Shippee School house and would be better along Rte 6.

Carl Saccocio states that traffic concerns will be addressed by the planning board. The applicant is here for variances. All the issues that everyone has mentioned will be addressed by the planning board. There are many more stages to go through on the designing process.

Mr. Walsh asks if they could conceivably build the center with a second floor and not have to retain a variance for square footage.

Mr. Saccocio asks Mr. Bevilaqua for his opinion.

Mr. Bevilaqua states that the safety issues are not a concern of the zoning board.

Mr. Saccocio discusses the maximum building coverage of 25%, which refers to the footprint of said building. Mr. Bevilaqua states he thinks it refers to the footprint. Mr. Saccocio states that because the Health Care Center is going longer on one floor and is not going up would be the reason the health center is before the board. Mr. Walsh states that conceivably the Health Care Center could build a four thousand square foot footprint with a four thousand square foot second floor without having to get a variance.

Mr. Pollard states that he does have concerns about the traffic, but given the fact is that it is beyond our authority to too put these concerns before the board in this matter. He suggests that the residents should bring their concerns before the planning board.

Lori Mihailides moved and Scott Pollard seconded a motion t it was so voted that under Article IV, Section 13 that a relief of front yard setback, buffer strip setback and dimensional relief for an 8,000 square foot medical office building was granted.

It the matter of : **Hearing #07-04, John Pagliaro-Intrica Group, Plat 4 Lot 87:** a new date was discussed to hear said application. The Board has agreed to the date of May 30, 2007 in the Benjamin Eddy Building.

Mr. Saccocio moved and Heidi Colwell seconded a motion to adjourn this May 9, 2007 meeting at 9:35pm.

Attest:

Lori Mihailides  
secretary

