



**ZONING BOARD OF REVIEW MEETING MINUTES  
TOWN OF FOSTER**

**Benjamin Eddy Building, 6 South Killingly Road, Foster, RI  
Wednesday: May 12, 2010 AT 7:00 p.m.**

**A. Call to Order**

The meeting was called to order at 7:00 p.m. by the Chairman Carl Saccoccio.

**B. Roll Call**

The following Zoning Board Members were in attendance: Alternate, Maureen McEntee; Members Joseph Walsh, Heidi Colwell, Carl Saccoccio (Chairman), William Gibb (Vice-Chairman) and Paula Mottshaw (Secretary). Also in attendance was the Stenographer, Carol Malaga.

Not in attendance: Carl Riccio (Building/Zoning Official), Ann-Marie Ignasher (Planner), John Bevilacqua (Town Solicitor).

**C. Approval of Minutes**

**April 14, 2010 – William Gibb** made a motion to submit the minutes as so amended; Heidi Colwell, seconded. There was no further discussion on the motion. The motion passed 5 to 0.

Corrections: 10-3-01-Z – Board Member should be Joseph Walsh; and 10-03-03-Z the vote was 4/1 not 4/0.

**E. Correspondence and Communications**

None

**F. Decisions – Review and Adoption**

**Decision #10-02-01 – Wayne & Kathleen Carrington**

**Address: 66 Foster Center Road, Foster, RI – Plat 09 Lot 0011A**

**Requested Relief:** Requesting relief from the Foster Zoning Ordinance Article IV, Section 13

Dimensional regulations; more specifically, requesting relief from the minimum side yard depth of 50 feet down to 25 feet (for 25 feet of relief) for the citing of a 12' X 24' garage.

**Decision #10-03-01-Z – John K. Savoy**

**Address: 51 A Plainfield Pike, Foster, RI – Plat 09 Lot 0005A**

**Requested Relief:** Requesting relief from the Foster Zoning Ordinance Article IV, Section 13 Dimensional Regulations; more specifically, requesting relief from the minimum side yard depth of 50 feet to 23 feet and relief from rear yard setback of 100 feet to 40 feet for the citing of a wood shed, and relief from side yard depth of 50 feet to 25 feet and relief from rear yard setback of 100 feet to 27 feet for the citing of a tool shed.  
**Correction in Decision –** Board Member seconding motion should be Joseph Walsh.

**Decision #10-03-02-Z – Brian E. Carpenter (Applicant) & Marlene M. Manchester (L/Owner)**

**Address: Old Danielson Pike, Foster, RI – Plat 22 Lot 0044 – Substandard Lot of Record**

**Relief Requested:** Requesting relief from Article VI, Section 6, and Supplementary Regulations for Sewerage Disposal set back requirement, and Article V, Section 1 for a sub standard lot of record under (non conforming use substandard lot of record). More specifically, requesting permission to keep the leaching field for the septic system 55' off the easterly property line, 90' off the westerly property line & 44' off the rear property line.

**Decision #10-03-03-Z – John Brian Day (Applicant) & Matthew S. Chmura (Landowner)**

**Address: 15 Jencks Road, Foster, RI – Plat 01 Lot 0070**

**Requested Relief:** Requesting relief from Article IV Zoning Regulations, Section 3, Open Recreation Uses, No. 6 Open Recreation Events & Amusements (License required by Town Council Ordinance 95-12-366). More specifically, requesting permission to hold a One Day Recreational dirt bike event, situated in and around the sand and gravel pit. "J Day Scramble."

**Correction in Decision:** Vote should be 4 / 1 not 4 / 0.

**Motion to Approve Decisions with the corrections as noted:** Motion made by Heidi Colwell, seconded by Paula Mottshaw to approve all of the decisions from April 14, 2010. No further discussion. Motion passes 5 to 0.

**G. Public Hearings**

**Hearing #10-04-04-Z**

The applicant (s)/owner(s) Robert T. Thurber, 217 Hartford Pike, Foster, RI, Tax Assessor's Plat 16 Lot 0049-D is requesting relief from the Foster Zoning Ordinance Article IV, Section 13 Dimensional regulations; more specifically, requesting relief from the minimum side yard depth of 50 feet down to 30' and 45' respectively.

The Chairman Carl Saccoccio notified that the Alternate Maureen McEntee would be voting on this particular application, and the Board Member Joseph Walsh will not. Chairman Saccoccio then read the proper procedure for consideration of the Zoning Board Application.

**APPLICATION AND REQUEST FOR RELIEF:**

Mr. Thurber appeared before the Zoning Board to request relief from the dimensional set back requirements of the zoning ordinance for his 10 X 20 calf barn seeking relief on sideline. Some years ago a permit to build

the calf barn was never requested, and Mr. Thurber recently received a notice from the Building / Zoning Official notifying him of the situation, and during discussion with the Building Official he was notified of what corrective measures were required.

#### **PUBLIC HEARING OF THE PETITION**

Secretary Paula Mottshaw then read the application into the record. The Secretary also read into the record a note from the Building /Zoning Official's Office that the proper request for relief should be based upon a 100 foot set back requirement and not a 50 foot set back requirement. Therefore, Chairman Saccoccio requested that Mr. Thurber approach the table, and make the necessary changes to his application.

Chairman Saccoccio then asked Mr. Thurber if he had anything else to say in addition to what appeared on his application. Mr. Thurber stepped forward and was sworn in to give testimony on his application.

During Mr. Thurber's testimony he stated: The barn was delivered pre-fabricated on skids, designed to be moved around, laid down granite slabs with crawler to keep off ground, at which time he broke his back, his significant other had to water animals, no sooner did the animals get water, they knocked it over and needed more, so he had a trench dug for electric and water for convenience, at that point the structure became pretty permanent, location was level, old road access, did not acknowledge how close to property corner. So therefore he is before the board requesting relief.

#### **Interests of Others:**

The following people spoke either for or against the application:

A neighbor John Williams, 217 ½ Hartford Pike testified on behalf of the application. Mr. Williams was sworn in to give his testimony. He shares the side line in question, and he came to support Mr. Thurber's application. The building is not visible from Mr. Williams' house. It (the building) is probably 900 to 1000 feet behind his house; of which there is probably 600 to 700 feet of woods between the building and Mr. Williams' house. Also, there are other geographical features between his house and the building in question, so between the woods and those geographical features even if there was another residence between his house and Mr. Thurber's that house would probably not see the barn. So he wanted to come and support Mr. Thurber's application.

Chairman Saccoccio noted there were no other people in the audience. So no-one spoke against the application. Mr. Thurber had not other comments.

#### **Zoning Board Comments:**

Chairman Saccoccio had a few questions, he verified that the building was 10 x 20, and was sitting on the slabs, and therefore the building is not anchored, which is required under the Foster Building Code. The Chairman verified that it had a shed roof and that it was brought in on trailer.

Heidi Colwell verified that the request for relief would now be for 70 feet from the required side set back of 100 feet – the building is 30 feet from the side line. Chairman Saccoccio verified that that the front set, and the other two sides set back requirements were met. It is just one side that does not meet the set requirements. Heidi has problem with the fact that the barn is only 30 feet from the side set back and yet the property is over 35 acres, that is was carried in and that it is not on a foundation. Feels the set backs could be easily met.

Maureen McEntee questions the wetlands on the property, and how close the barn is to the wetland boundaries. Mr. Thurber is given a chance to explain the situation – he explains that it would be difficult to build on Mr. Williams land anywhere near the barn. Mr. Thurber built the barn close to a stonewall, as it a sensible place to do so.

Mr. Williams states that he already has a house on his property and that he cannot build another house on his lot and it is his lot which abuts on that particular side yard.

Chairman Saccoccio feels the issue is pretty clean cut and dry, again states that the set back requirement for a barn that houses animals has always been 100 feet and that it has never changed since July 7, 1967, and that even when challenged relief from that set back had never been granted.

Bill Gibb: Hardship because already an existing building. Looking as a non existing building.

His concerns are as follows:

1. Is this the best location on parcel, if it was a fresh application?
2. If coming as applicant without existing building would we give same weight of consideration?
3. Would the hardship imposed relocating the building by granting the variance is the least issue involved here?

Mr. Gibb does not feel that it would be an insurmountable obstacle in trying to relocate the barn, and he is concerned whether this would be setting a precedent for other people to come before the board to request 70 feet of relief to locate a cow barn only 30 feet from their side boundary? Chairman Saccoccio also said that someone else requesting such relief may not have the same circumstances as presented here today. Joseph Walsh states that the closest neighbor does not have an issue with the relief being granted. However, Mr. Gibb, said that the neighbor does not currently have an issue; but what if he sells his property someone else (new owner) does have an issue? The plumbing and the electrical does not make the barn a temporary use, and that is a problem.

#### **MOTION TO DENY:**

William Gibb made a motion to deny the application 10-04-04-Z for Robert Thurber plat 16, lot 0049-D requesting relief from the Foster Zoning Ordinance Article IV, Section 13, Dimensional regulations; more specifically, requesting relief from the minimum side yard depth of 100 feet down to 30 feet (for 70 feet of relief) to allow the existing calf barn has been in place for almost 6 years. The reason for the denial is that the Board does not feel the hardship is insurmountable in relocating the existing building. Also that the variance

requested is too significant based on existing Zoning Ordinances in Town of Foster, and the potential to set a forward going precedent.

Heidi Colwell seconded the above motion. There was no further discussion.

Members voting to deny: Heidi Colwell, William Gibb, Maureen McEntee, Paula Mottshaw and Carl Saccoccio.

Members voting for: None

Motion Denied: 5 to 0.

The Chairman states that his request has been denied, and that he has a certain time frame in which he can appeal the board's decision once the board has accepted and recorded the decision.

**H. Zoning Board of Appeals will convene to hear the following appeals**

None

**I. Old Business**

None

**J. New Business**

None

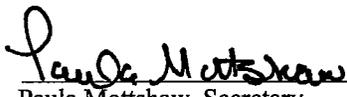
**K. Future Agenda Items**

Approval of Decisions, Minutes

**L. Adjournment**

William Gibb motion to adjourn seconded by Heidi Colwell meeting adjourned at 7:30 p.m.

Respectfully Submitted,

  
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Paula Mottshaw, Secretary  
8.11.16  
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Dated