



**ZONING BOARD OF REVIEW
MINUTES OF THE JANUARY 14, 2009 MEETING
TOWN OF FOSTER**

A. Call to Order:

The January 14, 2009 meeting of the Foster Zoning Board of Review came to order at 7:00pm at the Benjamin Eddy Building.

B. Roll Call:

Present were: Carl Saccoccio, Chairman; William (Bill) Gibb, Vice-Chairman; Paula Mottshaw, Secretary; Heidi Colwell Members; Joseph Walsh, Alternate; Tom Bargeon, Alternate; John J. Bevilacqua, Esq., Town Solicitor; and Ann-Marie Ignasher, Town Planner; Carole Malaga, Stenographer.

C. Approval of Minutes:

No minutes to approve.

D. Correspondence and Communications:

Letter from the Planning Board, regarding Hearing # 09-01, was read into the record.

E. Decisions – Review and Adoption:

None

F. Public Hearings – Discussion and Decision:

Continued Hearings:

None

New Hearings:

Hearing Number: 09-01

Applicants: Christopher & Diane Potter

Landowners: Same

Subject Property: 143 East Killingly Road

Assessor's Info: Plat 16 – Lot 0055

Zoning District: AR – Agricultural/Residential

**Relief Requested: Article VIII Section B(1) – Five (5) year ownership requirement
Residential compound.**

Christopher Potter's father purchased property July-05. In 2007, the property was transferred from his father into a trust for Christopher Potter. In 2007, Christopher and Diane Potter constructed and in-law apartment for Diane's mother, as she no longer had the capability to live on her own due to health reasons. Approximately four (4) to five (5) months ago Christopher's father learned that he had health issues / heart condition, and now the Potter's would like to accommodate and take care of Christopher's father, in the same manner they are doing for Diane's mother. However, since they cannot build another in-law apartment, and Christopher's father wants his own residence, a residential compound appears to be the best solution.

The Potter's have submitted a set of plans showing where they want to locate the residence upon the property, and there is a full five (5) acres set aside for that purpose. The house will be designed to have at least two bedrooms; that way a caregiver would be able to live at the house with Mr. Potter (senior) if that type of arrangement was ever needed. The existing driveway would be extended to the new house. Christopher and Diane Potter previously appeared before the Planning Board, and the Planning Board submitted a positive recommendation to the Zoning Board.

The Potter's are here before the board to request a variance to seek relief from the time requirement for ownership of the real estate as their ownership is less than five (5) years; however, all other zoning requirements for a residential compound can be met, and the hardship they face is due to the sudden declining health of a family member, and not something of their own doing, and the relief sought is to allow them to care for an ailing family member.

The following people spoke either for or against the application:

- 1) Thomas Beaulieu, an abutter, spoke in favor of the application.
- 2) Christine Beaulieu, an abutter, spoke in favor of the application.

Questions from the zoning board members:

(Q) Why does map say 32 acres and the application say 44.3 acres?

[R] (Town Planner) - The Tax Assessor's map states approximately 32 acres; however, the actually Class I - Survey states the 44.3 acres.

(Q) There is 27.5 acres set aside through a RI DEM forest management plan – can that acreage still be counted towards the total acreage of the parcel? There is a minimum acreage requirement for a residential compound of 30 acres. (44.3 acres – 27.5 acres = 16.8 acres)

[R] (Town Solicitor) - The 27.5 acres set aside through the RI DEM forest management plan just creates a different type of classification for that particular 27.5 acres; however, that acreage is still part of the original parcel containing 44.3 acres. Also, according to the plans presented, the “new development” is all outside of the managed forest area.

(Q) Would we be setting a precedent for other people requesting the same relief from the time of ownership?

[R] (Town Solicitor) – No, because based upon the particular facts and circumstances presented by the applicant, this is a case of hardship due to the unexpected illness of a family member. The board does have the authority to grant the relief necessary to assist families to stay together and to take care of those family members that due to health reasons cannot care for themselves.

Applicant: The property will not change hands. The property will remain in the trust.

Board: This is a preliminary stage for you. You’re looking at a good year to two years before building.

Applicant: When we get approval and we can move forward rather quickly, as my father is a retired architect, therefore putting a foundation in and putting a house up can be quicker than you think. We wanted to go through the proper chain of command here.

Findings of Fact and Conclusions of Law:

After consideration of the application, the testimony of the witnesses and all of the evidence presented to the Board with the application and at the hearing, and after carefully considering all the information the Board makes the following findings of fact and conclusions of law:

The Board finds that it has jurisdiction to hear and consider this matter under Article VII, Subsection 1 of the Zoning Ordinance for the Town of Foster, Rhode Island.

That the Applicant is properly before this Board to request relief from Article VIII, Section 1, Subsection B(1) of the Zoning Ordinance for the Town of Foster, Rhode Island.

That the hardship that the Applicant faces is due to the recently diagnosed health problems of an immediate family member; and that this Board does have the authority to grant the relief necessary to assist families to stay together and to care for those family members that due to health reasons cannot care for themselves. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan; and that the relief to be granted is the least relief necessary.

That the Applicant appeared before the Planning Board on November 19, 2008, and that the Planning Board voted to make a positive recommendation to the Zoning Board with regard to this application – a copy of which was read into the record – and is attached hereto for reference purposes.

Motion To Approve:

Bill made a motion to approve application 09-01 for Christopher & Diane Potter for plat 16 lot 0055 for a residential compound under Article VII, Section I, Subsection B(1) – relief from the required period of ownership - as a proven hardship has been established in accordance with findings of the Planning Board.

Joe Walsh, Alternate seconded the above motion.

There was no further discussion.

Members voting to approve: Joe Walsh, Heidi Colwell, William (Bill) Gibb, Paula Mottshaw, Carl Saccoccio

Member voting to deny: None

Members abstaining: None

Members absent: None

Motion passes: 5 to 0

Hearing Number: 09-02
Applicants: Thomas & Christine Beaulieu
Landowners: Same
Subject Property: 146 East Killingly Road
Assessor's Info: Plat 16 – Lot 0054
Zoning District: AR – Agricultural/Residential
Relief Requested: Article IV Section 13 – Thirty Foot (30) foot variance from maximum building height of thirty-five (35) feet, to fifty (50) feet for a turbine tower and six (6) feet for the blades, up to a maximum height of sixty-five (65) feet including the base footing.

Thomas and Christine Beaulieu are seeking approval for a 50' residential wind turbine – effort to produce energy. Any excess generation would go back into the grid. The tower is sold with the turbine. The tower is part of the kit, it's all pre-engineered. The tower can be lowered in case of hurricane or other bad weather. The footprint of it is not much larger than a hand radio tower. Christine Beaulieu testified they were trying to lower their carbon footprint.

The following people spoke either for or against the application:

- 1) Christopher Potter, an abutter, spoke in favor of the application.
- 2) Diane Potter, an abutter, spoke in favor of the application.

Questions from the Board:

Do you have a photo of what you are proposing? Bob Fallon provided a photo.

Findings of Fact and Conclusions of Law:

After consideration of the application, the testimony of the witnesses and all of the evidence presented to the Board with the application and at the hearing, and after carefully considering all the information the Board makes the following findings of fact and conclusions of law:

The Board finds that it has jurisdiction to hear and consider this matter under Article VII, Subsection 1 of the Zoning Ordinance for the Town of Foster, Rhode Island.

That the applicant was properly before the Board to request relief from Article IV, Section 13, Other Permitted Use – Maximum Building Height.

That the applicant's request is being made due to the unique characteristics of structure; that the granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan; and that the relief to be granted is the least relief necessary.

Bill made a motion to approve application 09-02 for Thomas and Christine Beaulieu for plat 16 lot 54, a height variance under Article IV, Sections 13 for maximum structure height requiring a 30 foot height relief for construction & installation of a residential wind turbine. It will not impact appearance of town's rural character or environment and the original application be updated to reflect the relief sought.

Heidi Colwell seconded the above motion.

There was no further discussion.

Members voting to approve: Joe Walsh, Heidi Colwell, William (Bill) Gibb, Paula Mottshaw, Carl Saccoccio

Member voting to deny: None

Members abstaining: None

Members absent: None

Motion passes: 5 to 0

G. Zoning Board of Appeals Will Convene to Hear the Following Appeals:

None

H. Future Agenda Items:

None

I. Adjournment:

William (Bill) Gibb moved to adjourn the January 14, 2009 Foster Zoning Board of Review meeting at 8:00 pm.

Respectfully Submitted,

___/s/ Paula Mottshaw_____

Paula Mottshaw

Secretary, Zoning Board of Review, Foster, RI

ZB_Minutes_011409

___05/13/2009_____

Dated: