ZONING BOARD OF REVIEW MEETING MINUTES
TOWN OF FOSTER
Benjamin Eddy Building, 6 South Killingly Road, Foster, RI
Wednesday: August 26, 2009 AT 7:00 p.m.

A. Call to Order
Meeting was called to order at 7:00 p.m. by Carl Saccoccio, Chair

B. Roll Call
Present from the zoning board were Carl Saccoccio, Chair; William Gibb, Vice Chair; members Heidi Colwell, Joseph Walsh, Alternates Tom Beargeon, and Maureen McEntee. Paula Mottshaw secretary was excused. Alternate Tom Beargeon will be a voting member tonight
Also present were Robert Fallon, Building Official, John Bevilacqua, Town Solicitor and Ann-Marie Ignasher, Town Planner.

C. Approval of Minutes
July 29, 2009 and August 12, 2009 – Zoning Board Meeting
Bill Gibb moved to approve the minutes of July 29 and August 12 as submitted, Joe Walsh seconded, motion carried unanimously 5 - 0.

D. Correspondence and Communications **Discussion / action**
None

E. Decisions – Review and Adoption **Discussion / action**

Application: **#09-08**
Applicants: John and Maria Angelino
Landowners: John and Maria Angelino
Subject Property: Shippee Schoolhouse Road
Assessor's Info: Plat 13 Lot 0055
Zoning District: Agricultural Residential
Requesting: 21' dimensional variance from their north side property line for the installation of an ISDS / OWTS system; under Article VI, Section 6

William Gibb moved to approve the decision for John & Maria Angelina, Joe Walsh seconded, motion carried unanimously 5 – 0.

F. Public Hearings **Discussion / action**

Chairman Carl Saccoccio read the procedures of the hearings of the applications to the applicants and the general public.

Continued Hearing – Application #09-07

Applicant: Janet Rooney
Landowner: Janet Rooney
Subject Property: Snagwood Road
Assessor's Property: Plat 13 Lot 0040
Zoning District: Agricultural Residential
Requesting: 15' dimensional variance from the required 300' of frontage needed to build; under Article IV, Section 13

Application was read into the record by acting secretary Heidi Colwell. All required notices were sent out by certified mail. Noticed Ms. Rooney's signature was not notarized on the application and therefore it was necessary for Ms. Rooney's signature to be notarized before the hearing could continue.

Ms. Rooney represented herself before the board. Ms. Rooney said that when she purchased the land she was told the land was buildable by the prior owner. Chairman had an issue with the substandard lot – was subdivided in 1969 after the zoning ordinance went into effect. Chairman said the lot was not a substandard lot of record as it was subdivided after the zoning ordinance went into effect – and therefore the board cannot consider this a buildable lot at this time. The zoning board cannot even consider her application at this time.

There was discussion between the zoning board and the town solicitor regarding this particular subdivision of this lot – both this lot and the abutting lot are vacant – Ms. Rooney owns one lot and her husband, Mr. Rooney owns the other lot. There was some question whether the Rooneys knew of the problem of the substandard lots as they each own one separate lot. Chairman said Mr. and

Mrs. Rooney could create one large house lot; however Mrs. Rooney stated they were in the process of a divorce so that it most likely not to happen.

Recommendation made by the zoning board and the town solicitor that Mrs. Rooney should withdraw her application to allow her to do more research into other options etc. Mrs. Rooney told the board to make its decision and she will take it from there. She was advised to consult with an attorney before proceeding further with this application; if she does decide to move forward with this application tonight the zoning board would have no choice under the ordinances of the town but to make a decision that could adversely affect her legal options, and therefore she was advised to consult an attorney. Mrs. Rooney then made the request that she be allowed to withdraw her application tonight.

William Gibb made the motion to allow the applicant, Janet Rooney to withdraw her application without prejudice, #09-07, for a dimensional variance as the subject land is not a certifiable substandard lot of record. Joe Walsh seconded the motion

Members voting to approve: Tom Beargeon, Joe Walsh, William Gibb, Carl Saccoccio, Heidi Colwell.

Members voting to deny: None.

The Motions passes: 5 to 0

Continued Hearing – Application #09-09 – Application Withdrawn by Applicant

Applicant: Tri-Town Rod & Gun Club

Subject Property: Isthmus Road

Assessor's Info: Plat 06 Lot 0027

Requesting: An enlargement of a pre-existing non-conforming use under Article V, Section 12.

At the beginning of the meeting, the Chairman Carl Saccoccio announced that the Tri-Town Rod & Gun Club had withdrawn their application before the meeting tonight, and therefore no hearing regarding this particular application will take place.

Continued Hearing - Application #09-10

Applicant: LRF Realty, LLC (represented by Eli Berkowitz)
Landowner: LRF Realty, LLC (a/k/a Little Rhody Egg Farm)
Subject Property: 69 Cucumber Hill Road
Assessor's Info.: Plat 04 Lot 0054-A
Requesting: Requesting a 41' (forty-one foot) dimensional variance from the north property line for the construction of a building to compost poultry manure; under Article IV, Section 13(a)

Application: The application was read into the record by Heidi Colwell acting secretary. Mr. Eli Berkowitz presented the application to the board. Stated the farm is constructing this building for use as a compost building for chicken manure, years go on, technology changes this is the "greener way" to handle compost; RI DEM and NRCS are behind this project. Project deals with compost, storage, and protect what is there.

Interested Parties:
Mr. Ken Ayars, Chief Agricultural Division of RI DEM, to talk about composting in general, his office works with farmers in general with regard to waste composting, trying to keep farmers up to date on proper ways, and trying to keep things out of the landfill, and reducing problems with neighbors. Many farmers in the state are moving towards composting plants for their farms. This is an NRCS project that can effectively handle the waste and reduce the issues with the neighbors. Though RI DEM does not necessarily have to approve this project it is the type of project they try to promote.

Questions: Ken Knight, he is all for composting operations, they are great neighbors and they employ a lot of people. His concern is why can't the building be put behind the other building? What is the reasoning for putting it on the site so close to the road? He is not an abutter; he is far down the road (approximately 2500 feet down the road).

No one else spoke in favor; no one else spoke in opposition.

Board Questions: They do have some questions. They received copies of the plan from the building zoning official, and some photographs that the building zoning official has taken. Mr. Berkowitz approached the board to answer their questions, regarding existing conditions of the buildings and site itself.

Carl questions set back from property line, stone wall, there is a 100 foot set back from the set back for the side yard – therefore the reasoning for the request for the 41 foot variance. (Note: 50 foot side yard set back is for a residential use – this is a farm use therefore it is a 100 foot set back / buffer. Mr. Berkowitz approached the table to have his application corrected and initialed.

Mr. Berkowitz explained the reasoning for the location and the design of the building – that it will be all self-contained. There was some question regarding the possibility of an objectionable smell; there should be very little difference between how it will be and how it is right now. A natural enzyme will be sprayed on the manure that will handle the aroma of the manure / compost.

No abutters came to the hearing.

Planner mentioned the plans were created by NRCS engineers, and therefore NRCS would take the whole site into consideration as to the best area, etc. Town Solicitor asked some questions regarding the project and felt the design was the current state of the art design.

Board Discussion: No questions from the board.

William Gibb made a motion to approve the application #09-10 by LRF Realty, LLC, Eli Berkowitz, for plat 04. lot 0054-A, for a 41 foot dimensional variance from the north property line for the construction of a building to compost poultry manure, under Article IV, Section 13(a), with construction conforming to the plans before the board as prepared by NRCS.

1) The board finds that it has jurisdiction to hear and consider this matter under Article VII, Sections 1 and 2 – Issuance of Variances and Special Use Permits under the zoning ordinance for the Town of Foster, RI.

2) That the hardship from which the applicant seeks relief is due to the unique characteristics of the subject land and not to the general characteristics of the surrounding area; and is not due to a physical or economic disability of the applicant.

3) That the hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain but rather to be more environmentally conscious in a more efficient manure disposal (removal) system.

4) 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.

5) That the relief to be granted is the least relief necessary.

6) That the hardship that will be suffered by the owner of the subject property if the dimensional variance is not granted shall amount to more than a mere inconvenience.

Joe Walsh seconded the motion.

Members voting in favor: Tom Beargeon, Joe Walsh, Bill Gibb, Carl Saccoccio, Heidi Colwell.
Members voting against: None.

Motion passes: 5 to 0

(2) New Applications: None
None

G. Zoning Board of Appeals will convene to hear the following appeals
None

H. New Business
None

I. Future Agenda Items
None

J. Adjournment
Bill Gibb motioned to adjourn seconded by Joe Walsh.

Respectfully Submitted:

_____ _____

Heidi Colwell, Acting Secretary **Date**