



**PLANNING BOARD MINUTES**  
**TOWN OF FOSTER**  
**Benjamin Eddy Building, 6 South Killingly Road**  
**Foster, RI 02825**  
**Wednesday, December 6, 2017**

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**A. Call to Order**

Mr. Carey called the meeting to order at 7:05 p.m.

**B. Roll Call**

Board Members Present: Joseph Carey (Chair), Michael Carpenter, Sergio Spaziano, Jeff Sheldon, Helen Hardy, and Ronald Cervasio

Board Members Excused: Richard Sparks

Staff Present: Cheryl Maynard (Planner) and Joanna Achille (Assistant Solicitor)

Public Present: Town Council Members: Denise DiFranco, Gordon Rogers, Mike Dillon, and Chris Stone

Applicant Present: Michael Paolucci

**C. Approval of Minutes**

1) November 15, 2017

Mr. Spaziano moved, Mr. Carpenter seconded, to approve the minutes of November 15, 2017.

Motion approved 6 – 0.

**D. Correspondence**

None.

**E. Board Members' Reports**

1) Land Trust

Mr. Carpenter deferred to the next meeting.

2) Conservation Commission

None.

**F. Major Land Development**

***Approval of Final Decision***

- 1) Combined Preliminary and Final Approval of applicant Danielson Pike Solar, LLC and owner Northwest Community Health Care to construct a 950kW DC (720kW AC) ground-mounted solar installation encompassing approximately 2.58 acres separated into two arrays, and related access drives and gates, vegetated buffer, soil erosion and sedimentation control measures, storm water/drainage best management practices, and electric service extension and structures; located on Danielson Pike by Poles 191-195 and at the intersection with Shippee Schoolhouse Road on 7.088 acres, being Plat 10 Lot 20 in a General Business Mixed Use GBM district.

Mr. Carpenter moved, Mr. Sheldon seconded, to approve the Major Land Development combined Preliminary and Final Plan for Danielson Pike Solar, LLC as written.

Motion approved 6 – 0.

**G. Zoning**

1) Advisory Opinion for Special Use Permit and Commercial Site Plan Review

Request for a special use permit to construct an office/residence in General Business Mixed Use District (GBM) from owner/applicant Michael and Judy Paolucci for property located at 0 Danielson Pike, being Plat 14 Lot 3A, on approximately 2 acres. An advisory opinion and recommendation from the Planning Board is requested by the Zoning Board, and a commercial site plan review is required by the Planning Board in accordance with *Article IX Site Plan Review, Section 8* of the *Zoning Ordinance*.

Discussion: Mr. Michael Paolucci, applicant, presented building/architectural plans. Mr. Carey reviewed the plans, first floor for business use, upstairs for residence. Mr. Cervasio expressed concerns about ventilation, and reminded the applicant that his zone was changed from Agricultural/Residential to General Business Mixed Use, but no approvals were made regarding building a house on the lot. Questions arose concerning if this was a house with a home office, or a business with an accessory residential use. Mr. Paolucci indicated he was told his best option for approval of a structure on the lot was to construct an office with a residence attached. Ms. DiFranco made it clear that the Town Council in

approving the zone change did not provide any guidance to Mr. Paolucci regarding his application for a special use permit. Mr. Carey said it was important to adhere to the ordinances in making a decision.

The Board discussed the entrances to the structure and that they appear to highlight the residence as the primary use and the business as the accessory use. Mr. Carey was concerned about appropriate access to the office. Mr. Sheldon noted that the structure will be required to meet building codes per the Town's inspectors, and the only objection was from the neighbor.

The Board inquired if it is illegal to build a house in GBM. Ms. Achille said it is permitted with a special use permit, but 4.59 acres are required. Mr. Carey said that the special use permit application is for an office with a residence as the accessory use to the business. This looks to be the opposite. He asked Ms. Maynard for an opinion regarding the plans.

Ms. Maynard stated that Mr. Paolucci intention is to create a structure that combines commercial use with a residence making the least impact on the surrounding area. The neighbor has raised concerns about the structure fitting into the neighborhood. The residence conforms with required setbacks and buffers. The foundation has been dug but is not presently in conformance; however the site plan rectifies this error. Correction of the foundation hole would have to be addressed and be a condition of any recommendations or approval.

Ms. Hardy commented that Mr. Carpenter, Ms. Achille, Mr. Spaziano, and Mr. Cervasio have indicated that they do not have a problem with what Mr. Paolucci is trying to do, however, the structure looks more like a residence and that that is the primary use, so there needs to be something done to the structure that makes it clear that the primary use is the office. The scale of the residence does not indicate that it is a secondary use. Mr. Spaziano stated that there's no ordinance regarding what it looks like. Mr. Cervasio stated the applicant can put up a sign to make it clear it is a business. Mr. Cervasio indicated his interest in putting up a berm along Danielson Pike (Route 6) to screen the building. He also requested that the building inspector look at the plans, and add a stairwell so one of the windows becomes a stairwell. Mr. Spaziano stated that from the appearance, the residence is not subordinate to the business use as the ordinance requires. He suggests that it be reconfigured.

The Board discussed their opinion that the plan as presented did not reflect the residence as an accessory use. The Board engaged in a lengthy discussion relative to what an accessory use was. Mr. Spaziano pointed out that the Zoning Ordinance indicates that it must be a subordinate use. The Board then discussed at length the meaning of a subordinate use; queried whether there was a required delineation of square footage for a subordinate use. Ultimately, the Board did not make a determination with respect to a specific required square footage. The Board also discussed the requirement that the structure look like a business verses a residence. The Board discussed at length the benefits and drawbacks of the outside appearance, but ultimately did not agree as to a final preference. The Board also discussed an abutter's preference for a residential looking building instead of a commercial looking building. The Board did request that the applicant return with a plan that indicated the residential use subordinate to the office use.

Ms. Achille re-stated that the residence needs to be a subordinate use. Mr. Carey asked what the Board thought would be the best course of action for this applicant. Ms. Hardy suggested polling the board to see if the majority wants the plans to be reworked so that the primary use is business and accessory use is the residence.

Ms. Hardy polled the Board on the above question:

Jeff Sheldon, nay; Mike Carpenter, aye; Helen Hardy, aye; Sergio Spaziano, aye; Joe Carey, aye; Ron Cervasio, abstained.

Motion approved 4 – 1 – 1, with one abstention.

Mr. Paolucci asked for recommendations on what to do with his plans. Mr. Carey restated the need to adhere to requirements in the Zoning Ordinance.

Ms. Hardy moved to adjourn. Motion passed 6 – 0. Meeting adjourned at 8:18 p.m.

Respectfully submitted,

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Helen Hardy, Secretary