

Planning Board Special Meeting Minutes

Town of Foster

Benjamin Eddy Bldg., 6 South Killingly Road

Thursday, December 7, 2023 -- 7:00 PM

A. Call to Order

Anthony Renzi called the meeting to order at 7:02 PM.

B. Roll Call

Planning Board Members: Mike Carpenter; Susan Joyce; David Paolissi Anthony Renzi; Secretary, Hilary Downes Fortune.

Excused: Warren Ducharme; Bill Gibb

Staff present: Grant McGregor, Planner; Julia Chretien, Solicitor

Public present: (approximately. 40 people)

C. Approval of Minutes

Mr. McGregor noted that the November 1, 2023 minutes were approved at a previous meeting. Approval of the November 15, 2023 minutes was tabled to the next meeting.

D. Applications:

D1: Minor Subdivision—Preliminary Plan Review

Applicant: Borders Farm Preservation Inc.

Owner: BORDERS FARM PRESERVATION INC.

Applicant proposes to subdivide an existing lot with two houses pursuant to Sec. 38-229 at 69-69A Central Pike, Plat 12 Lot 30. Property is zoned A/R (Agricultural/Residential)

Susan Joyce recused herself.

Mr. Renzi asked the engineer if they had made the changes we requested. Mr. McGregor said that Mr. Ducharme informed him the existing structures are not subject to setbacks. The engineer stated that they moved the property line so it is 50 feet from the new well.

Eileen Cook (77 Central Pike) asked what frontage is required for two lots. Mr. McGregor replied that under Section 38-229, if there are two existing houses that pre-date 1967 they can be subdivided into two separate lots, and no public notice of abutters is required. He said it is not a Minor Subdivision under Sec. 32-296, we are reducing the nonconformity.

Mr. Renzi asked for a motion for the Administrative Officer to approve the Preliminary Plan Review. Mr. Carpenter made the motion; Mr. Paolissi seconded. No discussion. Motion passed 4-0.

D2: Minor Subdivision—Preliminary Plan Review

Applicant: Bergantino, Scott

Owner: Bergantino, Scott

Applicant proposes to subdivide an existing lot resulting in the creation of one new lot. A single-family residence, well and septic are proposed on the new lot.

Julia Raimondi and Angelo Raimondi of Scituate Surveys represented Scott Bergantino. Ms. Raimondi explained that they have replaced the existing cesspool and have an approved septic design for the second lot. They are proposing to subdivide the 18.5 acres into two lots, both of which meet the minimum area requirement. Lot 1, the new lot, has 301 feet of frontage and 10.55 acres.

Mr. McGregor said the minimum lot width in A/R zone is 300 feet, and neither has this. He also said the corner lot, Lot 2, would need 300 feet on both roads. Mr. Raimondi replied that the 300-foot width is met at the setback. He said the lot was substandard before subdivision, so they are not creating a substandard lot.

Mr. McGregor stated that we'll need an application for a dimensional variance on the corner lot and we need actual dimensions because the chart doesn't match the plan. They will need to submit a revised plan. Mr. Renzi and Ms. Chretien said we should continue this item to the next meeting.

Old Business:

E. Future Land Use Plans

- *Discussion of plans for the Nike site (located at the end of Theodore Foster Road), Woody Lowden Recreation Center (Plat 2 Lot 62), LMI Housing, and development options for Plat 20 Lot 9.*

Mr. Renzi stated that he thought most people were here at the meeting due to misinformation being spread on Facebook. He noted that there is a housing shortage in Rhode Island, and particularly a shortage of Low/Middle Income (LMI) housing.

Mr. McGregor explained that the goal of meeting 10% LMI is difficult, and it's already difficult to meet the income requirements. He said the majority of people on the waiting list (>100) for Hemlock Village are fixed/limited income, and in Foster we generally don't see Very Low Income people due to the lack of public transportation. He said a developer would need significant grant funding to make this type of development feasible.

Mr. Renzi said this meeting is for discussing 17 town-owned properties as potential sites for development; he cited some of the language (on the Facebook posts) about "those people." He said if we were to discuss Woody Lowden, it would be about the ballfield, since we have a new one in town; we are not discussing the building. He noted that we have the ability to control the development. Mr. McGregor added that Rhode Island has hit the limit on federal Section 8 Housing, and in any case we wouldn't see that in Foster due to the lack of related services.

Erica Dubis, 199 Plainfield Pike, stated that she had a problem with the tower developer at Woody Lowden trespassing on her property, 300 feet into her field. Mr. Renzi responded that no one has come to the Planning Board about a tower at Woody Lowden, and Denise DeFranco added that they did not have permission to access abutting properties. Mr. McGregor asked where did the initiative for a tower come from if not via the Planning Board and was told it was through RIEMA. Ms. Dubis asked wouldn't a tower interfere with other development plans?

Jack Charette, 195 Plainfield Pike, requested that we have more of a conversation so the town is informed and not suspicious of boards and town government. Mr. McGregor replied that residents should come to meetings. He said the consultant is presenting to the board in January and explained that this is the first time we have discussed this topic, so it will take years. Mr. Charette stated that development belongs on Route 6 where there is public transportation. Mr. Renzi replied that LMI Housing would require public transportation, which is why we're talking about elderly housing.

Sarah Mossman, 13A Howard Hill Road, said that her property abuts Woody Lowden, and noted that we can't discriminate LMI by age. Mr. McGregor replied that seniors are the largest demographic of LI/Fixed Income in Foster. Ms. Mossman also said that Woody Lowden is used constantly, and Mr. McGregor noted again that these properties are only on the agenda because they are the largest town-owned properties.

Joseph Principe, 178 Howard Hill Road, asked how did this tower get approved? Mr. McGregor replied that the state has the power to override the town and asked if the town had accepted money from Rhode Map. Ms. DiFranco replied that the town did not accept the funding due to the strings attached. Mr. McGregor noted that the state can't come in and impose their will, but we want to get out ahead of things.

Jim Connell, current Scout Master in Foster, asked is it safe to say that nothing will happen to Woody Lowden for at least a year? He also asked what is the current percentage of LMI Housing in Foster (2%) and noted that his brother is an administrator in Tiverton, which has 6% LMI Housing, and that Little Compton is below 2% LMI Housing. Mr. McGregor said only five towns in Rhode Island meet the 10% goal; four are urban and the fifth is Exeter.

Robert Sarmok, 80 Howard Hill Road, said that if we have 60 units in town and need 140, how many do we need to build to keep the state off our back? Mr. McGregor stated that 6 would be a start, and said if the town works with a developer we can control it and make sure it meets our Comprehensive Plan. He also noted that of the 17 Town-owned properties, some are too small to consider (for this purpose).

Liam Dorman, 201 Plainfield Pike, asked how many units would fit on these lots: Woody Lowden (12 acres), Nike Site (6 acres), and Lot 9 (12-13 acres)? Mr. McGregor noted that Hemlock Village has 30 units on 25 acres. Mr. Gorman asked if there is room to expand, and Mr. McGregor replied that the wetlands and well are limiting factors there.

Mr. Carpenter stated that the other problem on LMI Housing is the mortgage restriction.

Mr. Dorman noted that adding 30 units on a parcel would affect adjacent property values, and asked if the town would provide tax subsidies or incentives for LMI development. Mr. McGregor replied that they'd have to. Mr. Dorman then asked if lower property values on adjacent properties result in reduced tax income to the town. Mr. Renzi stated, again, we need to control the narrative. Mr. Dorman asked what happens if we don't make the 10% or show progress towards it? Mr. McGregor replied that if we deny an application and it gets appealed we have less of a leg to stand on. Mr. Dorman asked if the state can take land by eminent domain and Mr. Carpenter said yes. Mr. McGregor stated that the primary goal is to meet the need of people in town in need of LMI housing, and said we could maybe give people already living in town priority.

F. Public Hearing – Subdivision Regulations:

Ms. Chretien explained that as a public hearing we need to explain each amendment and then we can pass all that are mandated by RIGL; item #12-14 are not so we should hold off on those. Mr. Renzi read aloud the advertisement that was posted for the hearing. Mr. McGregor then read aloud and briefly explained the amendments in Items #1-11.

1. Sec. 32-3 – Effective Date

- Recommendation to state that regulations have been brought into effect with RIGL 45-23 as amended on January 1, 2024.

2. Sec. 32-4 - Vested rights; continuation of prior regulations

- Recommendation to include citations to amendments in vested rights for major land developments and for development plan review.

3. Sec. 32-161 – Minor land development and minor subdivision

- Recommendation to amend minor land development and subdivision regulations pursuant to RIGL 45-23-38 as amended.

4. Sec. 32-181 – Pre-application meetings and concept review; general procedure
 - Recommendation to include citations from RIGL 45-23-35(b) regarding preapplication meetings.
5. Sec. 32-182 – Preapplication meeting with planning board
 - Recommendation to include optional informal concept review with the planning board or technical review committee if requested by the applicant pursuant to RIGL 45-23-35(b).
6. Sec. 32-183 – Master plan submission requirements
 - Recommendation to amend master plan submission requirements for major subdivisions pursuant to RIGL45-23-39 as amended.
7. Sec. 32-184 – Preliminary plan submission requirements
 - Recommendation to amend preliminary plan submission requirements for major subdivisions pursuant to RIGL45-23-39 as amended.
8. Sec. 32-185 – Public hearing and notice requirements
 - Recommendation to amend public hearing and notice requirements for major subdivisions pursuant to RIGL 45-23-39 and 45-23-42 as amended.
9. Sec. 32-186 – Final plan; submission requirements
 - Recommendation to amend final plan submission requirements for major subdivisions pursuant to RIGL45-23-39 as amended.
10. Sec. 32-333 – Public hearing notification requirements; mail
 - Recommendation to eliminate the requirement to send notice of amendment of this chapter to the division of statewide planning because it is not a requirement under RIGL
11. Sec. 32-48 – Recording of plats and plans
 - Recommendation to eliminate the “zoning board of review” from association with special-use permits and variances. The zoning board of review is still authorized to grant special-use permits and variances. The planning board is also authorized to do so under RIGL 45-24-46.4.

Mr. Renzi asked three times if there were any members of the public who are for or against the above amendments; there were not. He then closed the public hearing and asked for as motion to approve the amendments.

Ms. Joyce made a motion to approve Items 1-11, amendments to Sec. 32-3, 32-4, 32-161, 32-181, 32-182, 32-183, 32-184, 32-185, 32-186, 32-333, and 32-48; Ms. Downes Fortune seconded. Motion passed 5-0.

Items 12-14 will be held to a future date.

12. Sec. 32-222 – Road; road design standards
 - Recommendation to restrict future road construction to private roads. Recommendation to eliminate dead end roads being limited to 1,200 feet in length.
13. Sec. 32-297 – Minor subdivisions involving road creation or extension
 - Recommendation to reduce number of lots created in a minor subdivision from five (5) to nine (9) and for future road construction to be limited to private roads.

14. Sec. 32-299 – Major subdivision involving road creation or extension

- Recommendation to increase number of lots created in a major subdivision from six (6) or more to ten (10) or more and for future road construction to be limited to private roads.

G. New Business – Ch. 12 Businesses

1. Sec. 12-48 – Requirement for issuance/renewal of all business licenses excepting home businesses

- Recommendation to require a dumpster for businesses.

Mr. Renzi stated that there are businesses in town who are putting their garbage out for regular town trash pickup.

Al Faella, 114A Danielson Pike (a consignment store), said that this will be detrimental to small businesses like his and the nearby Old Man Mercantile. He would like this ordinance to be based on the type of business. He also said he would like an ordinance against jake brakes on Route 6. Ms. Joyce noted that this would exclude home businesses and asked if there could be different levels based on the size of the business.

Mr. Renzi said we will table this item until we go through the Table of Business Uses.

H. New Business – Ch. 8 -- Animals

1. Sec. 8-216 – Classes

- Recommendation to remove Class A Kennel licenses. These licenses were formerly issued for racing dogs, which are no longer legal in Rhode Island.

Mr. Carpenter made a motion to approve this change; Mr. Paolissi seconded. No discussion. Motion passed 5-0.

Mr. Renzi said we will hold Items I, J, K, L and M until the next meeting.

I. Old Business -- Chapter 32 Subdivision Regulations

1. Sec. 32-222 Roads

- Discussion of road lengths and depths. All new roads will be recommended to be privately owned and maintained.

2. Sec. 32-297 Minor Subdivision involving road creation or extension

- Discussion of road lengths and depths. All new roads will be recommended to be privately owned and maintained. Applies to subdivisions involving road creation/extension and 9 or fewer lots.

3. Sec. 32-299 Major Subdivision involving road creation or extension

- Discussion of road lengths and depths. All new roads will be recommended to be privately owned and maintained. Applies to subdivisions involving road creation/extension and 10 or more lots.

J. New Business – Ch. 38 – Zoning

1. Sec. 38-3 Penalty for violation of chapter

- Recommendation to refer to the zoning official as the zoning enforcement officer. Recommendation to increase the fine for a zoning violation offense from \$100.00 to \$500.00.

2. Sec. 38-300 Development Standards for inpatient treatment facilities (Supplementary Regulations)

- Recommendation to add appropriate development standards for in-patient rehabilitation facilities, which differ from those of senior citizens group dwellings.

Old Business:

K. Ch. 38 Zoning

1. Sec. 38-286 – Off-street parking requirements
 - Discussion of amendment to add a licensing requirement.
2. Sec. 38-299 Septic system (OWTS) inspection
 - Recommendation to require proof of inspection to be presented to the building official upon recording of a new deed for development.

L. Article XII – Attachments: Ordinances for discussion:

1. AR-2 District
 - Discussion of a future amendment to create a residential zoning district requiring 200 feet of frontage and 150,000 square foot minimum lot sizes. Lot sizes meet the recommendations of the Scituate Reservoir Watershed Management Plan (1990).
2. Farmland/Conservation Overlay District
 - Discussion of a future amendment to establish an area and policies for the currently reserved Farmland/Conservation overlay district. Preliminary concepts for area include the Scituate Reservoir Watershed. Preliminary concepts for permitted uses within the overlay include allowing home occupations and commercial uses on Route 6 and Route 101 only in terms of commercial uses. Agricultural/Residential uses to be permitted with DEM approval and septic system testing ordinance to be required.

M. Recurring Business:

1. Municipal Resiliency Program (MRP) Application Strategy
 - Update on MRP application.
2. TBA/HMP
 - Update on Targeted Brownfield Assessment Program, deliverables and next steps.
Update on Hazard Mitigation Plan.

Adjournment

Mr. Renzi asked for a motion to adjourn. Mr. Paolissi made a motion to adjourn. Motion passed 5-0. Meeting adjourned at 9:33 PM.

Respectfully submitted,

Hilary Downes Fortune, Secretary