

Planning Board Meeting Minutes

Town of Foster

Benjamin Eddy Bldg., 6 South Killingly Road

Wednesday, January 17, 2024

A. Call to Order

Anthony Renzi called the meeting to order at 7:07 PM.

B. Roll Call

Planning Board Members: Bill Gibb; David Paolissi; Anthony Renzi; Secretary, Hilary Downes Fortune.

Excused: Mike Carpenter; Warren Ducharme; Susan Joyce

Staff present: Grant McGregor, Planner; Joanna Achille, Solicitor (remotely)

Public present: Lynne Rider; Stephen Izzi

C. Approval of Minutes

Mr. Renzi asked for a motion to approve the December 7, 2023 and January 3, 2024 minutes.

Mr. Gibb made the motion; Ms. Downes-Fortune seconded. No discussion. Motion passed 4-0.

D. Waiver Request – 45-23-50(b) – 180 Hartford Pike

- Request to waive requirements for development plan approval where there is a change in use or occupancy and no extensive construction of improvements is sought. Applicant does not propose doing any alterations of the existing building or mechanical systems.

Attorney Stephen Izzi, representing applicant Rhonda Cucino, explained that the property at 180A Hartford Pike was previously a social club, liquor store, lumberyard office, etc.

Mr. Renzi asked if the proposed cigar store will be retail only or will it include a lounge; Mr. Izzi replied that there are no plans for tables, etc. Mr. Renzi then asked about exterior lighting and asked Mr. Izzi to pass on the Ms. Cucino that any new lighting would need to comply with the new lighting standards.

Mr. Gibb stated that they will need a building permit for any exterior or interior modifications. Mr. Renzi asked if this constitutes a change of use, to which Mr. McGregor replied that because no significant change to the use is proposed they could get this waiver.

Mr. Gibb asked if the business will be licensed, and Mr. Izzi replied that he is working with Mr. McGregor on all this. Mr. Renzi said that as long as they get permits and meet current ordinances it should be fine. He then asked if they could add some screening to the adjoining Turnquist Lumber property; Mr. Izzi replied that is coming but it is not part of this project.

Mr. Renzi asked if there were any members of the public who wanted to speak for or against the waiver request. Ms. Rider asked if they will be getting a business license and asked to confirm that they will not touch the cemetery on the property; Mr. Izzi said Yes to both.

Mr. Gibb made a motion to grant a Waiver of Development Plan Review for the retail building portion only of 180A Hartford Pike; Mr. Paolissi seconded. No discussion. Motion passed 4-0.

New Business:

E. Public Hearing – Subdivision Regulations

Mr. McGregor explained that these are the same recommendations as those presented in the last meeting, but we have to hear them twice. He noted that all are changes to meet RIGL except for Items 7 and 18. Mr. Renzi said we can then approve #1-20 in bulk, except for #7 and 18.

1. Sec. 32-2 – Purpose of Chapter

- Recommendation to amend the purposes of land development and subdivision regulations to come into compliance with RIGL 45-23-30 as amended.

2. Sec. 32-5 – Definitions

- Recommendation to amend the definitions section to come into compliance with RIGL 45-23-32 as amended.

3. Sec. 32-42 – Planning board of appeals

- Recommendation to specify that appeals of the Planning Board now go to Superior Court and appeals of the administrative officer go to the local Board of Appeals (Zoning Board of Review) pursuant to RIGL 45-23-67 and 45-23-71 as amended.

4. Sec. 32-43 – Administrative fees

- Recommendation to bring the application fees for land development/subdivision regulations up to date with the current application fees as listed on respective application forms.

5. Sec. 32-46 – Procedure for approvals between planning board and other local permitting authorities

- Recommendation to remove the current text and replace it with the procedure for Unified Development Review pursuant to RIGL 45-23-50.1 and 45-24-46.4. Unified Development Review is applicable when an applicant requests relief from the zoning ordinance and applies for a land development/subdivision.

6. Sec. 32-47 – Waivers and modifications

- Recommendation to remove the ability of the Planning Board to waive development plan approval pursuant to RIGL 45-23-62 as amended.

7. Sec. 32-49 Technical Review Committee

- Recommendation to establish a Technical Review Committee pursuant to RIGL 45-23-56.

8. Sec. 32-50 Public Notice requirements

- Recommendation to specify public notice requirements for all public hearings pursuant to several sections of RIGL including 45-24-41, 45-23-42, 45-23-53, and 45-24-53.

9. Sec. 32-71 – Procedure

- Recommendation to specify that appeals of decisions of the administrative officer are appealed to the local Board of Appeals (Zoning Board of Review) except for decisions under RIGL 45-23-38 or 45-23-50, which are appealed to Superior Court pursuant to RIGL 45-23-67 as amended.

10. Sec. 32-72 – Public hearing

- Recommendation to amend the procedure for public hearing of an appeal of the administrative officer to the local Board of Appeals (Zoning Board of Review) pursuant to RIGL 45-23-67 as amended.

11. Sec. 32-73 – Standards for review

- Recommendation to specify that only appeals of the administrative officer on land development/subdivision matters and to add standards regarding recordkeeping of the local Board of Appeals (Zoning Board of Review) pursuant to 45-23-67 as amended.

12. Sec. 32-74 – Appeals to the superior court

- Recommendation to add a section describing the procedure for appeals to the Superior Court pursuant to RIGL 45-23-71 as amended

13. Sec. 32-75 – Enactment of or amendment of local regulations

- Recommendation to add a section describing the procedure for enactment or amendment of local regulations pursuant to RIGL 45-23-72.

14. Sec. 32-106 – Standards applicable to all land developments and subdivisions

- Recommendation to add a statement regarding findings of fact to the standards applicable to all land developments and subdivisions pursuant to RIGL 45-23-60.

15. Sec. 32-107 – Certification of completeness

- Recommendation to add specifications regarding certifications of completeness being in writing and classification of application types pursuant to RIGL 45-23-36 as amended.

16. Sec. 32-108 – Preapplication meetings and concept review

- Recommendation to clarify that pre-application meetings are only required for major land development/subdivision applications but may be held for minor or administrative projects at the request of the Town or the Applicant.

17. Sec. 32-146 – Generally

- Recommendation to add provisions regarding administrative subdivisions which get referred to the planning board, which are denied, and timelines for recording of approved administrative subdivisions pursuant to RIGL 45-23-37

18. Sec. 32-224 – Lots

- Recommendation to allow subdivisions to create lots which front two parallel roads.

19. Sec. 32-296 – Minor subdivision involving no road creation or extension

- Recommendation to amend the special provisions regarding minor subdivisions including increasing the number of lots which may be created under a minor subdivision application pursuant to RIGL 45-23-32 as amended

20. Sec. 32-298 – Major subdivision involving no road creation or extension

- Recommendation to add special provisions for major subdivisions not involving road creation or extension

Ms. Rider said she had a question regarding #2, Sec. 32-5 Definitions. Specifically, she asked why the definitions changed the word “road” to “street” throughout. Discussion ensued regarding the difference between the meanings of the two words as they pertain to Foster. McGregor said that state law uses the word “street” but said we could revert to the original “road”.

Mr. Gibb made a motion to Items 1, 3, 4, 5, 6, 8, 9, 10-17, 19 and 20 as presented; Mr. Paolissi seconded. No discussion. Motion passed 4-0.

Mr. Gibb made a motion to approve Item 2, Sec. 32-5 Definitions, with the condition that it be amended to retain “road”, not “street.” Mr. Paolissi seconded. No discussion. Motion passed 4-0.

Mr. Gibb then stated that in regard to #7, we agreed that the Technical Review Committee would be the Planning Board, with meetings called by the chairman (the Planner) as needed. Mr.

McGregor said that Ms. Achille told him we need terms listed, so he used language from the Planning Board terms. Mr. Gibb noted that the Planner/Chair could call in experts from town committees as needed.

Mr. Gibb made a motion to approve Item 7, Sec. 32-49 Technical Review Committee, as discussed; Mr. Paolissi seconded. No discussion. Motion passed 4-0.

Mr. Gibb made a motion to approve Item 18, Sec. 32-224 Lots; Mr. Paolissi seconded. Motion passed 4-0.

New Business:

F. Ch. 32 Subdivision Regulations

1. Sec. 32-225 - Regulation of access; filing of request

- Pursuant to RIGL 45-22-7 and RIGL 24-8-34(b), it shall be required for any person who will be required to file a request for access, also known as a Physical Alteration Permit (PAP) pursuant to RIGL 24-8-34 to file that request not later than the day on which that person files any document in connection with the project in question with the town, and to provide a copy of the request to the town.

Mr. McGregor explained that per RIGL an applicant that needs a PAP would have to go to RI DOT first to get the PAP before they file anything with the town, and the applicant would need to file all documents with the town on the same day. He then noted that the remaining items in this section, #2-18, all pertain to Low/Middle Income (LMI) housing.

2. Sec. 32-301 - In General

- Recommendation to specify that Article X of Chapter 32, in addition to providing an applicant with the procedure to submit a Comprehensive Permit application, describes allowance of density bonuses including those relating to water availability and OWTS permits from DEM, parking, bedrooms, and floor area pursuant to RIGL 45-53-4 as amended.

3. Sec. 32-302 – Submission requirements – Preliminary plan review

- Recommendation to amend the submission requirements for preliminary plan review pursuant to RIGL 45-53-4 as amended.

4. Sec. 32-303 – Certification of completeness – Preliminary plan review

- Recommendation to amend the procedure for a certification of completeness at the preliminary plan stage pursuant to RIGL 45-53-4 as amended.

5. Sec. 32-304 – Pre-application conference for preliminary and final plan

- Recommendation to amend the requirements for a pre-application conference for both the preliminary and final plan stages pursuant to RIGL 45-53-4 as amended.

6. Sec. 32-305 Review of applications – Preliminary plan

- Recommendation to amend the procedure for review of applications at the preliminary plan stage pursuant to RIGL 45-53-4 as amended.

7. Sec. 32-306 – Powers of the board and/or administrative officer

- Recommendation to authorize the Administrative Officer to review Final Plan applications under a Comprehensive Permit application pursuant to RIGL 45-53-4 as amended.

8. Sec. 32-307 – Submission requirements – Final plan review

- Recommendation to add updated submission requirements for Final plans of Comprehensive Permit applications pursuant to RIGL 45-53-4 as amended.

9. Sec. 32-308 – Certification of completeness – Final plan review

- Recommendation to add procedures for certification of completeness at the Final Plan stage pursuant to RIGL 45-53-4 as amended.

10. Sec. 32-309 – Review of applications – Final plan

- Recommendation to amend the procedure for review of applications at the final plan stage pursuant to RIGL 45-53-4 as amended.

11. Sec. 32-310 – Infeasibility of conditions of approval

- Recommendation to add a procedure for the applicant to prove infeasibility of conditions of approval pursuant to RIGL 45-53-4 as amended.

12. Sec. 32-311 – Fees

- Recommendation to specify that the fees for a comprehensive permit application are the same as those required for a minor land development project or a major land development project depending on if the number of units proposed is less than 10 or equal to/greater than 10 pursuant to RIGL 45-53-4 as amended.

13. Sec. 32-312 – Recording of written decisions

- Recommendation to specify a procedure and timeline for recording of written decisions pursuant to RIGL 45-53-4 as amended.

14. Sec. 32-313 – Majority vote required

- Recommendation to specify that a majority vote is required to approve a preliminary plan for a comprehensive permit pursuant to RIGL 45-53-4 as amended.

15. Sec. 32-314 – Construction timetable

- Recommendation to add a construction timetable pursuant to RIGL 45-53-4 as amended.

16. Sec. 32-315 – Remanded applications

- Recommendation to add a procedure and timeframe for hearing remanded applications pursuant to RIGL 45-53-4 as amended.

17. Sec. 32-316 – Density bonuses

- Recommendation to add the minimum density bonuses as required by RIGL 45-53-4 as amended.

18. Sec. 32-317 – Definitions

- Recommendation to add definitions relating to comprehensive permit applications and LMI housing pursuant to RIGL 45-53-3 as amended.

Mr. McGregor stated that for Item 15, Construction timetable, normally the maximum is 5 years. Mr. Gibb noted that there should be an allowance for mutually approved extensions. Ms. Achille said we could put a separate mechanism in place for extensions.

Mr. Gibb asked what the timeline is for #13, Sec. 32-312 – Recording of written decisions. Mr. McGregor stated that for LMI it is 20 days per RIGL.

For Item 17, Density Bonuses, Mr. McGregor explained that the density bonuses are per parking and bedrooms, and there should be a minimum of 1 parking space per unit. Discussion ensued regarding number of bedrooms and parking spaces per unit, but ultimately, we decided the RIGL wording is fine for this item.

Old Business:

G. Ch. 38 – Zoning

1. Sec. 38-286 – Off-street parking requirements

- Discussion of amendment to add a licensing requirement.

Mr. McGregor said this item still needs some work done in regard to Dark Sky lighting requirements.

H. Chapter 12 Business

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

- Recommendation to require a dumpster for businesses.

Mr. Gibb mentioned that there had been some talk about tying in the dumpster requirement to the number of parking spaces at a business. Mr. McGregor asked Ms. Achille if these businesses would be grandfathered and if so, how would the town require this. Ms. Achille said it could be tied into the business's annual license renewal.

There was also discussion regarding the town possibly requiring BCI checks for new business license applications, and the fact that the town's waste disposal contractor, Rambone, has been observed to pick up trash from non-residential properties. Mr. Gibb stated that Rambone should not be picking up commercial trash from town businesses and they need to be reminded of this.

New Business:

I. Chapter 34 Taxation

1. Ch. 34 - Article III – Tax Stabilization Incentive for Industrial, Commercial and Manufacturing Facilities

- Recommendation to add a tax incentive for new business located in the GB or HC2 zoning district. The preliminary concept involves a property owner paying the pre-improvement property tax in year one. Property taxes would build by annual increments of 20% until the full post-improvement rate is required to be paid.

Mr. McGregor stated that the tax stabilization incentive for new businesses pertains to property taxes. Mr. Gibb added that it should leave out the tangibles tax. Mr. McGregor explained that the business would pay the pre-improvement tax rate until they have the Certificate of Occupancy, then 20% of the post-completion value tax over the next 5 years. Mr. Renzi suggested this could be changed to 4 years at 25%. Mr. Gibb asked if it could also apply to capital improvements to existing businesses, maybe over two years instead.

Old Business:

J. Chapter 38: Article XII – Attachments: Ordinances for discussion:

Mr. McGregor said this item should be held until after the state legislature is done for the year.

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.

K. Recurring Business:

1. Municipal Resiliency Program (MRP) Application Strategy

- Update on MRP application.

Mr. McGregor said that Foster is now an MRP Community.

2. TBA/HMP

- Update on Targeted Brownfield Assessment Program, deliverables and next steps.
Update on Hazard Mitigation Plan.

Mr. McGregor said the Hazard Mitigation Plan is underway. He also said that once UCONN is back in session there will be students assigned to work on the TBA program for the town.

3. MTAP

- Update on LMI Housing Consultant presentation scheduled for Special Meeting on 1/24/24

Mr. McGregor noted that there will be a special planning board meeting on 1/24 where the consultant will make their presentation to the town.

L. Capital Budget

- Discussion of department heads' CIP project requests. Discussion with the Finance Director to ascertain total capital projects moneys and the Treasurer's thoughts.

Mr. McGregor said he only received one budget request for the Capital Budget, and the Treasurer is currently out of town, so this item will be held until the next meeting.

Adjournment

Mr. Renzi asked for a motion to adjourn. Mr. Gibb made a motion to adjourn. Motion passed 4-0. Meeting adjourned at 9:06 PM.

Respectfully submitted,

Hilary Downes Fortune, Secretary