



PLANNING BOARD MINUTES
TOWN OF FOSTER
Captain Isaac Paine Elementary- Cafeteria
160 Foster Center Road, Foster, RI
Wednesday: February 15, 2017
7:00 p.m.

A. Call to Order

Mr. Carey called the meeting to order at 7:03 p.m.

B. Roll Call

Board Members Present: Joseph Carey (Chair); Helen Hardy (Secretary); Michael Carpenter; Thomas Mercier; Sergio Spaziano; and Ronald Cervasio.

Board Members Excused: Richard Sparks (Vice-Chair).

Staff Present: Juliana King (Planner) and Joanna Achille, Esq. (Solicitor).

C. Approval of Minutes

Discussion/Action

- 1) June 15, 2016
- 2) January 18, 2017
- 3) February 1, 2017

Motion by Mr. Mercier to table the minutes of 6/15/2016 and 1/18/2017. Second by Mr. Carpenter.
Approved 6 – 0.

Motion by Mr. Mercier to approve the minutes of February 1, 2017. Second by Mr. Spaziano.
Approved 6 – 0.

D. Correspondence

Discussion/Action

There was none.

E. Board Members' Reports

Discussion/Action

- 1) Land Trust

No report was available at this time.

- 2) Conservation Commission

No report was available at this time.

H. Zoning – Opinion Requested

Discussion / Action

- 1) **CONTINUED FROM FEBRUARY 1, 2017**

Owner and Applicant Saint 23, LLC for property located at 9 Mt. Hygeia Road, being Plat 14 Lot 83 in an Agricultural/Residential AR district on 125.3 acres. A Special Use Permit is sought from the Town of Foster Zoning Ordinances Article IV: Zone Regulations: Description of Uses: Section 11 Industrial Use: Subsection 23 Gravel Banks. The Permit is needed to commence a temporary Gravel Bank excavation operation, limited to approvals by RIDEM including Insignificant Alteration to Freshwater Wetlands permit; Industrial Stormwater permit; and Stormwater Discharge for Construction Activity permit, based on a stormwater management report; operation & maintenance plan; soil erosion and sediment control plan; and site plans, including construction phases; on-site project operators; excavation and transportation schedules; construction vehicles' staging/refueling and gravel storage areas; haul road; soil erosion control measures/best management practices; perimeter forest buffer; and final grading/stabilizing/seeding/loaming, submitted with a dust control plan; noise evaluation; and traffic impact study, and anticipating post-extraction farming activity.

Mr. Carey summarized the meeting of February 1 and read the Rules for tonight's meeting out loud. Mr. Cervasio preferred that the public mention whether they are an abutter or interested party as they come to the podium.

Mr. Carey opened the public comment portion of the meeting.

Philip Sparks, of 48 East Killingly Road and an abutter, read a prepared statement, highlighting how the proposal will disrupt the "sense of place" for the area.

Richard Sparks, also of 48 East Killingly Road and an abutter, gave a statement as well, focusing on the air/water/rural quality threat of the plan and how it is inconsistent with the Comp Plan.

Mr. Carey reminded the audience that Mr. Sparks is a Planning Board member.

Stephen Hanlon, of 100 Danielson Pike and an abutter, was concerned because he said that the applicant made a mess of the Paine cemetery, was inconsiderate to neighbors, and there would be no benefit to the gravel bank.

Nick Gorham introduced himself as the attorney representing abutter Sparks.

Daniel Davey, of 3 Mt. Hygeia Road and an abutter, voiced his concerns as noise, dust, pollution, his well, and his property value.

Mr. Carey reminded the audience that the Board is only here to issue a non-binding opinion to the Zoning Board of Review.

Joe Nadiger, of 40 East Killingly Road and an abutter, explained that he lives closest to the gravel bank area, and already lost his well after trees on the subject property were cut right up to the property line.

Mr. Carey reminded the audience that RIDEM regulates logging, and not the Town.

Mr. Gorham acknowledged that the Planning Board's vote is advisory only, and was of the opinion that the Zoning Board must deny the Special Use Permit application if it is found that the proposal is not consistent with the Comp Plan. Mr. Gorham referenced the Comp Plan's goals & policies/economic development/consistency and how they don't match the proposed use. Mr. Gorham additionally believed that the application requires Commercial Site Review because rock crushing is beyond just a gravel bank use.

Susan Charlwood, of 58 East Killingly Road, noted that she is in the business of raising rabbits, and small animals are negatively impacted by land alteration- further noise and disruption will put her out of business.

Sally Freestone, of 48 Mt. Hygeia Road, brought up the dust management measures and related health concerns to humans and wildlife, as well as contaminants on land traveling to nearby waterbodies and noise/traffic nuisances.

Linda Roberts, of 14 Cole Avenue, was familiar with rock crushers and stated that they shake houses and sand gets inside.

Lori Cardillo, of 60 Old Danielson Pike, referenced the Land Development & Subdivision Regulations, thinking that the applicant shouldn't have been allowed to get this far.

Mr. Carey reminded the audience that the application is before the Board because the use is allowed by Special Use Permit in an AR zone per the Zoning Ordinance.

Julia Parmentier, of 13 Biscuit Hill Road and former member of the Planning Board/geologist and former environment consultant, was concerned over the water quality and availability, as the lot is in the Scituate Reservoir Watershed and thus in the watershed's Protection Plan. It also contains wellhead protection areas, and the Comp Plan describes those protection areas as areas of high constraint. Ms. Parmentier stressed that there is no other water source besides groundwater in Town and this proposal is high-risk to the groundwater. There is also not enough information about how much fuel will be on-site.

Catheryn MacDonald, formerly of 40 East Killingly Road and now at 126A East Killingly Road, stated that the applicant has no respect for quality of life of the neighbors.

Walter May, of 29 Anthony Road, wondered about: how many cubic yards and the type of material to be removed, the bottom elevation of the operation, impact to dug wells, core borings, traffic congestion, removal of the forested buffer, spill containment devices for fuels, a restoration bond, soil type and gravel production, DEM inspections, access to internal record-keeping, other types of explosives, and disruption to the school because of noise.

Roger Michaud, of 126A East Killingly Road, lamented how the landscape is now denuded, believed that there is less groundwater available, and cited the overall disrespect and significantly increased ambient noise.

Lori Lucas, of 4 East Killingly Road, claimed that the project will release crystalline silica into the air and it is a known carcinogen. Noise from the trucks will be more than the evaluation states and will carry farther, and Route 6 is already dangerous.

Ann Rock, of 20 Moosup Valley Road, elaborated that the Route 6 intersection is deadly, there are spills and groundwater concerns, and said that even hair salons present chemical concerns to the watershed.

Eva Szosz, of 45 Old Danielson Pike, emphasized that there is no guarantee for noise/water pollution/traffic accidents/impact to wildlife.

Lynne Rider, of 20 Burgess Road, opined that the proposal doesn't match the Comp Plan or the Zoning Ordinance, and that there is a disconnect between reality and what is outlined in the land use consultant's report. Ms. Rider questioned how the Town would benefit from the operation.

Ben Messer, of 60 Old Danielson Pike, worried about Route 6 weight restrictions and loaded trucks from the facility, as well as the sheer daily/monthly/yearly volume of trucks. Mr. Messer asked how the trucks will be weighed before leaving the site, and cited noise impact.

Brendan Mara, of 11 Mill Road, stated that the proposal is not consistent with the AR zone, and noted that the Conservation Commission had not been consulted. Mr. Mara was also concerned regarding the end use of the site (quality and type of fill), sediment and runoff, fuel storage and incidents, traffic, and noise, especially as they relate to the nearby school and children.

Richard Blodgett, of 552 Academy Avenue in Providence and the Providence Water Supply Board, thought that the monitoring and inspections proposed are inadequate, and advised the Town to require the applicant pay for a registered Professional Engineer to conduct the inspections. Mr. Blodgett wanted the inspection reports to be available online, and recalled that the gravel bank in Clayville was professional but ended up a mess; a bond for the restoration did help.

David Rossi, of 5 Paine Road, was concerned about quality of life- especially noise. The experts' reports all included disclaimers.

Christina DiChiera, of 41 Paine Road, complained that the clear cutting in 2016 could be heard on Paine and so noise is a main concern of hers. Property values could be affected. Ms. DiChiera was also worried about 18-wheelers and their proximity to Paine School.

Joanne Guilman, of 61A East Killingly Road, said that there would be no more peace and tranquility, and was concerned about the application's effect on pristine water and wells.

Kimberly Braga, of 98 Mt. Hygeia Road and a science healthcare worker, explained that OSHA has no concerns for the environment or abutting residence and is really just there for the staff on site. Ms. Braga reiterated the dangers of crystalline silica, was concerned about traffic, and stressed how any disruption could impact autistic students at Paine.

Sherrie Snyder, of 25A Mt. Hygeia Road, noted that buildings must fit with the rural design of the community so why not this proposal.

Mr. Carey closed the public comment portion of the meeting.

Mr. Cervasio spoke up that rural zoning doesn't always protect residents, inspections are important, and queried the applicant as to what would happen if the operation were to hit ledge.

Brian St. Croix, the owner and applicant, answered that he has already dug 30-35 feet down with up to 4 holes and didn't hit ledge; the excavation was never going to go lower than that. The excavation is to level the land for fields. Mr. St. Croix said that 20" rocks would go through the rock crushers, and anything bigger will be buried or put around the edge of the site. The proposal is to reach the end goal of a horse farm.

Mr. Cervasio reminded the audience that the Planning Board can only review and make a recommendation.

Mr. Carey wondered about the bridge on the property and whether there's been a weight assessment for it.

Mr. St. Croix responded that logging trucks and a truck carrying an excavator haven't ridden over the bridge and it's held up; it's built on granite stone with a cement pipe within. There are actually two access points with bridges. Mr. St. Croix assured the Board that the fire company has a key and access to the hydrant on the property.

Mr. Carey was curious if the applicant would be ok with a condition of no blasting. Mark Fay, attorney for the applicant, didn't anticipate blasting but would have to get state approval to do so anyway.

Mr. Carey asked where the rock crushers would be located, and Mr. St. Croix replied that they will be in the center of the excavation area as shown on the map.

Mr. Cervasio questioned whether it would be a reasonable condition to limit the hours of operation, and Mr. Fay stated that it comes down to economic feasibility.

Mr. Carey pointed out that the Board can recommend conditions to the Zoning Board of Review whether the applicant agrees or not.

Mr. Spaziano wanted to know where exactly on the map the excavation would occur, and where the trees have been cut. Dave Russo, registered P.E. on the project from DiPrete Engineering, explained that not all of the lot is clear cut- the DEM permit requires some to grow back naturally. The limit of work is defined by DEM to the extent of approximately 41 acres, and DEM will inspect the use periodically. Logging was completed to the north property line, in compliance with the DEM Forestry permit; existing vegetative screening at the north is actually on the adjacent land. Mr. Spaziano was concerned that such clearing basically means the neighbors to the north can't cut their own trees, and questioned the original intent when the property was bought. Mr. St. Croix responded that it was to build a horse farm, but the land must be flattened out to achieve.

Mr. St. Croix offered to stack boulders with stumps, loam, and pine trees on top at the north property line to create a visual buffer. Mr. St. Croix also reiterated that the proposal was designed carefully for DEM and water quality standards.

Mr. Spaziano brought up the public testimony regarding an adjacent well being lost recently, and Mr. Russo answered that coincidental timing doesn't prove cause-and-effect. Mr. Russo also noted that water tanks will be on site for dust, and runoff will infiltrate back into the aquifer after treatment. With respect to pollutants, sediment control is part of the DEM permit (including not discharging to wetlands) and calcium chloride is allowed by DEM but only in drought conditions; these practices are in DEM's standard guidelines. Mr. Fay added that without the application of calcium chloride, dust issues would arise.

Mr. St. Croix noted that there are three artesian wells on the subject lot and all are functioning.

Mr. Spaziano wondered about diesel spillage. Frank Dorr, operator, referenced containment and tight capacity/regulations. A fuel truck will come on site to refuel the equipment.

Mr. Spaziano cited the proximity of Paine School, and queried if a condition to ensure that trucks not pass Route 6 south on to Foster Center Road would be acceptable. Mr. St. Croix was fine with that. Mr. Spaziano wondered about trucks during morning and night when busses are running, and Mr. St. Croix said that thousands of trucks are already part of the area's traffic pattern. Mr. Spaziano asked about a condition requiring a bond, and Mr. St. Croix was ok with that.

Mr. Cervasio brought up the idea of an audible buffer close to the crushers, and Mr. St. Croix replied that berms are already planned. Mr. Gorham spoke up that stone crushing, as a separate use item, should require its own special use permit. Mr. Fay countered that Mr. Gorham is not a land use professional, and referenced the land use consultant's report.

Mr. Spaziano, having heard where the proposal doesn't fit with the Comp Plan, now wanted to hear how it does. Ed Pimental, land use consultant on the project, noted that the Comp Plan is meant for broad goals and objectives which ordinances take and address specifics on. Mr. Pimental listed how the proposal fits with the Comp Plan from his port, and emphasized that the use is not prohibited nor are there performance standards or overlay districts for water quality.

Mr. Carey convened a recess at 9:42 p.m., and reconvened at 9:57 p.m..

Mr. Carey reminded the Board and audience that all motions must be in the affirmative per procedural policy, followed by a vote.

Motion by Mr. Carpenter to recommend that the Zoning Board grant a Special Use Permit for a temporary gravel bank excavation operation at 9 Mt. Hygeia Road, Plat 14 Lot 83, with the following Special Conditions recommended to consider in conjunction with the Special Use Permit:

1. Approval shall run concurrent with RIDEM Multi Sector General Permit (MSGP) RIR50J007, and application to RIDEM to extend or renew the MSGP shall trigger a new Special Use Permit application with the Town.
2. All requirements of the RIDEM approvals shall be met, and the Town shall be copied on any correspondence to and from RIDEM.
3. Pursuant to Chapter 26 Soil Erosion and Sediment Control in the Town of Foster's Code of Ordinances, the Building Inspector will review the DEM-approved Soil Erosion and Sediment Control Plan, and perform periodic inspections to ensure conformance with the plan as well as a final inspection, and the applicant will be responsible for the associated review and inspection fees.

4. All inspection and monitoring reports kept with the DEM-approved Soil Erosion and Sediment Control Plan shall be provided to the Building Inspector upon request, and any corrective actions must be reported within 5 working days to the Building Inspector.
5. A bond shall be posted to cover the cost of the stabilization/conversion of the land and stormwater drainage systems, calculated by a registered professional engineer and accepted by the Building Inspector.
6. Applicant shall retain a certified safety professional to conduct a decibel reading from 500 feet to any active portion of the subject site on a bi-monthly basis, and furnish the findings within 5 working days to the Building Inspector.
7. Hours of operation or transportation shall not coincide with peak AM or PM traffic, and shall be confined to Monday- Friday 0900 – 1600; traffic shall be routed only on to Route 6 east or west.
8. The easement to the Town of Foster for the use, maintenance, and repair of a dry fire hydrant, recorded in Book 168 at Page 908, shall be observed and open access to the hydrant preserved (hydrant approved by RIDEM for the South Foster Fire Company and recorded in Book 169 at Page 831).

Second by Mr. Mercier.

Mr. Carey asked that the Board members state how they are going to vote and why.

Ms. Hardy cited the Comprehensive Community Plan of the Town, and specifically the Introduction and Natural Resources chapters, as well as the Zoning Ordinance: statements of purpose (specifically 1 and 2), the description of the AR zone, prohibited uses and the emission of obnoxious “gasses, odors, noise, dust, vibration”, and the Special Use Permit standards. Ms. Hardy was not convinced that the applicants proved that the proposal had met these requirements and so will not be voting to recommend.

Mr. Spaziano noted that this was not an easy decision, but didn’t believe that the Special Use Permit standards had been met- especially standard 3 regarding alteration to the general character of the surrounding area or impairing the intent or purpose of the Zoning Ordinance or the Comprehensive Plan. The Comp Plan sets forth a vision for the Town, and the special use permit procedure requires such review on a case-by-case basis. Mr. Spaziano did not find the use to be appropriate from what was presented, and it is not in line with the surrounding residential area, especially the scale of the proposal. A horse farm would be in concert with the area but a gravel bank as an interim step is too big, and the noise/dust violate the Special Use Permit standards. Mr. Spaziano will not be voting to recommend approval.

Mr. Carpenter stated that he will not be recommending approval because the applicant meeting the Special Use Permit standard with respect to alteration of the general character of the surrounding area or impairing the intent or purpose of the Zoning Ordinance or Comp Plan is not obvious. Mr. Carpenter cited the Zoning Ordinance’s statement of purpose #4, and was of the opinion that the traffic impact study did not realistically show a movement plan and so elimination of risk can’t be achieved. Similarly, the noise impact of the cumulative equipment can’t be evaluated. There are questionable assumptions in the land use report and it conflicts with the proposed scope.

Mr. Cervasio believed that the owner is within his legal right, and is going to be voting for a positive recommendation. He reiterated that existing zoning doesn’t protect residents.

Mr. Mercier didn’t think that the proposal meets characteristics of the Comprehensive Plan, and the proposal will take away enjoyment of the residents in the surrounding area and removing this much material will alter the watershed. Noise affecting the school is a major concern and the use is too cumbersome to the area, and so he will be voting no.

Mr. Spaziano added that he believed the rock crushing requires a separate Special Use Permit.

Mr. Carey cited the Zoning Ordinance statements of purpose #1, 3c and 3d, and 4, and was not convinced that all of the requirements had been met sufficiently.

Ms. Hardy polled the Board: Mr. Mercier nay, Mr. Cervasio yes, Mr. Carpenter no, Mr. Spaziano no, Ms. Hardy no, and Mr. Carey no.

The vote is 1 – 5, and so the motion to recommend that the Zoning Board grant a Special Use Permit for a temporary gravel bank excavation operation at 9 Mt. Hygeia Road, Plat 14 Lot 83, fails.

P. Adjournment

Motion to adjourn at 10:31 p.m. was approved unanimously.

Respectfully submitted,

Helen Hardy, Secretary

Audio recording of the full meeting is available for review upon request.