



**PLANNING BOARD MINUTES**  
**TOWN OF FOSTER**  
**Benjamin Eddy Building, 6 South Killingly Road**  
**Foster RI 0225**  
**Wednesday, May 17, 2017**  
**7:00 p.m.**

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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); Richard Sparks (Vice Chair); Helen Hardy (Secretary); Tom Mercier; Mike Carpenter; and Ron Cervasio.

Board Members Excused: Sergio Spaziano

Public and Applicants Present: Joanna Achille (Solicitor), Carol Sholly (Clerk), Carol Malaga (stenographer), Cheryl Maynard (Planner), Town Council members Denise DiFranco, Christie Stone, and Gordon Rogers; Residents Greg Jackson, Paul Allen, and Jeff Sheldon; Jennifer Cervenka, John Typadis, and John Gold representing Danielson Pike Solar; Sarah Malley, Alan Clapp, Dierdre Norton, and Kevin DeMers representing Foster Renewables; and Jackie Roman from *The Valley Breeze*.

**C. Approval of Minutes**

***Discussion / Action***

1) March 15, 2017

Mr. Mercier moved, Richard Sparks seconded, to approve the minutes of March 15, 2017. Mr. Cervasio requested that in the future, planning board members call in advance to request to be excused.

Motion approved 6 – 0.

2) May 3, 2017

Mr. Mercier moved, Richard Sparks seconded, to approve the minutes of May 3, 2017.

Motion approved 6 – 0.

**D. Correspondence**

***Discussion / Action***

None

**E. Board Members' Reports**

***Discussion / Action***

Nothing at this time.

**F. Major Land Development**

***Discussion / Action***

1) Master Plan Public Informational Meeting 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, stormwater/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, and requiring a recommendation to the Zoning Board of Review for a special use permit.

Mr. Carey read the rules pertaining to a Public Hearing and the description of the proposed development.

Jennifer Cervenka introduced the project and noted that it is the same as the Preliminary Plan with one concern pending about the dangerous intersection of Danielson Pike and Shippee Schoolhouse Road and the access from Danielson Pike. She said that John Typadis of Danielson Pike Solar has been consulting with the Chief of Police and RIDOT regarding access during construction. Construction access could be on Shippee Schoolhouse Road and then permanent quarterly access from Danielson Pike. Ms. Cervenka stated that notices were sent to abutters and that there was a notice published in the Valley Breeze advertising the public hearing. Ms. Cervenka further noted that the plan was consistent with the Solar Ordinance, that it is in a GBM zone, and that it is in accordance with the Community Comprehensive Plan.

John Typadis and Jason Gold were sworn in.

John Typadis reiterated that he was in discussion with RIDOT and the Chief of Police regarding the access which he said could be moved further east.

Mr. Carpenter requested they provide training for first responders as a condition. Mr. Cervasio requested they provide a knox-box as a condition.

Jason Gold, Civil Engineer for the ESS Group, stated that they had met with a DEM official and they did not see any problems with runoff or infringement of wetlands. They are anticipating a Physical Alteration Permit from DEM.

Mr. Sparks asked how much further the entrance could move east. Mr. Typadis said 60 feet. Ms. Hardy asked if the arrays were taxable by the town. Mr. Typadis said they were.

Mr. Carey opened the public meeting.

Mr. Carey asked if anyone would like to speak in favor. There were none.

Mr. Carey asked if anyone would like to speak against.

Gregory Jackson, abutter, was sworn in. He stated that he was concerned about run-off from the installation carrying toxic chemicals from the energy panels into his water supply, and that he felt that the arrays would be an eyesore and wanted to know if that would lower his taxes as recompense for lowering his property values. Ms. Cervenka stated that the vegetated buffer of 20-30 feet would prevent people from seeing it and that it has been shown that there is no impact on property values. Mr. Typadis stated that the panels were encased in glass and there would be no run-off from the contents inside. Mr. Sparks asked about the panels leaking. Mr. Typadis said that it had been tested and proved that even if the panels are cracked, they do not leak.

Mr. Carey asked for any further comments. There were none.

Public Hearing closed at 7:47 p.m.

Mr. Carey marked the full set of Plans Town Exhibit 1 and the staff report as Town Exhibit 2.

In discussion with the board it was decided to add yearly training for first responders to Condition 6, and add the installation of a knox-box to condition 3.

Meeting recessed at 7:50 p.m. Mr. Carey called the meeting back in session at 7:55 p.m.

Mr. Mercier moved to grant the Master Plan approval for the proposed solar installation,

WHEREAS: Representatives of the applicant Danielson Pike Solar, LLC and owner Northwest Community Health Care appeared before the Planning Board for property located on Danielson Pike by Poles 191-195 and at the intersection with Shippee Schoolhouse Road, being Plat 10 Lot 20 on 7.088 acres in a General Business Mixed Use GBM district, 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, stormwater/drainage best management practices, and electric service extension and structures; and

WHEREAS: The Planning Board received reports and testimony from Town Departments, abutting property owners, and representatives of the applicant regarding the application; and

WHEREAS: The Planning Board heard the land development proposal as a Pre-Application on 5/3/2017; and

WHEREAS: The development meets historic cemetery setback, off-street loading, and off-street parking requirements, and no land dedication or payment-in-lieu is required because no lots are being created; and

WHEREAS: The solar installation requires a special use permit from the Zoning Board of Review; further

Having considered the requirements of Rhode Island General Laws of 1956, as amended Section 45-23-30, and based on the Hearing conducted before the Planning Board and on:

- Testimony presented to the Board, and

- Recommendations of the staff, and
- Review and consideration of the Exhibits made part of the record, and
- Personal knowledge of the area in question, now

The approval is subject to the following conditions:

- Condition 1. Master Plan approval is based on plans entitled “Proposed 950 kW DC Solar Array Master Plan” revised 4/24/2017 and marked as Town Exhibit 1 at the May 17, 2017 Hearing, prepared by ESS Group, stamped and signed by Jason M. Gold, Registered Professional Engineer.
- Condition 2. National Grid service agreement shall be finalized and provided as part of the next land development review submission.
- Condition 3. Fencing, signage, lighting, emergency access including a knox box, grading, and drainage details, and UL listing or equivalent of all relevant installation components, shall be finalized and provided as part of the next land development review submission.
- Condition 4. The installation shall be in compliance with the RI State Building Code and the RI State Electrical Code, and shall be subject to periodic inspections by the Foster Building Official.
- Condition 5. RIDEM RIPDES and RIDOT PAP approvals shall be provided as part of the next land development review submission.
- Condition 6. An operation and maintenance plan including annual fire and first responder training, a decommission plan, and proof of liability insurance shall be finalized and provided as part of the next land development review submission.
- Condition 7. Cost of removal shall be calculated as part of the next land development review submission, and a surety bond to cover that cost shall be posted prior to issuance of any building permits.
- Condition 8. All Preliminary and Final plan checklist requirements shall be fulfilled.
- Condition 9. Preliminary and Final Plan approvals shall be combined.

The Planning Board further finds that the proposed development, subject to the conditions imposed,:

1. Is consistent with the Comprehensive Community Plan and has satisfactorily addressed the issues where there are inconsistencies in accordance with the Rhode Island General Laws Section 45-23-30;
2. Is in compliance with the standards and provisions of the Foster Zoning Ordinance in accordance with the Rhode Island General Laws Section 45-24;
3. Will cause no significant negative environmental impacts;
4. Will not create individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable; and
5. Has adequate and permanent physical access to a public street for the development.
6. Provides for safe circulation, adequate surface water runoff, suitable building sites, preservation of features that contribute to the attractiveness of the community, and allows for adequate delivery of municipal services.

7. Minimizes flooding and soil erosion.

Mr. Carpenter seconded. Mr. Mercier amended the motion to omit condition 9 to not allow combination of the preliminary and final plan. Ms. Hardy inquired if we could separate at this point. Ms. Achille said it had not been advertised that way so it could not be combined.

Amendment failed 6 – 0.

Ms. Hardy polled the board for the main motion: Mr. Sparks, aye; Ms. Hardy, aye; Mr. Carpenter, aye; Mr. Mercier, aye; Mr. Cervasio, aye, and Mr. Carey, aye.

Main motion passed 6 – 0.

Mr. Mercier moved, Mr. Sparks seconded, to refer the project to the Zoning Board for a special use permit, the applicant to provide information regarding property values, and the possibility of toxic waste run-off.

Motion passed 6 – 0.

2)Combined Preliminary and Final Plan Public Hearing of applicant Foster Renewables, LLC and owners Walter H. & Cynthia M. Steere to construct a 996 kW (0.996 MW) DC ground-mounted solar installation encompassing approximately 5.6 acres, with 12.85 acres to be disturbed, and related lease area, access drives and gates, pedestrian path to RI Historical Cemetery FR137, vegetated buffer, vegetative establishment of disturbed areas, grading, soil erosion and sedimentation control measures, stormwater/drainage best management practices, and electric service extension and structures; located on Theodore Foster Road by Pole 19 on 55.49 acres, being Plat 18 Lot 9 in an Agricultural / Residential AR district.

Mr. Carey read the description of the project and corrected the address from “Theodore Foster Road” to “Theodore Foster Drive”.

Sarah Malley from Gorham & Gorham introduced the project.

Kevin DeMers, Senior Project Engineer, from DiPrete engineering was sworn in. He stated that since the time that the Master Plan had been approved in December, they have obtained a special use permit and also the DEM permit. The only changes made were a reshaping of the grading for drainage.

Mr. Cervasio asked that the conditions for annual training for first responders and the requirement of a knox-box be included in all plans in the future. Ms. Hardy asked about access to the historical cemetery on the property. Mr. DeMers and Ms. Achille assured her that it was on the map and thus part of the plan. Alan Clapp of Nexamp was sworn in. He stated that it was part of the plan and that they did not disagree. Mr. Mercier asked about the purchase of the property and if they could meet the construction deadline. Mr. DeMers agreed that it was a tight deadline. Mr. Carpenter asked for an explanation of how energy credits worked.

Mr. Carey opened the public hearing for comments.

Gordon Rogers was sworn in. He asked about the need to upgrade the Chopmist Hill substation if these projects go through. Mr. Clapp agreed that it would need updating which is included in the cost to them and said the cost makes it important to get the project in early.

Mr. Carey asked if anyone would like to speak in favor. There were none.

Mr. Carey asked if anyone would like to speak against or make any additional comments. There were none. Public Hearing closed at 8:29 p.m.

Mr. Carey marked the full set of plans with attachments as Town Exhibit 1 and the staff report as Town Exhibit 2.

Mr. Mercier moved to grant Combined Preliminary & Final Plan approval for the proposed solar installation,

WHEREAS: Representatives of the applicant Foster Renewables, LLC and owners Walter H. & Cynthia M. Steere appeared before the Planning Board for property located on Theodore Foster Drive by Pole 19, being Plat 18 Lot 9 on 55.49 acres in an Agricultural/Residential AR district, to construct a 996 kW (0.996 MW) DC ground-mounted solar installation encompassing approximately 5.6 acres, with 12.85 acres to be disturbed, and related lease area, access drives and gates, pedestrian path to RI Historical Cemetery FR137, vegetated buffer, vegetative establishment of disturbed areas, grading, soil erosion and sedimentation control measures, stormwater/drainage best management practices, and electric service extension and structures; and

WHEREAS: The Planning Board received reports and testimony from Town Departments, abutting property owners, and representatives of the applicant regarding the application; and

WHEREAS: The Planning Board heard the land development proposal as a Pre-Application on 9/21/2016 and granted Master Plan approval on 12/7/2016; and

WHEREAS: The development meets historic cemetery setback, off-street loading, and off-street parking requirements, and no land dedication or payment-in-lieu is required because no lots are being created; and

WHEREAS: The solar installation was granted a special use permit from the Zoning Board of Review on February 8, 2017; further

Having considered the requirements of Rhode Island General Laws of 1956, as amended Section 45-23-30, and based on the Hearing conducted before the Planning Board and on:

- Testimony presented to the Board, and
- Recommendations of the staff, and
- Review and consideration of the Exhibits made part of the record, and
- Personal knowledge of the area in question, now

The approval is subject to the following conditions:

Condition 1. Combined Preliminary and Final Plan approval is based on plans entitled “Preliminary/Final Submission, Theodore Foster Road Solar” revised 4/20/2017 and marked as Town Exhibit 1 at the May 17, 2017 Hearing, prepared by DiPrete Engineering, stamped and signed by Kevin DeMers, Registered Professional Engineer.

Condition 2. The Site Plan sheet shall be recorded as the Final Plan

Condition 3. The project access shall require a driveway permit from the Foster Department of Public Works.

Condition 4. A surety bond of \$7,785 to cover the removal cost shall be posted prior to issuance of any building permits.

Condition 5. Building permits, including electrical and mechanical, shall be obtained from the Building Official prior to start of construction; proof of liability insurance will be submitted with the permit applications and kept on file in Town.

Condition 6. The identification sign shall be no greater than four (4) square feet in area.

Condition 7. A copy of the completed Notice of Termination sent to the RIPDES Program upon site stabilization and finalization of the work shall be sent to the Town.

- Condition 8. The access easement agreement shall be submitted and recorded in Land Evidence within thirty (30) days of receipt of the RIPDES Notice of Termination.
- Condition 9. National Grid Power Purchase Agreement shall be submitted and recorded in Land Evidence within thirty (30) days of receipt of the RIPDES Notice of Termination.
- Condition 10. The installation shall be subject to periodic inspections by the Foster Building Official.
- Condition 11. Appropriate building permits shall be obtained from the Building Official upon decommissioning, and proof of a RIDEM RIPDES permit supplied.
- Condition 12. An FFOS Notice of Land Use Change to RIDEM for reduction in acreage shall be recorded in Foster Land Evidence prior to issuance of any building permits.
- Condition 13: That the site shall contain a knox box for emergency access.
- Condition 14: That the Applicant shall provide annual training for fire and other first responders.

The Planning Board further finds that the proposed development, subject to the conditions imposed,:

8. Is consistent with the Comprehensive Community Plan and has satisfactorily addressed the issues where there are inconsistencies in accordance with the Rhode Island General Laws Section 45-23-30;
9. Is in compliance with the standards and provisions of the Foster Zoning Ordinance in accordance with the Rhode Island General Laws Section 45-24;
10. Will cause no significant negative environmental impacts;
11. Will not create individual lots with any physical constraints to development that building on those lots according to pertinent regulations and building standards would be impracticable; and
12. Has adequate and permanent physical access to a public street for the development.
13. Provides for safe circulation, adequate surface water runoff, suitable building site, preservation of features that contribute to the attractiveness of the community, and allows for adequate delivery of municipal services.
14. Minimizes flooding and soil erosion.

Mr. Carpenter seconded.

Ms. Hardy polled the board: Richard Sparks, aye; Helen Hardy, aye; Mike Carpenter, aye; Tom Mercier, aye; Ron Cervasio, aye; and Joe Carey, aye.

Motion passed 6 – 0.

#### **G. Requested Opinion**

#### ***Discussion/Action***

- 1) At the request of the Town Council, the Board is to review the foregoing application and provide correspondence to DEM with concerns. The DEM application no.15-0013 by J&C Properties, LLC, of 2208 Plainfield Pike, Johnston, RI 02919, is requesting permission to

alter freshwater wetlands in the Towns of Scituate and Foster, RI, 600 feet east of Round Hill Road, and approximately 4000 feet southeast of the intersection of Round Hill Road and Danielson Pike (Route 6) Utility Pole No 14, Assessor's Plat 15, Lot 33 & Assessor's Plat 22, Lot 34, Foster, RI, and Assessor's Plat 36, Los 11 and 28 of Scituate, RI.

Mr. Carey explained that the Town Council asked the board to give them an opinion which is needed by May 22 for them to submit to DEM and that their only concern was the affect on wetlands. Mr. Carpenter said the logical response is well-defined by the list forwarded by DEM in their letter. Mr. Cervasio moved to follow Mr. Carpenter's decision to list the items on the DEM letter and to direct the solicitor to compose a letter to DEM to express concerns about the alteration to wetlands the plan proposes. Mr. Carpenter seconded.

Motion passed 6 – 0.

**H. Comprehensive Plan Update**

*Discussion / Action*

Mr. Carey sent the board members a copy of the second draft due on June 30<sup>th</sup>.

**I. Future Agenda Items**

*Discussion / Action*

No discussion.

**J. Adjournment**

*Discussion / Action*

Motion to adjourn at 9:18 a.m. was approved unanimously.

Respectfully submitted,

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Helen Hardy, Secretary