



PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building
6 South Killingly Road, Foster, RI
Wednesday: September 6, 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); Richard Sparks (Vice Chair); Helen Hardy (Secretary); Jeff Sheldon; Mike Carpenter; Sergio Spaziano, and Ron Cervasio.

Staff Excused: Cheryl Maynard, Planner

Public and Applicants Present: Joanna Achille (Solicitor), Town Council members Denise DiFranco, Gordon Rogers, and Chris Stone; Lynne Rider, Michael & Judy Paolucci.

C. Approval of Minutes

Mr. Cervasio moved, Sergio Spaziano seconded, to approve the minutes of August 16, 2017. Mr. Sparks questioned Karen Carlson's comments that she could see the turbines from her property. Mr. Carey removed "her property" from the minutes. Mr. Cervasio questioned allowing people from Coventry being able to speak as he felt it was a waste of time. Mr. Carey felt it was not a waste of time as it was personal experience. Motion passed 7-0.

D. Correspondence

None.

E. Board Members' Reports

Land Trust: Mr. Carpenter reported that the Land Trust was cutting hay and harvesting witch hazel, clearing and marking trails. The Land Trust will take pictures to show work completed. They would like to streamline process of placing pictures and information on the website. Permits have been given out for archery hunting at three properties including the Hayfield property.

- 1) Conservation Commission
None.

F. Zoning

- 1) Change of Zoning Request Recommendation Review for an Advisory Opinion to the Town Council for property owners and applicants, Michael and Judy Paolucci of 11A Paine Road, Foster, RI 02825 for property located at 0 Danielson Pike (Route 6) (Plat 4, Lot 3A) from an Agricultural/Residential (AR) use to a General Business Mixed (GBM) use.

Mr. Carey recognized the property owner and applicant Mr. Paolucci and asked if he would like to present his proposal to the Board prior their discussion. Mr. Paolucci explained that his intention was to build a home on the property. In 2005, when he purchased the property it was originally zoned Highway Commercial and in 2010 the zoning changed to Agricultural Residential. He conveyed to the Board that their motivation was to buy the property and eventually sell it, or build a single family home. He applied for a Building Permit, it was granted on April 26th, and by June 5th the permit was revoked because they found out that the lot was created after 1967 therefore it was not a legal lot of record. In 1988 it was recorded by the town, and he read the description from the deed which says it was approved by the Town of Foster on January 11, 1989 which is recorded in the Land Evidence record of said Town of Foster on June 20, 1989 at 10:05 a.m. It was received by their closing attorney on 9/8/05 when they bought the parcel. Mr. Paolucci stated that in 1967, there was no minimum lot size for Highway Commercial property, and in 1984, it was the same, and also in 1989. They have paid taxes on it as a buildable lot since the purchase. When questioned, Mr. Paolucci admitted he was aware that when he purchased the property in 2005 he knew it was zoned Highway Commercial and he was aware that he could not build a single family residence on the property.

Mrs. Paolucci added that they have begun work on the property, excavation and driveway, and then were told they could no longer build. She explained that it has been a real strain for four months. Mr.

Carey said he understood their concern. He questioned whether changing this from A/R to a GBM zoning, would that make it buildable for a residential structure. He stated in a GBM zone to build a single family home, it would need a Special Use Permit and variances, cautioning, even if you get the zone change, it doesn't guarantee that it would allow you to build a house.

Mr. Cervasio asked when a deed is recorded, does anyone check to see that it's a substandard lot? Ms. Achille stated the deed was recorded long before the zone change to AR, but that no one is typically checking for that type of information when deeds are recorded. Mr. Carey said that with the AR zone you would need a 200,000 square foot lot and 300-foot frontage, and your setbacks. You would need variances. Mr. Cervasio said there are two choices, to go through the variance process, or to change it to GBM. Ms. Achille stated that changing to GBM would not guarantee being able to build a house. Mr. Cervasio asked that since they've been taxed on that, do we owe them money. Ms. Achille says she does not believe they do. Mr. Paolucci said the Town "took" our land in 2010. Mr. Carey stated that they had the right to appeal to the Tax Board of Review, and that right was never taken away. Mr. Paolucci asked at the time if his tax would change. He was not informed that the land would be rendered useless.

Mr. Carey stated that they are here to make a recommendation to the Town Council to change the property from AR to GBM. He stated that he did not want to advise the applicant on what to do. He did not see major improvement in the situation as far as building a residential structure. Mr. Paolucci said it could be an office with a residence.

Mr. Spaziano asked if the lot was a legal subdivision. Ms. Achille said it was recorded as such. Mr. Spaziano asked if at the time was it for business use only. Ms. Achille said it was HC and met the criteria for square footage. The parcel is surrounded by AR parcels. Ms. Hardy explained that HC did not allow residential buildings. Mr. Spaziano said that unfortunately the change won't get the residents where they want to be. That being said, he thinks the real choice is whether the rezoning is most appropriate for the town, in addition to maximizing the use for the property owners. Mr. Paolucci asked if a business would be possible. Mr. Carey answered that it would.

Mr. Sheldon questioned the comparison between AR and GBM and asked for clarification on the 2010 rezoning. Mr. Sheldon stated that since the applicant is still being taxed as a residential lot, he can understand why they thought they had a buildable residential lot. Ms. Achille noted the property owners along Route 6 were notified and asked their opinion on future use. Mr. Paolucci clarified that they were aware that their lot would change from HC to AR but were not aware at that time the lot was substandard and a residence could not be built on the lot. He went on to explain that they want to revert to the property designation as it was when they purchased the property or as close to it as provided by today's zoning regulations, which would be GBM.

Mr. Cervasio moved, Mr. Sparks seconded, to recommend rezoning the lot from AR to GBM to the Town Council.

Mr. Carey asked for discussion. Mr. Spaziano noted that when the property was purchased the applicant could not build a residence, and when it was rezoned he was not able to build a residence. He further wanted to clarify that approval would not enable the applicant to build a residence. Mr. Spaziano reiterated that he does not believe the change will let the owners build a residence. The Board should consider whether the rezone is appropriate and meets the comprehensive plan. If this rezone is approved by the Town Council there will still be further variances required to obtain a building permit. Ms. Hardy stated that when the HC was removed the reason was because it was not safe to have commercial properties in single spots, so this doesn't meet the intentions of GBM, and that piece of land might be more appropriate as an AR parcel. Ms. Hardy suggested that it may be more appropriate to pursue it as a residential use of the property. Mr. Spaziano was also concerned about the appropriate use of the property and proximity to other GBM uses. He brought up the option, not necessarily recommended, that they look for variances in AR.

Mr. Carpenter is concerned about having to backtrack on the re-zoning process after work has been done and would like to find a remedy for the property owner, but the burden is on the individual property owner to know the uses of their property. He also stated that the Board is responsible to follow the regulations in place, and must be careful in how it proceeds on zoning of individual lots.

Mr. Spaziano amended the motion recommending the Town Council re-zones the lot from AR to GBM with the recommendation that the Town Council seeks a report from Department Public Works and the Police Department with respect to traffic and safety concerns if this is to be a GBM lot. Mr. Sparks seconded the amendment. Motion passed 6-1 with Mr. Cervasio voting no.

Main motion passed 6-1 with Helen Hardy voting no. The Planning Board will send the recommendation to the Town Council. Mr. Carey explained the next step will be for the Town Council to take up the request after a three week advertisement period and notification to abutters.

G. Major Land Development

1) Communications Towers approval procedure review per request of Mr. Cervasio.
Mr. Carey explained that Mr. Cervasio requested to place this issue on the agenda. Mr. Cervasio believes there are only one or two additional cell towers that could be built in the town considering coverage needs and profitability. He suggests that this process should be handled as an administration subdivision to expediate the process. Mr. Carey stated that the Planner feels uncomfortable with bearing the total responsibility and that a review process in the public eye is appropriate for cell tower development. Mr. Carey agreed with Mr. Cervasio that the number of possible new towers will be low. He also reminded the Board that changes to the ordinances to approve towers administratively would prove to be an even longer process than the approval procedure in place. Mr. Carey did suggest a look at possibly removing some of the major land development hurdles now in place. Mr. Cervasio decided to remove his request, but reiterated his goal of moving items through the process without unnecessary delay. Mr. Spaziano agreed that since there will be one or two proposed cell towers at most, it would be more efficient to go through with the current requirements rather than make changes to the ordinance.

H. Comprehensive Plan Update

Mason and Associates, our current Comprehensive Plan consultant, reviewed capabilities in house and found the town's base map in decent shape but needs some attention. Planner will work with consultant to incorporate needed adjustments.

I. Future Agenda Items

- 1) Continued Discussion re: Accessory Businesses on Farms/Forests
- 2) Marijuana Ordinance
- 2) RIDEM Farmland Access Program
- 3) Screening berms requirements along roadways

J. Review of Democratic Rules of Order

Re-adoption

Mr. Carpenter moved, Mr. Sparks seconded to readopt the Democratic Rules of Order. Mr. Spaziano stated his preference for board meeting rules is Robert's Rules of Order. Mr. Carey said that the Board adopted the Democratic Rules of Order about one year ago to be consistent with the Town Council and the Zoning Board, but it is an option to go back to Robert's Rules. He encouraged the Board to discuss. Mr. Cervasio voiced his preference for Robert's Rules of Order and would like further consideration of a change at another meeting. Copies of both versions should be provided for review. Mr. Spaziano moved to table the motion, Mr. Cervasio seconded. Motion approved 7-0.

K. Adjournment

Mr. Carey asked for a motion to adjourn. Mr. Cervasio moved to adjourn. All members voted aye. Motion carried 7-0. Meeting adjourned at 8:26 p.m.

Respectfully submitted,

Helen Hardy, Secretary