



PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building, 6 South Killingly Road
Foster RI 02825
Wednesday, January 3, 2018

A. Call to Order

Mr. Carey called the meeting to order at 7:02 p.m.

B. Roll Call

Board Members Present: Joseph Carey (Chair), Michael Carpenter, Jeff Sheldon, Helen Hardy, Anthony Renzi, and Ronald Cervasio

Board Members Excused: Rick Sparks (Vice Chair) was excused

Staff Present: Cheryl Maynard (Planner) and Joanna Achille (Assistant Solicitor)

Public Present: Bob Schultz, Robert Schultz, and Tim Kane

C. Approval of Minutes

1) December 6, 2017

Mr. Carpenter moved, Mr. Sheldon seconded, to approve the minutes of December 6, 2017.

Motion approved 6 – 0.

D. Correspondence

Ms. Maynard informed the board that RIDOT had requested comments in 30 days regarding an environmental assessment, specifically on potential roadway diversions due to the new RI toll system on Route 95. The diversions include an alternate route on Rt. 102. Trucks may be getting off Rte. 95 to use Rt. 102 to avoid the tolls.

E. Board Members' Reports

1) Land Trust

None

2) Conservation Commission

None

F. Major Land Development

Zoning Discussion/Action

- 1) Recommendation to the Foster Zoning Board of Review for property located at 3A South Killingly Road, Foster, RI being Plat 20 Lot 15 in an Agricultural/Residential (AR) district on 0.8 acres. The Owner and Applicant, Robert C. Shultz, of 8 South Killingly Road, Foster, RI requests a special use permit from the Foster Zoning Ordinance. The special use permit is needed under *Article IV. Zone Regulations, Section 2. Accessory Uses, 5. Multi-family structure*, to convert an existing single family residence into a two family residence in an AR district.

Timothy Kane, Mr. Schultz's attorney, reviewed the staff report summary, that Mr. Shultz purchased property last February and is in the process of renovating it and would like to convert it to a two-family to make it economically viable. He is requesting a positive recommendation to the Zoning Board. Mr. Kane said in the past the property has been used as a multi-family residence, as commercial use, and as a public meeting space. Two family residences are allowed in Foster's AR district, and the property has enough area and frontage for a duplex. Mr. Kane reported there are no wetlands on the property and Mr. Shultz has ISDS approval.

Ms. Hardy said she would like to review the items the Board is required to document. First, is that the applicant will not alter the general character of the surrounding area or impair the intent or purpose of the Comprehensive Plan. She reviewed that the application as it was presented states that the exterior is not going to be changed, and therefore it will continue to be in character with the buildings around it. Also, that piece of property was for sale for a very long time and it was worrisome as to what would happen to the property. Making it a two family dwelling conforms to the Comprehensive Plan in keeping it historic and also providing a multi-family unit which we are short of in Foster. She further stated she believed it to be a great use for the property.

Mr. Cervasio asked if it was a Masonic Hall at one time. Mr. Schultz replied yes. Mr. Cervasio asked if there was a rounded ceiling on the second floor. Mr. Schultz said there was a barrel ceiling on the second floor. Mr. Cervasio asked if it was on the registry of historic buildings. Mr. Schultz indicated it was not on the registry of historic buildings Ms. Hardy said she had been in it as part of a Preservation Society tour. Mr. Cervasio asked if he wanted to put up a sign of the history of the building. Mr. Schultz asked if he meant on the exterior. Mr. Schultz said he has a sign in his barn 4 feet high and 25 feet long. It says

Foster Center Store and he is debating whether to put it back up. Mr. Cervasio said it would be between him and Preservation, the Planning Board has no say. Mr. Schultz said he was open to further discussion regarding a sign.

Mr. Renzi asked about the parking situation. Mr. Schultz said there are two driveways there now so there wouldn't be any increase in driveways. Mr. Renzi asked if it would accommodate six cars. Ms. Hardy said that was not required. Mr. Renzi was concerned about parking on the street. Mr. Schultz said his lease does not allow on-street parking. Mr. Schultz is required to provide at least two parking spaces and he indicated he has at least 3 or more spaces available.

Mr. Carey stated that the plan is consistent with the Zoning Ordinance, that the Special Use is specifically authorized by this ordinance, and the Special Use meets all the criteria set forth in the sections authorizing such Special Use. In addition, the granting of the Special Use Permit will not alter the general character of the surrounding area or impair the intent of the purpose of the ordinance or Comprehensive Plan of the town, and the Zoning Board of Review may not extend or enlarge the Special Use Permit except by granting a new Special Use.

Mr. Sheldon moved, Mr. Carpenter seconded, to recommend approval of the Special Use Permit for Mr. Robert Shultz for property located at 3A South Killingly Road.
Motion passed 6 – 0.

2) Draft Marijuana Ordinance Review

Mr. Carey said the Board has a draft Marijuana Ordinance to consider that has been drafted by the assistant solicitor. The draft ordinance is basically what State Law allows, and what the town can allow. The draft ordinance is limited to medical marijuana. There are a couple of items on the Use Table which concerned him and another member about having it in the Municipal District, if that was necessary or not. Ms. Achille indicated if there was a resident in the Municipal District who was a cardholder, you cannot prohibit it, but that as a cardholder you can not be growing it in a Municipal Building. The draft ordinance can be edited by the Board by filling out the empty blocks left blank for discussion purposes. A discussion began regarding residential cultivation and/or caregiver cultivation. Superior Court cases have dictated what is allowed and what is allowable by right.

Mr. Carey felt the Board might consider Compassion Centers in GBM. Ms. Hardy said it seemed to her that Compassion Centers are a business and should be in a GBM district. Mr. Cervasio said that if they are a licensed cultivator they should be allowed in AR and GBM. He wondered if any of the General Business Mixed Use lots will be left after the popularity of solar farms, so limiting these centers to GBM space is saying we're not going to have any.

Mr. Carey asked if the Board would consider other districts for the centers? Mr. Cervasio said AR. Ms. Hardy disagreed. Ms. Achille said a Compassion Center is just a dispensary. Ms. Hardy said it is just not medical marijuana; it's also supplies and educational material. Mr. Sheldon said as long as it's GBM, the town has such a miniscule amount of GBM zoning, he wouldn't want to waste a lot like that on something that is certainly not a business and believed that if it's not-for-profit, it's going to be tax-free. Ms. Achille said she did not know that it would be tax free. She believed it would be for profit, the State only licenses it. Mr. Carey said the businesses don't tend to be that large. Ms. Hardy said we cannot tell the owner what to do with a lot, only the things they can and can't do with it. She felt GBM would be appropriate for a Compassion Center.

Mr. Carey asked about other districts. Mr. Cervasio said the reason he said AR is to question whether it's safer on Rte. 6 or is it safer on Old Plainfield Pike. To get out of some of our back roads, people would be less likely to commit a robbery. Mr. Carey stated that they don't have to allow it anywhere in town. The only things we're required to permit is the Residential Caregiver cultivation and personal cultivation. The rest is all optional. Mr. Cervasio said he would take his suggestion off the table and say that it should go in GBM because he would like to leave the option open. Ms. Hardy asked if that would be by Special Use Permit. Ms. Achille explained that was up to the Board. Ms. Achille said a licensed cultivator could be in AR and that's what the chief of police was talking about at a recent Town Council meeting in terms of security.

Mr. Carey asked the board if they were in favor of allowing the Compassion Centers only in the General Business Mixed Use. Mr. Achille asked about Neighborhood Commercial on Rte. 101 and Rte. 14.
Consensus was only in GBM.

Mr. Carey asked about Neighborhood Commercial. Consensus was against, and prohibited in all other zones. Ms. Achille said the requirements to obtain a license are very stringent. Mr. Cervasio said that he would hope to keep it in the A/R only to easily hide the building.

Mr. Carey asked the board for opinions on a compassion center by special use permit for A/R zone. Consensus was that a compassion center was appropriate by special use permit in a GBM zone, but not in other zones.

Mr. Carey said next was Non-residential Cooperative and the Residential Cooperative. Ms. Achille stated there was no DBR regulation for this category. It is two cardholders coming together to pool their resources to grow together, more than one cardholder in a home, or more than one cardholder in a rented facility. Mr. Carey asked if the police would know where they are. Ms. Achille said no. Mr. Carey said that was his concern. Ms. Achille said that if you were to grant a Special Use Permit, the chief of police would know. Mr. Cervasio said he read a piece on this and if you have two cardholders in a facility or house and how many plants were allowed, a person couldn't possibly smoke that much in a year so they would have to have a market for it. This could create an illegal sale, so his vote would be not allowable.

Mr. Carey asked for clarification from the solicitor. Ms. Achille said that a recent court case said that people who have a card can grow in their home, you cannot restrict it. People who want to grow together is not necessarily a right. As part of cultivation, you are not required to notify the DBR or adhere to regulations, but if you are applying for a Special Use Permit, obviously you would know where they are. Mr. Carey said so the Non-Residential would probably be better to allow with a Special Use Permit. Mr. Carey stated that they want to know where they are and if there's a way to do that with the ordinance, to do it. Mr. Carey said he would want to prohibit it but it may be safer to know where they are.

Mr. Carpenter mentioned having both of them in the same ordinance. Ms. Achille said A. was non-residential and B. is Residential. Mr. Cervasio asked if they could just say no to both. Ms. Achille said yes you can say no to both.

Mr. Carey asked for a consensus which was no for both categories.
Mr. Carey felt that they should wait before discussing Recreational Use in case the State decides to legalize it, then they can deal with it at that time.
Ms. Achille corrected a previous statement and said there is some regulation of recreational use by DBR and asked if that changed anyone's mind. All said no.

Mr. Cervasio moved, Mr. Renzi seconded, to send the Marijuana Ordinance to the Town Council with edits.
Motion passed 6 – 0.

H. New Business

1) Appointments of Liaisons to Land Trust and Conservation

Mr. Carey appointed Mike Carpenter to continue as liaison to the Land Trust.
Mr. Carey asked for a volunteer for Conservation Committee. Mr. Carey appointed Mr. Sparks.
Mr. Cervasio objected to Mr. Carey making the appointments. Ms. Achille said she would investigate the legalities of making appointments.
Mr. Renzi asked what rules were followed. Mr. Carey replied it was the Democratic Rules of Order.

I. Comprehensive Plan Update

Laura Sparks has provided Ms. Maynard with several maps for the Comprehensive Plan. Ms. Maynard said she will continue to create the required GIS maps and they will be presented to the Board for review. Ms. Maynard continues to receive edits from town boards, etc. for review. Mr. Carey inquired if they will then go out for public comment. Ms. Maynard said yes, and that it would go up onto the website.

J. Future Agenda Items

- 1) FY 2017-2016 Capital Budget
- 2) Screening Requirements for Commercial Developments
- 3) Plainfield Pike Accident Reports (STIP) Request
- 4) Wellhead Protection
- 5) RIDEM Farmland Access Program
- 6) Blight Ordinance

Mr. Carpenter moved to adjourn. Motion passed 6 – 0. Meeting adjourned at 8:05 p.m.

Respectfully submitted,

Helen Hardy, Secretary