



**PLANNING BOARD MINUTES
TOWN OF FOSTER
Benjamin Eddy Building
6 South Killingly Road, Foster, RI
Wednesday: March 16, 2016
7:00 p.m.**

A. Call to Order

Mr. Carey called the meeting to order at 7:09 p.m.

B. Roll Call

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

Board Members Excused: Julia Parmentier (Vice-Chair); Michael Carpenter; and Richard Sparks.

Staff Present: Juliana King (Planner).

Public and Applicants Present: Denise DiFranco (Town Council); Jon Restivo; and John Champ and Kevin Delaney.

**C. Approval of Minutes
March 2, 2016**

Discussion/Action

Motion by Mr. Mercier to approve the minutes of March 2, 2016. Second by Mr. Spaziano. Ms. Hardy made note of a few typos on page 2. Approved 4 – 0 as amended.

D. Correspondence

Discussion/Action

There was none.

**E. Board Members' Reports
1) Land Trust**

Discussion/Action

No report was available at this time.

2) Conservation Commission

No report was available at this time.

Mr. Carey reminded everyone that motions can be tricky with only four members present tonight, so if any of the applicants for the two items requiring votes feel uncomfortable then they can be rescheduled for another night with no prejudice.

G. Zoning – Opinion Requested

Discussion / Action

- 1) Owner and Applicant Jon Restivo for property located at 27 Mill Road, being Plat 12 Lot 72 in an Agricultural/Residential AR district on 52 acres. A Special Use Permit is sought from the Town of Foster Zoning Ordinances Article IV: Zone Regulations: Description of Uses: Section 2 Residential Uses: Subsection 7 Lodging, Guesthouse or Bed-and-Breakfast. The Permit is needed to use an existing 1-bedroom cabana, formerly an office building, for a Guesthouse; no site or building alteration is needed or proposed, and existing parking, septic, and well serve the proposed use.

Mr. Restivo indicated that he was okay with being heard tonight, and gave background on his petition- the building already exists with its own septic, well, heating and air conditioning, is structurally sound and meets all setbacks and parking applicable to a guest house so all of the zoning requirements are met, and was used as an office since the 1970s. He cleared it out when he bought it a year or so ago. Mr. Mercier inquired about remodeling, and Mr. Restivo responded in the affirmative to just the interior though the roof was recently replaced. No expansion is intended. Ms. Hardy asked how many units it could accommodate, and Mr. Restivo answered that it is just 1 bedroom due to the layout and the septic.

Mr. Spaziano highlighted that the special use permit and corresponding use would eliminate the non-conforming use. Mr. Carey wondered what it was taxed before the cabana. Mr. Restivo explained that it was as an office and thus commercial, and if he wanted to convert to a different non-conforming use other than office then a special use permit would still be needed per the Zoning Ordinance. Discussion on the prior mixed-use aspect to the property ensued and how it was grandfathered in; such a legal non-conforming use is different than the AR zone on the full parcel.

Mr. Restivo remarked that the guest house use won't affect the FFOS designation because the building is within the 5 acres taxed at the normal rate. Ms. Hardy was pleased to see this application because this kind of unit is needed in Town. Mr. Carey was curious if there was any future possibility to expanding to a bed-and-breakfast, and Mr. Restivo didn't foresee marketing it as such.

Mr. Mercier commented that Mr. Restivo is a member of the Town Council but that has no bearing on the vote tonight.

Motion by Mr. Mercier to recommend that the Zoning Board of Review grant this application for a special use permit for property at 27 Mill Road, Plat 12 Lot 72, specifically a Guesthouse as allowed in IV:2:7. Second by Mr. Spaziano. Approved 4 – 0.

J. Major Land Development

Discussion / Action

- 1) Pre-Application of applicant Industrial Tower and Wireless, LLC and owners John & Anna DiFazio to construct a 150' personal wireless service telecommunications lattice tower and related facility including equipment shelter, security fencing, and service gate encompassing 6,400 square feet, with underground utilities and erosion control measures, and constructed with the intent to co-locate; located on Luther Road by Pole 1 on 155 acres, being Plat 5 Lot 64 in an Agricultural/Residential AR district, and requiring a waiver from the Class I Boundary Survey requirement.

Mr. Champ stated that he was satisfied with a 4-member Board, and introduced the application as a 6,400 square foot compound area surrounded by an 8-foot high chainlink fence with a 10-foot wide entrance gate. The compound surface will have 6" crushed stone on top, and the gravel drive to the site is an easy entrance off of Luther Road situated; there is plenty of frontage on Luther. The only issue Mr. Champ mentioned from the Staff Report was the boundary survey waiver and the rationale behind the request is due to the ~\$25,000 it would cost to survey the whole 155 acres.

Mr. Mercier expressed concern on granting a waiver except in unique situations, and discussion on different survey classes and how the standards were updated fully in December 2015 commenced. Mr. Mercier asked that the new standards be sent to the Board.

Mr. Delaney confirmed that a compilation Class IV survey was done as the basis for this plan and was the result of surveys/boundaries obtained off of surrounding properties. Mr. Mercier was hesitant on the waiver but trying to be sympathetic to a 6,400 square foot project in 155 acres. Ms. Hardy wondered about a Class I just for Luther Road and boundaries to the lots most adjacent to the project. Discussion on reasons for a Class I with respect to Board decisions versus the overarching Town goal of property boundary accuracy was next.

Mr. Spaziano voiced his opinion that the last Class I survey waiver granted by the Board actually had less merit than this request, but it was recalled that that subject lot was surrounded by lots surveyed to a Class I or its predecessor over the years. Ms. Hardy felt that a case can be made that any lot adjacent to and within visual contact with the tower could and should benefit from a more accurate account of the common boundaries, and is a fair request without overburdening the applicant to survey even the majority of the lot to a Class I standard. There was general clarification that lot 64A was already subject of a Class I, and it is possible to survey some boundaries as Class I and not others. Mr. Mercier pointed out that if it was surveyed from the 64A boundary marker north to lot 65 then Class I would be completed for the Luther frontage.

Ms. Hardy questioned the coverage gap, citing a tower at 102 and 14 at the former Mageira gravel bank. Mr. Champ said that a tower was proposed at Highland Rod & Gun to the north of the subject site but it didn't advance because there was too much coverage overlap. Mr. Delaney assured the Board that a coverage map will be provided with the next submission. Mr. Mercier was surprised to learn that the applicant is planning to purchase the property outright contingent on approvals and permits.

Mr. Delaney was willing to complete a Class I from the 64A marker up Luther to the next abutting lot. Ms. Hardy was concerned about future uses and that no Class I at all could be problematic. Mr. Delaney brought up tabling to 4/6. Mr. Carey noted that if the tower will benefit residents then the fact that a full Class I survey would be cost prohibitive is a serious consideration. Ms. Hardy sought to get the Board's feelings to see if a consensus exists on which, if any, boundaries to require as Class I- she listed the Luther Road frontage, and turning the corner along lots 65, 67, and a portion of lot 68, and reiterated that it doesn't seem necessary to do the boundaries encompassing the whole 155 acres. Mr. Carey agreed that if the frontage and nearest abutting property bounds were surveyed to a Class I standard then it would help with side lines, and added that if

anyone wanted to develop the rest of the parcel in the future then it would have to come back to the Board anyway.

Mr. Spaziano stressed that the tiny size of the development, but could see the rationale suggested by Ms. Hardy with the caveat that a full survey would be required for any further development; he didn't want to set precedent but it seems appropriate in this case. Ms. Hardy emphasized that the reason a partial waiver is being contemplated is due to the small portion of the parcel being affected, and the boundaries being held to the Class I requirement essentially enclose the project area, but a Class I for the whole lot would be onerous. The project area itself not being surveyed was compared to a house being built and not surveyed.

The Board referenced the by-laws and that only a majority of those present are needed for a vote such as this where a recorded and appealable decision is not created.

Motion by Mr. Spaziano to grant a partial waiver of the Class I boundary survey requirement, and instead require a Class I only of the frontage bounding Luther Road from lot 64A running north to lot 65 as well as the boundary between lots 64 and 65, continuing between 64 and 67, and the southeast boundary line of lot 68 running from the corner of the boundary with lot 64 and 67, and show the Class I survey of 64A. Second by Ms. Hardy.

Motion by Mr. Spaziano to amend the main motion to add the caveat that the partial waiver is only good for this project and any further development on this parcel would require a Class I survey. Second by Ms. Hardy. Amendment approved 3 – 1 (Mr. Mercier opposed).

Main motion approved 3 – 1 (Mr. Mercier opposed).

M. New Business

Discussion/Action

1) Checklists

Motion by Mr. Mercier to table. Second by Mr. Spaziano. Approved 4 – 0.

2) Liaison Appointments

Mr. Carey indicated that he has spoken to Mr. Carpenter and Mr. Carpenter is interested in continuing as the Land Trust liaison, so Mr. Carey officially appointed Mr. Carpenter as Land Trust liaison.

Mr. Carey asked Mr. Spaziano if he wanted to remain Conservation Commission liaison, and Mr. Spaziano replied in the affirmative. Mr. Carey officially appointed Mr. Spaziano as Conservation Commission liaison.

3) Letter of Support for Scituate Reservoir Watershed Community Assistance

Ms. King briefly explained the Council discussion and passed out the resulting draft Council support letter; the letter still needs to pass Solicitor muster.

Mr. Carey remarked that Grow Smart has always been very helpful.

Motion by Mr. Mercier to ask Ms. Hardy write a letter in support of Scituate Reservoir Watershed Community Assistance and send it to the Chair to sign, and pass it on from there. Second by Mr. Spaziano. Approved 4 – 0.

N. Comprehensive Plan Update

Discussion

There was nothing new to report.

O. Future Agenda Items

Discussion

- 1) TDR and Villages
- 2) Update of By-Laws
- 3) Full Meeting of Town Boards & Commissions
- 4) Road/Bridge Plan
- 5) New Police Station

P. Adjournment

Motion to adjourn at 8:27 p.m. was approved unanimously.

Respectfully submitted,

Helen Hardy, Secretary