

GROTON PLANNING BOARD
NOVEMBER 8, 2001
MINUTES

Vice Chairman Degen called the meeting to order at 7:30 PM in the Town Hall

Members present: Curtis, Barringer, Clements, Degen, Lewis, and Perkins

Member absent: Eliot

GROWTH MANAGEMENT ADVISORY COMMITTEE

The Board met with the Growth Management Advisory Committee (GMAC) to discuss the proposed phase growth by-law. GMAC members Charles McKinney, Craig Auman, Thomas McCuin, Susan Horowitz, and Steven Webber were present. Selectman Peter Cunningham was also in attendance.

Mr. McKinney, chair of GMAC, presented an updated version of the proposed growth limitation by-law. He said the Committee made a number of changes since the last meeting with the Planning Board. The proposed by-law will allow the issuance of 80 building permits in 24 months. Permits will be evenly divided between lots in subdivisions and ANR lots. Exemptions will include a one-time exemption per landowner to build a home for a family member. Affordable housing will also be exempt. Restoration and reconstruction will be allowed because the proposed by-law will apply to new construction only.

(Member Barringer arrived.)

Mr. McKinney said GMAC thought about using a lottery system to issue permits, but decided against it. Only one town – Edgartown – is using a lottery system. GMAC believes a lottery system will not work well because it is too difficult to predict permit issuance. GMAC is recommending that permits be issued on a first-come, first-serve basis. Mr. McKinney submitted a build-out schedule to the Board including lots in all grandfathered subdivisions.

Member Perkins said the present Development Rate Limitation by-law has a threshold of 120 permits in 24 months. She said without this threshold, what will prevent a developer from using all the available building permits in one subdivision.

Mr. McKinney said if the 120 threshold is not reached, a developer could apply for 20 permits in 24 months (half of the available permits are allocated for subdivisions and half for ANR lots). He said it is not up to GMAC to determine who will receive permits.

Member Perkins asked why the Planning Board would have a role in the granting of building permit rather than the Building Inspector. She asked what purpose a “dwelling unit voucher” (DUV) will serve. Mr. McKinney responded that having two departments keep track of permit issuance for growth limitation purposes might be advantageous.

Member Lewis stated that the Building Inspector is the Zoning Enforcement Officer in state statute (see Chapter 40A, §7). The Planning Board does not enforce zoning. Vice Chairman Degen said the Planning Board would issue the DUV’s – not the building permits. Member Perkins expressed concern about people lining up for building permits. Thomas McCuin said they asked other Town this question, and it has not happened in other towns with similar by-laws.

Susan Horowitz said Edgartown had a problem with people lining up for permits and switched to a lottery system. Now that the economy has slowed down, Edgartown will let the by-law expire. She added that having the Building Inspector and Planning Board administer the by-law is part of the checks and balances of the system.

Vice Chairman Degen said many communities have the Planning Board administer their phased growth by-laws.

Member Perkins asked if the proposed by-law would result in large developers locking out local builders. She said one developer should not be able to receive all the available building permits.

Vice Chairman Degen said the 20-20 split between permits for subdivision lots and ANR lots is not fixed. He added that no one developer can receive more than 10% of the permits.

Member Perkins asked if permits would be issued yearly rather than quarterly. Mr. McKinney said GMAC is still discussing this point and is looking for guidance from the Planning Board.

Member Lewis said problems can result when subdivisions are built out over long time periods. Planning Administrator Michelle Collette described the severe problems encountered by new residents during construction of Phase I of the Partridgeberry Woods subdivision.

Member Perkins said the 20-20 allocation for subdivision lots and ANR's may not encourage ANR development. She noted that the Board has worked hard over the years to discourage ANR development. Mr. McKinney said GMAC included this provision to protect smaller developers, not encourage ANR development.

Mr. McCuin said he would send out an e-mail on this point. Member Lewis said he would rather have an open dialogue.

(Chairman Curtis arrived.)

Chairman Curtis suggested that GMAC evaluate the existing Development Rate Limitation by-law to see if the numbers can be adjusted. There may be other methods to address the problem. He added that the impact of the recent amendment requiring 80,000 sq ft upland on each lot has not been determined yet. Mr. McKinney agreed.

Vice Chairman Degen read the letter dated November 8, 2001 from Attorney Robert Collins.

Mr. McKinney summarized the outstanding issues including: 1) the time period for permit issuance; 2) the limit of permits per developer; 3) the evaluation of the existing Development Rate Limitation provisions.

Member Barringer said he agreed that amending the existing by-law is preferable as a starting point. Member Clements agreed.

Member Perkins stated that many local developers have been very generous to the Town and she does not want to see them cut out of the process by the proposed amendment.

The Board will meet with GMAC again on January 10, 2002.

PUBLIC HEARING (con't) – SPRINT/CROWLEY SPECIAL PERMIT

The Board continued the public hearing to consider the application submitted by Sprint to construct a 120 ft monopole telecommunication tower on the Crowley property located at 550 North Main Street. Attorney Jonathan Lazar represented Sprint at the hearing. Brady Goodell and Syed Abidi were also present.

Chairman Curtis read the letters dated October 31 and November 2, 2001 from Town Counsel Patricia Cantor.

Mr. Lazar submitted a report dated November 5, 2001 from site acquisition specialist Brady Goodell detailed other sites that Sprint investigated including land owned by Ryan Development on Route 119 and Mill Street, Kelly's property, New England Business property, Insko property, Big John Trust property, and the Fran Leon Farm property. Letters from the landowners were attached to the report. A total of ten sites were investigated. Six sites required variances and four did not. However, some sites that would not require a variance are prime farmland and the tower would have an adverse impact on the scenic view of these sites.

Member Barringer asked about the ten sites shown in the report. Mr. Lazar said not all the sites are in Groton – some are in Pepperell. Syed Abidi pointed out the ten sites on the map.

Member Clements asked if the NEBS site was inconclusive. Mr. Goodell said NEBS did not want to lease land to Sprint but it would not sign a letter stating so. The Planning Board can call NEBS for verification on this point.

Carrie Kneeland asked why Sprint did not want to site the tower on land owned by Big John Trust or the Fran Leon Farm. Mr. Goodell the Fran Leon Farm was not contacted because the tower would be sited in open farmland and would have a tremendous visual impact on the town's viewshed.

Carrie Kneeland said she thought Sprint should contact these two owners about leasing land for the tower. Chairman Curtis added that both sites – Big John Trust and Fran Leon Farm – are close to the high school complex and he would not advise Sprint to pursue these locations. Member Clements agreed that a tower would be visually obtrusive on these sites.

Mr. Crowley stated that there are 98,000 9-1-1 calls made from cell phones daily. This averages 2000 call per day for every state.

Carrie Kneeland asked why a variance was needed for the Crowley site. Chairman Curtis said the request for a set back variance was denied by the Zoning Board of Appeals and appealed to court. Mr. Lazar said the tower does not comply with the 500 ft setback requirement from five structures – two houses, two barns, and a shed. All five structures are owned by the Crowleys.

The Board said it would like a week to review the information submitted by the applicant.

The motion was made by Clements to continue the public hearing on November 15, 2001 at 8:00 PM. The motion was seconded and passed with Curtis, Barringer, Clements, and Perkins in favor; Degen and Lewis opposed.

INFORMAL DISCUSSION – SPRINT SITE ON NORTH STREET

Attorney Jonathan Lazar requested the Board's opinion on the possibility of Sprint siting a tower on the Colonial Stoneyard property on North Street. The tower would require a variance.

Chairman Curtis said the Board's policy on informal discussions is to answer questions about the bylaw and regulations to provide guidance to an applicant. However, the Board will not discuss the specifics of an application because discussion of such matters should take place during the public hearing.

ANR PLAN - S. TRACY ELIADES, CULVER ROAD

The Board considered the Approval Not Required plan submitted by S. Tracy Eliades showing one new lot and one non-buildable parcel on Culver Road. Mr. Eliades completed road improvements to provide adequate access to the lot in accordance with an agreement with the Board of Selectmen.

Member Degen said the "T" turn around is not 16 ft wide. Mr. Eliades said the road was constructed as shown on the plan approved by the Board of Selectmen, and the Highway Surveyor signed off on the work. Chairman Curtis said the "T" turn-around can be addressed when the second lot is proposed because it is not needed to provide access to the lot shown on the plan.

The motion was made by Degen to determine that that Culver Road extension with the existing "T" turn-around is adequate to serve Lot 1 as shown on the plan entitled, "Plan of Land in Groton, Massachusetts, Prepared for S. Tracy Eliades," prepared by Dillis & Mische, dated September 1998. The motion was seconded and passed with Curtis, Clements, Degen, Lewis and Perkins in favor; Barringer abstaining.

The motion was made by Degen to endorse as Approval Not Required plan entitled, "Plan of Land in Groton, Massachusetts, Prepared for S. Tracy Eliades," prepared by Dillis & Mische, dated September 1998," with the following notation:

“Such endorsement shall not be deemed to constitute any determination of compliance with the requirements of the Zoning By-Law.”

The motion was seconded and passed with Curtis, Clements, Degen, Lewis and Perkins in favor; Barringer abstaining.

BOND RELEASE – ORCHARD HILLS ESTATES

The Board met with developer James Patierno to discuss the final release of the performance bond for the Orchard Hills Estates subdivision. The Board received a report dated November 7, 2001 from John Schmid of Judith Nitsch Engineering, Inc. (JNEI) .

The motion was made by Perkins to release the amount held in the agreements entitled, "Agreement and Contract - Town of Groton Planning Board; Enterprise Bank and Trust" for the Orchard Hills Estates subdivision. The Board determined that the construction of ways and installation of municipal services in the subdivision have been fully and satisfactorily completed by the applicant in accordance with "Chapter 346 – Subdivision of Land" of the Code of the Town of Groton. The motion was seconded and passed unanimously.

BOARD OF HEALTH – PROPOSED MORATORIUM

The Board reviewed a copy of the Board of Health's proposal for a threeyear moratorium. Selectman Peter Cunningham said the Board of Selectmen questioned whether the Board of Health has the authority to declare such a moratorium.

Chairman Curtis described the adverse impact the Planning Board experience from the 1988 moratorium when 27 preliminary subdivision plans were submitted the week before the Town Meeting vote on the moratorium.

The motion was made by Degen that the Planning Board not endorse the Board of Health's proposed moratorium because it is not based upon substantial information and the Board of Health does not have a legal opinion to support the moratorium. The motion was seconded and passed with Curtis, Barringer, Degen, Lewis and Perkins in favor; Clements abstaining.

HOUSING PARTNERSHIP

Selectman Peter Cunningham met with the Board to discuss the Selectmen's effort to reactivate the Housing Partnership. He asked if the Planning Board would appoint a liaison to the Housing Partnership.

Member Lewis said he served as the Planning Board's representative on the Housing Partnership in the 1980's. He was told that he had to resign and that he could not serve on both the Planning Board and Housing Partnership because it would be a conflict of interest.

Selectman Cunningham said the Board of Selectmen is looking for a group to apply for a grant under Executive Order 418 to prepare a housing plan. The Groton Housing Authority did not seem to be the right entity to do the housing plan, so the Selectmen decided to reactivate the Housing Partnership.

Chairman Curtis said if the Selectmen clarify the role of the Housing Partnership, then the Planning Board will ask Town Counsel for an opinion on whether a member of the Planning Board can serve on the Housing Partnership.

ACADEMY HILL SPECIAL PERMIT

The reconsideration of the Board's decision on the special permit for Major Residential Development for the Academy Hill subdivision was postponed to the meeting on November 15, 2001 when all members would be present.

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

