

GROTON PLANNING BOARD**APRIL 4, 2002****MINUTES**

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

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

PUBLIC HEARING –SPECIAL PERMIT, FRANK CASTELLUCCI

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board held a public hearing to consider the application submitted by Francis Castellucci for a special permit to utilize the provisions of Groton Zoning By-law Section 218-23D Shared Driveways to construct a shared driveway serving Lots 1-A, 2-A and 3-A as shown on the plan entitled, "Plan of Easement in Groton, Massachusetts, Surveyed for Francis J. Castellucci," prepared by Charles A. Perkins Co., Inc., dated February, 1989. The proposed shared driveway is located on Assessors Map 134-26, 134-28, and 134-29, on the easterly side of Boston Road.

Chairman Curtis called the hearing to order. Clerk Barringer read the notice published in the March 15 and 22, 2002 issues of *The Groton Herald*. Applicant Frank Castellucci and several abutters were present.

Mr. Castellucci presented the plan to use an existing shared driveway serving two houses to access a new house on the adjacent lot. The Planning Board endorsed the ANR plan creating the three lots in 1985, and an easement plan for the driveway was recorded at the Registry of Deeds in 1989. Mr. Castellucci said the driveway cut is located where the Massachusetts Highway Department suggested for safety reasons.

Chairman Curtis read comments from the Police Chief, the Board of Health, and the Conservation Commission.

Member Lewis asked if the shared driveway exists today. Mr. Castellucci said, "yes," it is located near the Groton-Littleton town line.

Member Degen asked what the width of the driveway is today. Mr. Castellucci said it is 12 ft wide for about 100 ft. Member Degen said he would like to hear from the Fire Chief.

Member Perkins said if the driveway is only 12 ft wide, it must be widened to 16 ft to meet the Shared Driveway Regulations adopted in 1996.

Abutter Jerome Hojanacki spoke in favor of the special permit application.

William Rodenhizer, owner of Lot 2-A, also spoke in favor of the application. Member Perkins asked Mr. Rodenhizer if he minded having the shared driveway widened. Mr. Rodenhizer said he had no objections.

Member Lewis asked if the driveway easement is recorded at the Registry of Deeds. Mr. Castellucci said a copy of the recorded plan was submitted with the application.

The Board voted unanimously to close the public hearing.

The motion was made by Perkins to GRANT a special permit to Frank Castellucci to utilize the provisions of Groton Zoning By-law Section 218-23D Shared Driveways to construct a shared driveway serving Lots 1-A, 2-A and 3-A as shown on the plan entitled, "Plan of Easement in Groton, Massachusetts, Surveyed for Francis J. Castellucci," prepared by Charles A. Perkins Co., Inc., dated February, 1989. The Board granted the special permit based upon the following findings and conditions:

Findings:

The Planning Board made the following findings based upon the criterion set forth in Zoning By-Law §§ 218-26D and

218-32.1

1. **Social, economic and community needs:** The community will be better served by having fewer driveway cuts on Boston Road.
2. **Traffic flow and safety:** Traffic flow and safety will be improved by having one driveway cut in a safe location instead of three driveway cuts on Boston Road. The shared driveway is located in the safest location according to the Massachusetts Highway Department.
3. **Adequacy of Utilities:** Utilities will not be impacted by the proposed development.
4. **Neighborhood character:** There will be less impact on neighborhood character with fewer driveway cuts rather than individual driveways serving each lot.
5. **Impacts on the environment:** Fewer driveway cuts mean less environmental impact on the land than a subdivision road.
6. **Fiscal impact on the Town:** There will be no fiscal impact on the Town since the lots will not be served by a subdivision road.
7. **Consistency with Comprehensive Master Plan:** Reducing driveway cuts on Boston Road is consistent with the goals and objectives of the Comprehensive Master Plan because it minimizes disturbance to roadside vegetation.

Conditions:

1. The shared driveway must be approved by the Fire Chief prior to the issuance of a building permit.
2. The proposed shared driveway shall meet the minimum requirements of the Shared Driveway Regulations adopted on June 13, 1996.
3. A Homeowners Association shall be established to provide maintenance of the shared portion of the driveway.
4. Access to the lots shall be over the shared driveway and not through individual driveways because the findings of this special permit are based upon the reduction of multiple driveway cuts on Boston Road.
5. This special permit shall not be in effect until a certified copy of the special permit decision is recorded at the Middlesex South Registry of Deeds as required in GL Chapter 40A, Section 11, and Groton Zoning By-Law Section 218-32.1. No construction or site alteration shall commence nor shall any necessary permits be issued by any Board or official until evidence of such recording is submitted to the Planning Board by the applicant.
6. This special permit shall lapse in 24 months, which shall not include such time required to pursue or await the determination of an appeal referred to in Chapter 40A, Section 17, from the grant thereof if a substantial use thereof has not sooner commenced except for good cause. The recording of the special permit and subsequently endorsed definitive plan shall constitute commencement of substantial use.
7. This special permit runs with the land and applies to any successor in interest or successor in control.

The motion was seconded and passed unanimously.

ACCESS ADEQUACY DETERMINATIONS

The Board reviewed the Requests for Determination of Access Adequacy submitted by Ronald Feola for Indian Road and Patrick Blouin for Whitewood Road.

Indian Road - Member Lewis reported that Indian Road has a reasonable pavement width of 11 to 12 ft. However, the Board wanted more information on who owns the fee in the road prior to acting on the determination.

Whitewood Road – The Board discussed Whitewood Road. Abutter Beth Montgomery reported that Mr. Blouin bulldozed the road without permission of the Groton Conservation Trust, owner of the road. In addition, Mr. Blouin has violated many other laws and regulations.

Abutter John Keane said the area is littered with trash. Nearby resident Mark Kick said he shared the same concerns and asked how Mr. Blouin was able to rebuild the house without obtaining any permits. Abutter Cathy Rainville agreed that the area had problems with trash and debris from the lot in question.

The Zoning Board of Appeals will hold a public hearing on May 1, 2002 to consider Mr. Blouin's application for a variance. The Planning Board will act on the request at its meeting on May 2, 2002.

ORCHARD LANE LAY-OUT

(Member Degen stepped down and did not participate.)

Selectman Peter Cunningham met with the Board to discuss the resolution of the Orchard Lane dispute. He said three surveys showed three different locations of the right-of-way. The discrepancies date back to the 1958 layout of Orchard Lane as a public way. The Board of Selectmen negotiated a settlement among all three parties. Surveyor Stan Dillis prepared a new layout plan based upon the settlement agreement.

Member Lewis requested a letter from all three parties indicating their satisfaction with the new plan. Selectman Cunningham said the agreement would be signed by all parties prior to Town Meeting. The Selectmen's office will forward a copy of the agreement to the Planning Board after it is signed.

Member Barringer asked if the pavement will be contained within the right-of-way. Selectman Cunningham said the pavement will be within the 40 ft right-of-way.

Joshua Degen asked if an ANR plan will be required. Mr. Degen said according to Stan Dillis the new plan will show the right-of-way as shown on the original 1958 layout. Chairman Curtis said according to Town Counsel a new ANR plan should be endorsed and recorded at the Registry of Deeds.

PUBLIC HEARING (con't) – MILL RUN PLACE CONCEPT PLAN

The Board continued the public hearing to consider the Mill Run Place concept plan submitted by Ryan Development. Applicant Robert Walker, Attorney Robert Collins, design engineer Robert Pine, and many residents were present.

Chairman Curtis explained the process that requires a 2/3 vote of Town Meeting followed by site plan review by the Planning Board.

Mr. Collins submitted a letter dated April 4, 2002 describing proposed changes to the intersection with Mill Street. Mr. Pine presented an alternative layout with the entrance onto Mill Street being right-turn only. He said more study by traffic engineers is required and they will continue to work out the details with the Board during the site plan review process.

Mr. Collins said his letter dated April 4, 2002 and attached diagram will be part of the concept plan presented to Town Meeting, but the engineering details will be worked out during site plan review.

Chairman Curtis noted that access to this site is a major issue. Mr. Collins responded that traffic in this location will be an issue, with or without the proposed concept plan.

Member Degen said he still has concerns about traffic flow. Mr. Collins said this proposed design change will cut traffic on Mill Street in half. Member Degen said from the beginning of this process, he has asked for two entrances on Route 119. Mr. Pine said another access on Route 119 would be difficult because there is a change in grade and the two accesses would be too close together.

Abutter Mark McCarthy said the proposed reconfiguration of Mill Street will result in a change to his property lines. Chairman Curtis said if the relocation of the road changes any lot lines, an ANR plan would be required.

Mr. McCarthy said the traffic study submitted by the applicant did not address Anthony Drive.

Abutter Carrie Kneeland said her letter dated February 14, 2002 to the Planning Board asked if the numbers submitted by the traffic engineer were accurate. She said the counts were 6% lower on weekdays than on weekends. She asked why there are not any sidewalks proposed. She commented that the entrance from Mill Street to the day care center should be blocked off.

Chairman Curtis said any traffic count discrepancies must be addressed by the applicant. Mr. Collins said TEPP, traffic engineers, will do more traffic counts before Town Meeting.

Member Lewis said he agrees that there should be sidewalks. Chairman Curtis said the Board can require sidewalks during site plan review.

Abutter Mary Durham said this is the first time a commercial development of this scale has been proposed in a residential area. There is so much included – a grocery store, retail space, restaurant, and day care center. This plan is excessive and it is not a good plan.

Connie Sartini of Mill Street asked if the concept plan can be amended on the floor of Town Meeting. Planning Administrator Michelle Collette said the Moderator and Town Counsel rule on whether any proposed amendments are within the four corners of the article.

Mrs. Sartini said Mill Street is very curving and narrow, and the residents do not want an access on Mill Street. She asked if the Board had taken a position on Mr. Alcott's letter regarding the need for a special permit. Chairman Curtis said Mr. Alcott may have misread the Zoning By-law.

Attorney Jeffrey Gould, representing Donelan's Supermarket, asked if it is the Board's position that a special permit is not required. Chairman Curtis said this hearing is to consider the concept plan prior to Town Meeting – it is not to consider a special permit application, which is not germane at this time.

James Western said if the Town Meeting approves the concept plan, then a special permit is required for any building greater than 30,000 sq ft. Chairman Curtis said during the site plan review or special permit process, the Board must determine if the plan is consistent with the concept plan approved by Town Meeting.

Mark McCarthy asked about the process to relocate Mill Street. Chairman Curtis explained the Subdivision Control Law process including preliminary plan and definitive plan approval by the Planning Board. After the road has been constructed, it must be laid out by the Board of Selectmen and accepted by a vote of Town Meeting. Mr. McCarthy said if Mill Street is relocated, he will no longer have frontage. Mr. Pine said if the road is relocated, land would be added to the lot owned by McCarthy.

Carrie Kneeland said the concept plan is not a good plan. The two driveways on Mill Street could be replaced with three to four entrances on Route 119.

Connie Sartini asked if the Planning Board could require that there be no cuts onto Mill Street in its recommendation to Town Meeting. Chairman Curtis said the Board could offer an amendment on the floor of Town Meeting if it decides to do so.

Member Degen asked if the Board of Selectmen held a public hearing on relocating Mill Street. Selectman Cunningham said, "no," it was only an informational session with the applicant. Member Degen asked if the Selectmen agreed on the concept of relocating the road. Selectman Cunningham said, "yes."

Mary Durham asked if the relocation of Mill Street had to be constructed first. Mill Street resident Audrey Western said construction of the site cannot begin until Mill Street is constructed and accepted by the Town Meeting.

Member Eliot asked if all the land shown on the concept plan is zoned B-1. Mr. Collins said everything except the area where the day care center is located.

Chairman Curtis said the day care center is part of the concept plan and will be included in the Planning Board's recommendation to Town Meeting.

Member Eliot asked if the impervious surface ratio includes the day care center. Mr. Pine said the site far exceeds the requirements of the by-law for both impervious surface and landscaping.

Mr. Collins noted that the concept plan is not carved in stone and can be modified during site plan review. In response to the question about special permits, if the underlying Schedule of Use Regulations says a special permit is required, then it is required. If not, then only site plan review is required.

The Board voted unanimously to close the public hearing and will act on its recommendation to Town Meeting at its meeting on April 11, 2002.

PUBLIC HEARING – A. L. PRIME CONCEPT PLAN & REZONING

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the following proposed rezoning and concept plan:

“To see if the Town will vote to re-zone from R-A (Residential Agricultural) to B-1 (Business District) the premises situated on Boston Road owned by Nasser S. Buisier being shown on the "old" Assessors' Map U as parcel 48-0 and upon the new Assessors' Maps as Map 121 Lot 17, consisting of 37,780 square feet more or less as described in a deed recorded with Middlesex South Registry of Deeds in Book 29337 at Page 196, or take any action thereon. A concept plan showing proposed site improvements are on file with the Groton Planning Board.”

Chairman Curtis called the hearing to order by reading the notice published in the March 15 and 22, 2002 issues of *The Groton Herald*. Applicant Nasser S. Buisier, Attorney James Gmeiner, design engineer Gary Shepherd of David Ross Associates, and several abutters were present.

Mr. Gmeiner explained that the site has been used for a service station dating back to the 1930's and 1940's. The Town rezoned the gas station lot to B-1 in 1988. The applicant acquired the abutting 38,000 sq ft lot in 1998. The applicant is requesting to rezone a portion of the abutting lot currently zoned R-A. The width of the B-1 zone on the adjacent lot will be 60 ft. An additional 30 ft can be used for business use under the provisions of the Zoning By-law. The existing building will be removed and replaced with a new building and convenience store. The diesel pumps shown on the plan will be eliminated. Mr. Gmeiner stated this is one of only two gas stations left in Groton and there were as many as seven not many years ago.

Gary Shepherd of David E. Ross Associates explained that the Site Plan Review process will address lighting and other issues. He said there will be a business here either on the existing lot as it is today, a change on the existing lot, or a change on a larger lot. Mr. Shepherd said the larger lot option is better for handling runoff and drainage issues. A new sewage disposal system will be installed as well as a new storm water management system. The plan will include better landscaping and vegetated buffers. Traffic flow will be improved with the larger lot because there will be more sight distance between the entrances. Although everything can fit on the smaller lot, the larger lot will be safer, provide better environmental protection, better landscaping, and will result in a more attractive site.

Jeff Robards, construction manager, of AL Prime described the double-walled tanks and containments systems.

Member Eliot asked if architectural drawings were submitted with the application. Mr. Gmeiner said, “yes.”

Member Degen said when the applicant purchased the business-zoned lot, he knew the adjacent lot was zoned R-A. Mr. Buisier acknowledged that he did know this.

Member Barringer asked what the total acreage is. Mr. Gmeiner said about 1.5 acres – the B-1 lot contains 27,0000 sq ft and the R-A lot contains 38,000 sq ft.

Member Clements said he thought the petition was to rezone the entire parcel from R-A to B-1. Mr. Gmeiner said they only want to rezone a 60 ft wide portion of the R-A lot to B-1. Member Clements asked if the remainder of the parcel zoned R-A would be buildable. Mr. Gmeiner said, “no,” it would serve as a buffer.

Member Clements noted that the land is within the Water Resource Protection District.

Chairman Curtis read the comments from the Groton Water Department and the Board of Health.

Member Perkins asked how much expansion would take place if the land is rezoned. Mr. Gmeiner said there are four pumps today and there will be six pumps if the area is rezoned.

Member Perkins asked if the tanks comply with the Storage Tank Regulations. Mr. Robards said, “yes.”

Member Eliot asked if this use is permitted in a Water Resource Protection District. Mr. Shepherd said it is an expansion of a non-conforming use and would require a special permit from the Zoning Board of Appeals.

Ken Thompson said the gas station has been on this site since 1951, not since the 1940's. He said his family built the gas station in August, 1951. He said his daughter, Lorraine Isley, now owns the abutting land. Mr. Thompson said his father granted an easement in front of the barn for the gas station to use as an access. He asked what will happen to that easement.

Chairman Curtis asked if the easement was recorded. Mr. Thompson said, “yes.”

Gary Shepherd said the easement area is paved today. If the gas station is upgraded, there would be no need to use the easement as access for the gas station.

Abutter Stephen Helfant said the gas station has been an eyesore since 1959. It is a hazardous operation with overflowing pumps and workers discharging gasoline onto the ground. There is a crater in the pavement where the gasoline is usually poured. He told the Board about an episode his mother experienced when the gas station was left unattended.

Attorney Michael Spencer, representing abutter Patrick Kenney, said there are three gas stations in Groton today – not two. The loss of this business would not cut the number in half. The canopy over the pumps would require additional lighting. He said if the land is rezoned, the business use will creep onto the adjacent land zoned R-A. All the proposed benefits of this project are for Mr. Buisier and his business, and there are no benefits to the town or the abutters.

Chairman Curtis read the letter dated March 30, 2002 from the Kenneys and the letter dated March 30, 2002 from Lorraine Isley.

Abutter Greg Sweeney said a variance is required for residential use of the R-A lot. He asked what would happen to this lot in the future if it is rezoned since there has been no up keep of the existing lot. He noted that the lot zoned R-A has already been clear cut.

Chairman Curtis said the Board must conduct Site Plan Review and determine if the plan is consistent with the concept plan approved by Town Meeting.

Patrick Kenney said once the door is open for expansion, the situation will be worse in five years than it is today. He

said the owner's other gas station properties are not well maintained.

Abutter John Cain said the gas station has been a terrible neighbor. They clear cut the lot without even knowing what they planned to do with it.

Mr. Helfant said he agrees with the other statements about the owner's lack of responsibility. He asked what the direction of flow is for the aquifer. Planning Administrator Michelle Collette said the groundwater flows north toward Knops Pond and Lost Lake, then to Whitney Pond and the Town's primary well site.

Member Barringer asked why the applicant is only asking to rezone 60 ft and not the entire lot. Mr. Gmeiner said to limit the area of expansion.

Mr. Spencer questioned the use of an additional 30 ft in the R-A zone. Mr. Gmeiner said he has communicated with the Building Inspector on this point (see Zoning By-law § 218-10E). He added that the dates he cited for the gas station were taken from the Board of Assessor's records.

Mr. Thompson asked if the Town does not support the rezoning, will there still be a gas station in this location.

Patrick Kenney stated his objections and said he does not want to live next door to a full-sized service gas station and convenience store.

The Board voted unanimously to close the public hearing.

After the hearing was closed, Mr. Thompson stated that whenever he had issues with the owner, he responded to the concerns. For example, he asked him to clean up an area near his land and he took care of it right away.

The motion was made by Degen to recommend that Town Meeting NOT approve the A. L. Prime Concept Plan and rezoning petition for the following reasons:

1. There is enough business-zoned land elsewhere in Town for a service station to be located.
2. The current landowner knew the zoning constraints when he purchased the property.
3. The site is located in a Water Resource Protection District. Expanded gasoline tanks and pumps could increase the potential impact on groundwater.
4. The rezoning would adversely impact the adjacent residential area.
5. The proposed rezoning is not consistent with the Master Plan prepared by Charles Eliot in 1963, nor is it consistent with the goals and objectives of the current Comprehensive Master Plan.

The motion was seconded and passed unanimously.

MILL RUN PLACE REPORT

The Board discussed its report to Town Meeting on Mill Run Place. Chairman Curtis said he would prepare a draft report for the Board's next meeting. Member Degen said he would prepare a draft report with a negative recommendation.

Members stated their concerns about the size and scale of the development in close proximity to a residential area and the traffic impact of the proposed development.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator