

**GROTON PLANNING BOARD
AUGUST 1, 2002
MINUTES**

Chairman Degen called the meeting to order at 7:00 PM in the Town Hall

Members present: Degen, Barringer, Clements, Eliot, Perkins and Wilson

Members absent: Lewis

ANR PLANS

Marion D. Campbell Trust, Farmers Row and Shirley Road –The Board considered the Approval Not Required plan submitted by the Marion D. Campbell Trust to create four (4) new lots on land owned by the Marion D. Campbell Trust located on Farmers Row and Shirley Road.

Marion D. Campbell Trust & Strachan Family Trust, Shirley Road -The Board considered the Approval Not Required plan submitted by the Newbury Street Development to create seven (7) new lots on land owned by the Marion D. Campbell Trust and the Strachan Family Trust located on Shirley Road.

Attorney Ray Lyons and design engineer Donald Yonika of Beals Associates presented the two revised ANR plans.

Member Clements asked if the houses will be set back 200 ft as required in § 218-26.1 Major Residential Development. Mr. Yonika said, “yes.”

Member Perkins said all lots must be accessible through their frontage. Mr. Lyons said all lots have both legal and practical access.

Member Degen asked if all the lots have the required upland area under the new local by-law. Planning Administrator Michelle Collette said the by-law refers to wetlands as defined in the Wetlands Protection Act (MGL Chapter 131, § 40) and not to the local by-law.

Member Eliot said she believes the plan requires a special permit under Major Residential Development. Member Perkins agreed that the number of lots shown on the plan exceeds the threshold in the definition of Major Residential Development. There are seven lots on the plan including the lot with the existing farmhouse. Planning Administrator Michelle Collette said the Board is presently reviewing an application for Major Residential Development on both properties. Endorsement of the ANR plan does not determine compliance with zoning.

Member Wilson expressed concern about the proposed driveway cut on Farmers Row. He said he would prefer that the driveway access onto the subdivision road instead of Farmers Row.

The motion was made by Perkins to determine that access is adequate to serve the lots shown on the land owned by the Marion D. Campbell Trust. The motion was seconded and passed unanimously.

The motion was made by Perkins to endorse as Approval Not Required the plan entitled, “Plan of Land of the Marion D. Campbell Trust, Farmer’s Row Road, Groton, Massachusetts,” prepared by Doucette Survey, dated August 1, 2002, with the following note to the Building Inspector:

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

Member Eliot expressed concern about the existing condition of Shirley Road. The Board determined that its vote on access adequacy stands for the portion of Shirley Road shown on this plan.

The motion to endorse the plan passed with Degen, Barringer, Clements, Perkins, and Wilson in favor; Eliot abstaining.

The Board discussed access to the lots shown on the plan of land owned by the Marion Campbell Trust and Strachan Family Trust.

Member Perkins noted that the entire frontage along Shirley Street must be improved. Mr. Yonika said the road will be improved when the water main is installed. Mr. Lyons agreed that the road will be improved under an agreement to be negotiated with the Board of Selectmen and Highway Surveyor. He said he would provide the Board with a letter stating that the applicant agrees to making improvements to the road.

The motion was made by Perkins to determine that access will be adequate if Shirley Road is improved to the end of Lot 7-6 to "lane" standards unless the Planning Board waives such standards after consultation with public safety officials. The motion was seconded and passed unanimously.

The motion was made by Clements to endorse the plan entitled, "Plan of Land of the Marion D. Campbell Trust, Farmer's Row Road, Groton, Massachusetts," prepared by Doucette Survey, dated August 1, 2002, with the a condition that the road be improved to "lane" standards and the following note to the Building Inspector:

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

The motion to endorse the plan passed with Degen, Barringer, Clements, Perkins, and Wilson in favor; Eliot abstaining.

GMAC – PROPOSED GROWTH CAP BY-LAW

The Planning Board met with Planning Consultant Ralph Willmer and Growth Management Advisory Committee members Charles McKinney and Susan Horowitz to review the proposed growth cap by-law. The Board received a draft of the by-law dated May 23, 2002 and a memorandum dated June 13, 2002 from GMAC.

Mr. McKinney summarized the proposal which will not apply to projects already under review. He estimated that it would take about three years for permits to be issued on previously approved lots. The provision would have a five-year sunset clause.

Mr. Willmer said at the last meeting, a number of broad policy discussions were still being debated so the draft has not been revised yet.

Member Wilson said, as the Planning Board's representative on GMAC, he is behind this by-law as proposed by GMAC. He noted that it will take a few years for the cap to be effective.

Chairman Degen asked about the number of permits to be granted each year and the proposed exemptions.

Member Perkins said the by-law states that all lots shown on preliminary, definitive and ANR plans will be grandfathered.

Dr. Horowitz suggested focusing on the number of permits to be granted each year prior to debating the exemptions.

Member Perkins said she had concerns with the proposal in its present form, including the chart which specifies how permits will be issued. The chart seems to be in conflict with the text of the by-law. She said she prefers the periodic review procedures in the present by-law. She added that she is afraid the proposed growth cap will discourage local developers who have been very generous to the town over the years. In addition, Member Perkins said it is her goal that Groton provide a diversity of housing opportunities.

Member Clements said he agreed with GMAC's proposal that permits be limited to 40 per year. He asked if GMAC review similar caps in other communities. Mr. McKinney said GMAC reviewed about 20 by-laws, and most were based upon historic trends in permit issuance with the exception of Pepperell. He stated that no growth cap has been

defended in Court, although the Attorney General has approved such by-laws. The lower the number, the higher the risk will be.

Member Wilson agreed that there must be justification for the number of permits in the by-law. Mr. Willmer said the number should be based upon historic data for new construction or a number that works in conjunction with the town's infrastructure and capital improvement plan.

Member Wilson asked about the average number of permits in Groton. Mr. Willmer said the average is between 75 and 80 for the past ten or twelve years. He said if the Town sets a limit on the number of permits to be granted, the Town should undertake a long-range planning process while the limit is in place. There should be a sunset clause in the by-law.

Member Barringer said he was not sure about the proposal to limit permits to 40 per year. He said the Town should look toward the future. There are a finite number of building lots and the Town's build-out population is based upon the number of lots.

Member Clements said the intent is to slow build-out so the infrastructure can keep pace with growth. Chairman Degen agreed the cap must be part of a long-range capital planning process.

Member Barringer said water and sewer are the two biggest infrastructure issues. Mr. Willmer agreed that water, sewer, roads, and public safety response times are the critical factors to consider.

Chairman Degen expressed his support for the initiative and his agreement with the cap being set at 40 permits per year. However, the by-law must have a sunset clause.

Chairman Degen asked if the by-law would work in conjunction with the existing § 218-28 Development Rate Limitation By-law. Mr. McKinney said this by-law will merge with and replace § 218-28.

Planning Administrator Michelle Collette expressed reservations about the proposal, including the rush to submit preliminary plans, the grandfathering of ANR lots, the impact on open space donations and TDR's, and the lack of fairness to individual applicants who are not developers. The proposed cap may result in applications for Comprehensive Permits under Chapter 40B and may have a detrimental effect on preserving open space and encouraging affordable housing.

Robert Pine said moratoriums and growth caps typically create a rush of preliminary plan applications. Mr. Pine agreed that applicants will turn to Chapter 40B because this by-law will block landowners who want to develop their land. He explained the impact from the perspective of the landowner and developer. The proposed by-law will impact gifts of open space and result in only high-end housing being constructed. Entities such as the Groton Land Foundation will not be able to finance limited development projects if a cap on permits is adopted. Mr. Pine stressed the social impact on the Town which may result. He said the Board could consider using growth control provisions as an incentive to encourage open space donations and the construction of modest homes.

Ralph Willmer said Amherst has a point system for saving agricultural land, preserving open space, and providing affordable housing. Mr. McKinney said there is a much higher administrative cost with a point system.

Attorney Ray Lyons said the Town of Pepperell has a growth cap in place which has resulted in the creation of more ANR lots. In Pepperell, half of the permits are issued for lots in subdivisions and half are issued for ANR lots. *(Note: In Groton 65% of the permits are issued for lots in subdivisions, 28% for ANR lots, and 7% for non-conforming lots of record.)*

Donald Yonika said he has worked with many developers. A cap on building permits will create an artificial demand for high-end housing because it will be driven by economics.

Member Perkins suggested eliminating the threshold of 120 permits in 24 months in the existing §218-28. She asked

Mr. Pine to submit a written proposal using growth control to create incentives for open space and affordable housing.

Member Eliot said she supports the proposed cap of 40 permits per year, but she does not think ANR lots should be exempt.

Dr. Horowitz said when Westford adopted a cap, only two preliminary plans were submitted prior to Town Meeting.

Chairman Degen suggested working with Attorney Mark Bobrowski in conjunction with his work on Major Residential Development and Open Space Residential Development. Mr. Willmer said he would make the revisions to the draft before it is forwarded to Mark Bobrowski.

The Board thanked the members of GMAC for all the research and effort that went into the proposal.

SHAWS SITE PLAN REVIEW

The Board discussed the engineering review of the site plan submitted by Shaws Supermarket. The Board's regular consultant, Judith Nitsch Engineering, Inc. (JNEI), has done work for other Shaws Markets in the Boston area.

The Board agreed that there would be an appearance of conflict of interest if JNEI reviewed the Shaws site plan. The Board debated whether to use Fay, Spoffard and Thorndike (FST) or Greenman Pederson, the traffic engineer who designed the traffic light at the Four Corners for the Board of Selectmen.

Members of the Planning Board said they were very please with work FST has done in the past reviewing the Campbell Trust subdivisions and the Groton Dunstable Regional School high school site plan.

The motion was made by Wilson to hire FST as traffic engineer and civil engineer to review the site plan submitted by Shaws. The motion was seconded and passed unanimously.

SPRINT SPECIAL PERMIT REVIEW

The Board debated whether to have real estate appraiser Jonathan Avery attend the public hearing on the Sprint telecommunication tower on land owned by the Massachusetts Baptist Church. The Board received Mr. Avery's written review of the Sprint's appraisal and decided it would not be necessary to have Mr. Avery attend the hearing. However, the Board will ask its RF engineer, David Maxson, to be present.

PROPOSED ZONING AMENDMENT

Attorney Ray Lyons presented proposed changes to the Cluster Development provisions to allow more than ten units to be served by a shared driveway and to permit less than 200 ft separation between driveways. Mr. Lyons also suggested changing the by-law to allow that some wetlands area be included in the lot area.

The Board said it wanted to think about the changes proposed by Mr. Lyons, but it would be willing to hold a public hearing to consider the proposed amendment.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator