

**GROTON PLANNING BOARD
JANUARY 23, 2003
MINUTES**

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

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

Members absent: Barringer and Lewis

DRAFT SPECIAL PERMIT– GIBBET HILL ORCHARD

The Board postponed its discussion of the draft special permit for Major Residential Development for the Gibbet Hill Orchard to January 30, 2003.

GROTON DUNSTABLE NORTH MIDDLE SCHOOL EARTH REMOVAL

The motion was made by Wilson to recommend that the Board of Selectmen grant the Certificate of Exemption for removal of excess earth material at the site of the Groton Dunstable North Middle School renovations. The motion was seconded and passed unanimously.

WALNUT RUN PERFORMANCE BOND

The Board received a report dated January 17, 2003 from Judith Nitsch Engineering, Inc. (JNEI) recommending that the Board hold \$62,881.95 in the performance bond for the Walnut Run subdivision. The Board is presently holding \$60,583.69. The number increased as a result of inflation factors.

The motion was made by Perkins that the Board continue to hold \$60,583.69 in the bond for the Walnut Run subdivision. The motion was seconded and passed unanimously.

INTEGRITY ESTATES PERFORMANCE BOND

The Board received a report dated January 20, 2003 from JNEI recommending that the Board hold \$24,289.85 in the performance bond for the Integrity Estates subdivision. The Board is presently holding \$42,894.37.

The motion was made by Perkins to reduce the amount in the bond to \$24,289.85. The motion was seconded and passed unanimously.

REVISIONS TO SUBDIVISION REGULATIONS & FEE REGULATIONS

The Board will hold a public hearing on proposed revisions to the subdivision regulations and fee regulations on February 27, 2003.

PUBLIC HEARING – SPECIAL PERMIT, RIZZITANO SHARED DRIVEWAY

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board held a public hearing on January 23, 2002 at 7:30 PM in the Town Hall (second floor meeting room) to consider the application submitted by Michael and Jackeline Rizzitano 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 10C and 10D as shown on the plans entitled, "Plan of Land in Groton, Mass. Prepared for Elizabeth Banus," prepared by David E. Ross Associates, dated September, 1997, and "Driveway Development Plan for Land in Groton, Mass. Prepared for Elizabeth Banus," prepared by David E. Ross Associates., Inc., dated November, 1997. The proposed shared driveway is located on Assessors Lots 226-118, 226-119 and 226-120, on the easterly side of Longley Road.

Chairman Degen called the meeting to order. Clerk Wilson read the notice published in the January 10 and 17, 2003 issues of *The Groton Herald*. Mr. and Mrs. Rizzitano, Attorney Howard Hall, design engineer William Murray of David Ross Associates, and several abutters were present.

Mr. Hall presented the application to use an existing shared driveway to serve two lots as shown on a plan prepared for the previous owner, Elizabeth Banus. The two lots that share the driveway are subject to a special permit granted by the Planning Board on October 17, 1997 for the creation of two hammerhead lots. The plan, special permit decision, and driveway easement were recorded at the Registry of Deeds. Copies of these documents are included in this special

permit application.

The driveway was constructed in 1997 and complies with the driveway specifications in effect at that time. The driveway is 12 ft wide with 2 ft shoulders, the slope is 10%, and drainage was installed as shown on the plan approved in 1997. The driveway is adequate to serve the two lots.

Mr. Hall said at the time the lots were created, a shared driveway serving two lots was allowed by-right and did not require a special permit. The Zoning By-Law was amended in 1998 to require a special permit for any shared driveway. Mr. Hall said he believes the lot was grandfathered from the new provision. However, the Building Inspector did not agree and is requiring a special permit for the shared driveway before issuance of a building permit.

Mr. Hall said the Rizzitanos have three options: 1) appeal the Building Inspector's decision to the Zoning Board of Appeals; 2) apply to the Conservation Commission to cross a wetland in order to construct a new driveway; or 3) apply to the Planning Board for a special permit for the shared driveway.

Chairman Degen read comments from the Groton Electric Light Department, the Water Department, the Board of Health, and a letter from abutter John Keough who owns the lot with the driveway easement.

Attorney Hall responded that construction of the house was not required to preserve the grandfathering of the lot. The driveway was constructed as access to the lot as shown on the plan.

Member Clements asked if the driveway easement was in place before the Keogh's owned their lot. Mr. Hall said, "yes."

Member Clements asked if the Rizzitanos have any plans to remove trees outside the easement. Mr. Hall said, "no." Member Clements said he does not understand why the special permit is required and sees no reason to deny it.

Member Eliot asked if the driveway would be enlarged or changed at this time. Mr. Hall said, "no," but some maintenance may be needed within the easement area. Member Eliot said she saw no issues with the special permit for this driveway.

Member Perkins asked if the steepness and width vary from the existing Shared Driveway Regulations. Mr. Hall said the grade is 10% rather than 8% and it is 12 ft rather than 16 ft wide.

Mr. Murray said the driveway is 12 ft wide at its narrowest location, but there are two-foot shoulders on each side. The drainage system was installed when the driveway was constructed in 1997 to access the house on the other hammerhead lot. The Rizzitanos used the shared driveway to access the lot in 1999 when they drilled a well and installed the sewage disposal system.

Member Perkins asked if there is room for emergency vehicles to turn around. Mr. Murray said, "yes," there is a 22 ft wide pull over area.

Member Wilson asked about the average grades. Mr. Murray said it is 10% on the shared portion of the driveway. The slope is 12 % in one location on the individual driveway.

Chairman Degen asked about the length of the driveway. Mr. Murray said it is 1160 ft long. Chairman Degen said the Town has a new Police Chief and a new Fire Chief who should have an opportunity to comment on the plan. He asked if the driveway is constructed as shown on the 1997 plan. Mr. Murray said, "yes."

Chairman Degen asked if a single driveway would be shorter. Mr. Murray said "yes," but it would be steeper and requires a wetlands crossing.

Member Perkins asked when the Rizzitanos purchased the lot. Mr. Hall said in 1998. Member Perkins said she would feel very uncomfortable changing the rules this late in the process. The Rizzitanos purchased the approved lot in good

faith in 1998.

Mr. Hall added that the Rizzitanos purchased the lot and invested money in the well and sewage disposal system. Mr. Hall said the Building Inspector was in error when he denied the building permit. Chairman Degen read the letter denying the permit from the Building Inspector to the Rizzitanos.

Abutter Cheryl Keough said they do not object to the shared driveway, but they never knew that the easement served a second lot. She said the Rizzitanos requested permission to cut down trees because they needed access for a modular home. She said the Rizzitanos also wanted to remove a berm along the driveway. Mrs. Keough said they do not oppose the use of the shared driveway but do not want more disturbance to the existing driveway.

Chairman Degen asked about the width of the easement. Mr. Hall said the easement is 50 ft wide and no trees will be cut outside the easement area.

Member Perkins asked if the berm was required by the Conservation Commission in its Order of Conditions. Mr. Murray said there is a berm near the wetlands, but this is not the berm in question.

Reporter Carrie Kneeland asked the length of the driveway. Mr. Murray said it is 1160 ft. She asked if a variance is required. Chairman Degen said, "no," it is a driveway, not a subdivision road, so no waiver or variance is needed. Chairman Degen said he agrees that this lot is grandfathered.

The Board voted unanimously to close the public hearing,

The motion was made by Perkins to GRANT a special permit to Michael and Jackeline Rizzitano to utilize the provisions of Groton Zoning By-law Section 218-23D Shared Driveways to construct a shared driveway serving Lots 10C and 10D as shown on the plans entitled, "Plan of Land in Groton, Mass. Prepared for Elizabeth Banus," prepared by David E. Ross Associates, dated September, 1997, and "Driveway Development Plan for Land in Groton, Mass. Prepared for Elizabeth Banus," prepared by David E. Ross Associates., Inc., dated November, 1997. The special permit is based upon the following findings and with the following 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 because the special permit for the shared driveway results in no new driveway cuts on Longley Road.
2. **Traffic flow and safety:** The special permit to use the existing shared driveway will result in no new driveway cuts on Longley Road. The existing driveway was constructed in conformance with the 1997 plan for the hammerhead lots.
3. **Adequacy of Utilities:** Utilities will not be impacted by the use of the shared driveway. The Board received comments from the Groton Electric Light Department and the Groton Water Department stating that their departments had no concerns.
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:** The use of the existing shared driveway eliminates the crossing of a wetlands to construct an individual driveway to serve this lot.
6. **Fiscal impact on the Town:** There will be no fiscal impact on the Town resulting from the use of the existing shared driveway.

Conditions:

The Board granted the special permit with the following conditions:

1. The applicant must abide by the terms of the existing driveway easement recorded at the Registry of Deeds on December 30, 1997. A copy of the easement was submitted with the special permit application.
2. The hammerhead lot was created and the existing shared driveway constructed prior to the October, 1998 zoning amendment requiring a special permit for shared driveways serving two lots. The Board hereby waives any inconsistencies between the existing shared driveway and the Shared Driveway Regulations.
3. Any activity within 100 ft of wetlands is subject to review by the Conservation Commission pursuant to the Wetlands Protection Act, MGL Chapter 131, section 40, and Chapter 215, Wetlands, of the code of the Town of Groton.
4. An erosion and sedimentation control plan must be submitted to the Earth Removal Advisory Committee for its review and approval if required in Chapter 198 Soil Erosion and Sedimentation Control.
5. The removal of any excess earth material from the site requires a Certificate of Exemption from the Earth Removal By-law, Chapter 134 of the Code of the Town of Groton. Chapter 134, Section 10 Exemptions, states:

“The above exemptions do not cover the removal of earth materials from the premise involving topographical changes or soil-stripping or loam-stripping activities, nor shall the tentative or final approval of a subdivision plan be construed as authorizing the removal of earth materials from the premises, even though in connection with the construction of street as shown on the plan.”
6. 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.
7. 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 shall constitute commencement of substantial use.
8. 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.

SITE PLAN REVIEW – BOSTON ROAD MARKETPLACE

The Board continued its review of the site plan submitted by Shaw’s Supermarkets for the Boston Road Marketplace located at the intersection of Boston Road (Route 119) and Sandy Pond Road. Landowner Robert Lacombe, Attorney Margaret Bowles, design engineer Robert Pine of Pine and Swallow Associates, design engineer George Dimakarakos of Stamski & McNary, traffic engineer Robert Woodland of McMahan Associates, and architect Daniel Ellington were present. The Board’s engineers, Gary Hebert and Frank Holmes of Fay, Spoffard & Thorndike (FST) were present.

Mr. Pine presented the latest revisions to the plan including:

- The removal of Parcel Z-1 so the property boundaries on the site plan are the same as the boundaries shown on the concept plan approved by Town Meeting.

- The building closest to Sandy Pond Road has been divided into two to break up the long rear façade visible from the road.
- The plan now has more landscaping along the road side and plantings within the interior of the parking lot.
- The parking and entrance to Retail Building B have been modified so the building will have one entrance and the loading area is in a better location.
- Snow storage areas are shown on the plan.
- A sidewalk from the commercial development to the residential development has been added.

Architect Dan Ellington presented revisions to the building based upon the previous discussions with the Planning Board and the Board of Selectmen's Harmonious Development review. The color of the buildings has been changed to an earth tone as suggested by the Planning Board. The clock tower has been shifted from Retail Building C to the Shaw's building to break up the roof line as suggested by the Selectmen. A cupola has been added to Retail Building C.

Member Eliot asked about the rear of the building visible from Sandy Pond Road. Mr. Pine said more substantial landscaping has been added to provide vegetative cover.

Member Degen asked which existing trees would be saved. Mr. Dimakarakos said the trees to be removed were shown in detail on the erosion control plan. The Earth Removal Advisory Committee granted an Erosion Control Permit for the project.

Mr. Dimakarakos responded to the points in the FST report dated January 16, 2003. He added that most engineering issues would be resolved with FST. There are only about five outstanding issues at the present time.

Mr. Dimakarakos said there are no historic or archaeological resources on the site, but there may be some on the other side of the road.

Mr. Dimakarakos said FST had a question about landscaping along the front of the Shaw's building to hide the foundation. The building will be at grade in this location so there will be no foundation to conceal. Significant plantings have been added to the other side of the building.

Chairman Degen agreed that landscaping in front of supermarkets is not appropriate. He asked if there are only deciduous trees in the area along Boston Road. Mr. Pine said evergreens have been added to this area. Chairman Degen asked that the planting plan be clarified and resubmitted to the Board. He said he would like to see more evergreens close to the building.

Mr. Dimakarakos said the FST report requested that the Planning Board interpret § 218-23 which requires 5% interior plantings. Mr. Pine said the parking lot was designed to provide better traffic circulation. Trees will be planted in between the parking lots and around the perimeter to meet the 5% planting requirements. Frank Holmes of FST said he agreed with Mr. Pines' interpretation, but wanted to be sure the Planning Board agreed. All members of the Board agreed that the requirement has been met.

Chairman Degen asked about snow storage areas. He said snow stockpiles should not take up parking spaces. Mr. Dimakarakos said there are temporary snow storage areas shown on the plan. The snow will be removed and brought to non-paved areas. Mr. Pine said all snow storage will be off the parking lot.

Mr. Dimakarakos asked the Board about FST's comment regarding pipe coverage and whether the subdivision regulations are applicable to site plans. He said the applicant prefers to use black-plastic, corrugated pipe since this will not be a public way. Mr. Holmes said the site plan review regulations require compliance with the subdivision regulations when it is applicable. FST's is concerned that the applicant follow the manufacturer's recommendation for

the amount of cover. Mr. Dimakarakos said, "We will."

Traffic engineer Robert Woodland presented an update of the traffic improvements plan and coordination with Mass Highway. He said the traffic study area was expanded as requested by the Planning Board. The study area included the following intersections:

- Route 119 and Gay Road
- Route 119 and Gilson Road in Littleton
- Forge Village Road and Gilson Road
- Forge Village Road and New Pond Road
- Lowell Road and Lost Lake Drive
- Lowell Road and Gay Road

Mr. Woodland said the ENF was submitted to MEPA. The applicant is working with Mass Highway to construct the improvements to Route 119 this summer. Mass Highway requested that the second traffic signal be eliminated. The plan shows right turn only from the site onto Boston Road. No left turns from the access onto Boston Road will be permitted. Traffic must exit onto Sandy Pond Road and go through the traffic light at the intersection of Boston Road and Sandy Pond Road. Mass Highway is at the 75% design phase now, and Shaw's proposed plan will be coordinated at the 100% design phase. Mr. Woodland said State Representative Robert Hargraves was very helpful and expedited the process with Mass Highway. The second signal at the access to Shaw's can be added in the future if it is warranted.

Chairman Degen said the change in Mass Highway's time line is very good news. He asked Mr. Woodland to provide the Board with written confirmation from Mass Highway. Mr. Woodland said they would provide the Board with a letter from Mass Highway.

Mr. Woodland continued that the morning peak traffic is not an important consideration for supermarkets. Shaw's is only looking at retail use. There are no restaurants or fast-food establishments proposed. Mr. Woodland said Shaw's knows any change in the future must come back to the Planning Board for approval.

Mr. Woodland addressed the concern about cut-through traffic in surrounding neighborhoods. He said they looked at traffic traveling from Route 40 to Lost Lake Drive, Whiley Road, New Pond Road, Forge Village Road, and Gilson Road to Route 119 in Littleton. The maximum volume on Lost Lake Drive was 28 trips southbound and 48 north bound. New Pond Road had maximums of 25 south bound and 33 north bound. He said the potential for cut through traffic is a maximum of 50 cars during peak hours (5 – 6 PM). In addition, there will be less delay after the intersection is improved, so fewer people will use the cut-through route.

Gary Hebert of FST said he just received the traffic report and has not had time to review it. He noted that the intersection of Route 119 and Gay Road is at a level of service of "F" today. He said the elimination of the traffic light at the entrance to Shaw's is a concern, even with the turning limitations. He said the Board must also consider the impact of pedestrian activity in the area.

Member Eliot asked about the proposed use of the existing restaurant at the Four Corners. Mr. Woodland said Mass Highway's 75% design plan is looking at the restaurant. Mr. Pine added that the state is taking additional land in this area for the intersection improvements.

Member Eliot asked how many cars will exit the site. Mr. Woodland said about 200 cars per hour will exit on Sandy Pond Road. The level of service on Sandy Pond Road is excellent.

Member Wilson asked why the second traffic light was eliminated. Mr. Woodland said because it was at such close proximity to the light being installed by Mass Highway. The level of service is the same with both plans and delays at the intersection will be reduced greatly with Mass Highway's signalization plan.

Chairman Degen expressed concern about the westerly traffic flow in the evening with the number of cars turning left onto Sandy Pond Road. Mr. Woodland said only 18% will be new trips, the remainder are trips already passing by the

site. All the statistical analyses are fully documented in the appendix.

Chairman Degen read the letter dated January 23, 2003 from Scott Hamilton.

Chairman Degen said his only concern is not knowing all the proposed uses. He said the parking spaces were calculated on the basis of all retail use, but no tenants have been identified for the other spaces. He said the number of spaces for retail use must comply with Sections 218-23B(9), (10) and (11). Mr. Pine said any future change of use requires new site plan approval by the Planning Board.

Scott Hamilton of New Pond Road said he is representing 30 to 40 citizens of Groton as stated in his January 23, 2003 letter. He asked about funding from Mass Highway and the traffic impact on the Stonebridge playing fields located on Forge Village Road. Mr. Woodland said they would look into the playing fields question.

Mr. Hamilton expressed concern about the impact on public safety services from an influx of visitors from other towns. He said the draw may be from a larger area because this is a low density area today. He asked the Board if Groton will add infrastructure to support others coming to Groton. If the Town has to add infrastructure, there is no net benefit to the Town.

Chairman Degen said commercial growth is more of a net gain for the town when compared with residential growth. He said the Board will ask public safety officials to address the impact on their departments' ability to provide services.

Mr. Hamilton expressed concern about the impact of Shaw's on other local businesses. Chairman Degen said competition cannot be prevented in a free-enterprise system.

Member Eliot said she prefers to see commercial development at the Four Corners rather than on Main Street or in the historic center. The traffic light is a benefit to the Town and she appreciated Shaw's efforts to work with Mass Highway.

Mr. Hamilton stated that the proposed plan is going against the goals and objectives of the Comprehensive Master Plan. Chairman Degen responded that the project is located in an existing Business (B-1) District, and Town Meeting approved the concept plan.

Member Perkins said many studies have shown that there is less financial impact on the Town from commercial development than from residential development. She noted that this plan did pass at Town Meeting. The Board does not look at tax benefits during Site Plan Review – it must consider parking, drainage, traffic issues, etc.

Mr. Hamilton asked about cut-through traffic in the future. Mr. Woodland responded that traffic patterns will change as a result of this project. They reviewed existing conditions and post-development conditions for five years to determine what should be done to mitigate the impact. He noted that Shaw's was instrumental in moving the traffic light forward. The project was on the TIP list for 2007, and it was advanced to this coming summer.

Mr. Hamilton asked if there would be a conduit installed under the road. Mr. Woodland said, "yes" so a future signal can be installed at the entrance to Shaw's when it is warranted.

Chairman Degen requested that Mr. Hamilton submit a list of the people he is representing to the Board. Mr. Hamilton agreed.

Todd Mancini of Hidden Valley Road said the supermarket will change traffic on Saturday and Sunday. He said many children live in the neighborhood and he is concerned about cut-through traffic. Chairman Degen said the Board has no control off site or the use of other roads that are public ways.

Julie Radwin expressed her concerns about the intersection of Route 119 and Shelters Road now that the second traffic light will not be installed. Mr. Woodland said gaps in traffic will be created by the traffic light at the intersection of

Boston Road and Sandy Pond Road. This should help people trying to exit from Shelters Road. In addition, sight distances will be improved as requested by the Planning Board.

Member Eliot said pedestrian access is a major concern. Mr. Woodland agreed that the issue of pedestrian access is one of the disadvantages of eliminating the second traffic light. This issue will be addressed in the Environmental Impact Report. There will be significant pedestrian enhancements both on and off the site. However, the steep slope and guardrail make it difficult to construct a sidewalk along Route 119 in the Shelters Road area.

Julie Radwin asked how state budget cuts will affect the project and how things would change if a restaurant is proposed in the future. Chairman Degen said the applicant must submit a new site plan to the Planning Board for any change of use.

Mr. Woodland said Mass Highway's decision is not based upon costs because Shaw's is picking up the costs of the road improvements beyond Mass Highway's original signalization plan.

Leslie Lathrop asked when the decision was made on the "preferred scenario". Mr. Woodland said they have been working very closely with Barry Lorion at Mass Highway on this project. He said they will be meeting with Mass Highway next week to discuss this project.

Leslie Lathrop asked about the time period for construction. Mr. Woodland said the time period is dependent upon Mass Highway's design standards. Ms. Lathrop asked if construction could take place during the summer when school is not in session. Gary Hebert of FST said lanes can be maintained during construction because the road will be widened.

Paul Snafft of New Pond Road asked if the cut through traffic estimate of 50 cars is based upon current or future conditions. Mr. Woodland said, "existing conditions." He said it is difficult to quantify for the future, but the number should be reduced after the traffic signal is installed.

Alice Smith of Laurel Lane said she appreciates the trees and vegetated buffer. She asked about the height of screening since the site is a "fish bowl". Mr. Pine said the fact that the site is lower than the road will help because the tree canopy will provide better screening.

Ms. Smith said she is concerned about the state's budget short fall and there is no assurance that the intersection improvements will go forward with the proposed budget cuts. She asked what the Planning Board will do if the traffic signal is not installed. Chairman Degen said the Board can condition the approval of the project on the basis of safe access being provided to the site.

Phil Hart of Hidden Valley Road asked about lighting at the site and whether the lights would be left on all night. Mr. Dimakarakos said only the safety lights will be left on at night.

David Colontoni of Lost Lake Drive said the traffic situation will be worse if vehicles take left turns onto Route 119 when traffic is backed up. He asked if the second light could be installed now so people would be able to go left onto Route 119 from Whiley Road. Mr. Woodland said they looked at the basic access alternatives for AM, PM, and Saturday peaks as requested by Mass Highway. The alternatives were analyzed by Mass Highway and will be reviewed by FST, the Planning Boards consultant. The vehicle queues go beyond Whiley Road today. This condition will be improved substantially once the traffic light is installed.

Member Wilson said the timing of the traffic light is key to creating gaps in traffic. He asked who will control the timing. Mr. Woodland said the timing is shown on Mass Highway's 75% design plan.

Kerry Smith of Laurel Lane said pedestrian access from Shelters Road is an important issue. He expressed concerns about water quality issues and asked who will test the fill before, during and after it is brought onto the site. Mr. Pine said soil testing will be done both pre- and post-construction.

Chairman Degen noted that the Zoning Board of Appeals is reviewing Shaw's application for a special permit for greater than 40% impervious surface in the Water Resource Protection District. The ZBA hearing will be continued on February 19, 2003

The Board voted unanimously to extend the deadline to March 31, 2003 as requested by the applicant.

The Board voted unanimously to continue the review of the site plan on March 13, 2003 at 7:00 PM.

Meeting adjourned at 11:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator