

**GROTON PLANNING BOARD
OCTOBER 9, 2003
MINUTES**

Chairman Barringer called the meeting to order at 7:00 PM in the Town Hall
Members present: Barringer, Clements, Degen, Eliot, Lewis, Perkins and Wilson

PUBLIC HEARING (con't) – BROOKS ORCHARD SPECIAL PERMIT
(Member Degen stepped down because he is an abutter.)

The Board continued the public hearing to consider the Brooks Orchard special permit plan submitted by the Groton Land Foundation. Directors Robert Pine, Aleta Manugian, June Johnson, Marion Stoddart; architect Sheldon Pennoyer and many abutters were present.

Chairman Barringer distributed a handout entitled, "Introduction to the Conflict of Interest Law for the Public Offices and Public Employees," prepared by the State Ethics Commission. Chairman Barringer asked the members of the Board to review the handout and declare any conflict they may have in regard to the matter before the Board.

Chairman Barringer said he has no conflict.

Member Clements said he pays \$25.00 dues to the Groton Conservation Trust, but he is not a trustee and has no vote.

Member Wilson said he, too, pays dues but has no conflict. He stated that he abuts other parcels owned by the Webbers, but these parcels have conservation restrictions so there is no conflict.

Member Eliot said the Groton Conservation Trust assisted her family's estate in 1987. She has a letter of disclosure on file with the Town Clerk. Chairman Barringer noted that 16 years is well beyond the statutory limitation.

Member Perkins said she also pays dues and has volunteered as a steward of one of the Trust's properties.

Member Lewis said he has no conflict.

Joshua Degen, acting as an individual and not as a member of the Board, said he spoke with David Wilson of the State Ethics Commission today. Mr. Wilson said if someone has worked with the application in the past, a letter of disclosure should be submitted to the Planning Board and filed with the Town Clerk. Mr. Degen stated that he believes Member Wilson has worked with the Groton Conservation Trust and Groton Land Foundation.

Member Wilson said he spoke with Mr. Wilson at the State Ethics Commission to clarify his position. Member Wilson said he worked as a citizen to help preserve land. He contributed his services as a designer when working with a group that included the Town of Groton and the Commonwealth of Massachusetts in addition to the Groton Conservation Trust and Groton Land Foundation. He stated that he couldn't imagine how this constitutes a conflict of interest.

Mr. Degen said Mr. Wilson of the State Ethics Commission indicated that proper public disclosure must be made so there is no appearance of impropriety. Mr. Degen requested that the chair take appropriate action.

Chairman Barringer said Mr. Degen is not an impartial observer in these proceedings because he is an abutter to the proposed project.

Member Wilson said he would not take any action with the appearance of impropriety. He said he would call David Wilson at the State Ethics Commission again and ask for guidance. Chairman Barringer accepted Member Wilson's offer to contact the State Ethics Commission again.

Robert Pine presented the plan to construct 14 dwelling units and preserve 173 acres of open space. He said he met on site with the GLF's traffic engineer Ronald Desrosiers of MDM Associates, the Board's traffic engineer Douglas Prentiss of JNEI, the Police Chief, the Fire Chief, and the Planning Administrator. The group reviewed options for the redesign of the intersection of Martins Pond Road the Orchard Lane. Mr. Pine described how the intersection would be reconfigured with Orchard Lane as a one-way street. He said the group also reviewed the proposed emergency vehicle access road on the McLatchy property. The Fire Chief does not have a problem with a locked gate, but the Police Chief asked that the gate not be locked. The Police Chief prefers a break-away gate so there will be no delays in responding to an emergency. He said he would continue to work with the Police Chief on this issue.

Mr. Pine said the subdivision road would be paved from Orchard Lane to the parking area at the cul de sac to ensure that there will not be dust problems for the existing residents. He said the road would be 18 ft wide with an open drainage system. Construction details will be addressed during the definitive plan and site plan review stages.

Chairman Barringer read comments from the Fire Chief and the Conservation Commission. He said the Board also received a report dated October 9, 2003 from JNEI.

Member Lewis asked where the wetlands are located. Mr. Pine pointed out the area on the plan. He said the GLF would file a Notice of Intent with the Conservation Commission because the existing road is within the 100 ft buffer zone.

Member Lewis said he is still concerned about the one-way street especially if the road is icy during the winter. Mr. Pine said there is room to accelerate from Martins Pond Road, but this is part of the existing safety hazard at this intersection. He said the Town should address this issue.

Member Lewis suggested that Mr. Pine meet with the Highway Surveyor in the field to discuss the problem.

Traffic engineer Ron Desrosiers said he is preparing a traffic study including Martins Pond Road and School House Road. There are about 3 – 5 trips per hour. He will submit the study to JNEI for review. Member Perkins asked how the number of trips would change. Mr. Desrosiers said there would be about 10 to 15 trips per hour in the AM and PM peaks after the development is constructed.

Member Eliot asked about public access. Mr. Pine said there would be public access on the subdivision road and the open space. She asked how many public parking spaces would be provided. Mr. Pine said, "six."

Member Wilson said his primary concern is safety of the proposed access road. He said the letter from the Fire Chief did not address the proposed subdivision road. Mr. Pine said the Fire Chief's only comments were that guardrails should be added in certain locations. Member Wilson said he would like more comments from the Fire Chief on the primary access road.

Member Wilson asked how the school bus waiting area would be protected from vehicular traffic. Mr. Pine said it would be in a safe location with curbing and landscaping. Member Wilson said he agrees with the proposed intersection configuration. He asked if screening would be provided to prevent headlight glare on the Perry residence. Mr. Pine said there are large evergreen trees there today.

Member Clements asked if the subdivision road would be a private way. Mr. Pine said, "yes." Member Clements asked if the GLF is asking for a waiver of the road length. Mr. Pine said, "yes," the road is 1200 ft long at the cul de sac. The Subdivision Regulations limit dead-end streets to 1000 ft.

Member Clements said he is uncomfortable granting this waiver and asked if there are other options. Mr. Pine said the concept plan approved by Town Meeting showed the basic development areas. He said if the waiver were not granted, the housing would have to be moved closer to Orchard Lane. The Board should consider the visual impact on the property if the development is at the beginning portion of Orchard Lane. The proposed plan is safe and appropriate for the site. Member Clements said he would like to see sketches of the proposed alternative layout.

Member Perkins asked if fire hydrants would be installed along the shared driveways. Mr. Pine said, "yes."

Member Lewis asked if access could be over the farm road around the property. Mr. Pine said it is not realistic to use the existing farm road as access.

Member Clements noted that the Subdivision Regulations state that there can be no more than 10 lots on a dead-end street. Mr. Pine said there is one lot with two development clusters and another lot for the Groton Water Department's storage tank.

Member Clements asked if the regulations say "lots" or "units." Mr. Pine said the regulations say "lots."

Member Clements asked if the residents would be able to use the emergency vehicle access road for emergencies. He asked how residents would be able to use the road if the gate is locked. Mr. Pine said Mr. McLatchy does not want any traffic on this easement other than public safety and water department vehicles.

June Johnson said maintenance of the emergency vehicle access road would be shared with the homeowners and the Water Department.

Chairman Barringer said he is pleased the GLF decided to pave the road. He summarized the positive aspects of the plan including approval by Town Meeting, the protection of a large tract of open space, public access to the open space, and a low-density development with good architectural design. The outstanding concerns are more dwelling units on a dead-end street than allowed in the regulations, the length of the road, the gated emergency vehicle access, and the remediation of soil contamination which is in the province of the Board of Health.

Abutter Lynn Mueller said headlight glare on existing homes (Mueller, Norrish & Degen) might be a problem. Making Orchard Lane one-way will be dangerous if there is icing on Chestnut Hills Road. Visibility at the intersection and pedestrian safety are still concerns.

Carla Kieleczawa said the Board could be setting a precedent for other developments if it overrides the subdivision regulations in this situation. Member Lewis noted that Town Meeting already approved a concept plan for 18 units on this site. Mrs. Kieleczawa said the concept plan passed on the coat tails of other articles. Members Lewis and Eliot responded that the concept plan was a separate article that passed on its own merit.

Joshua Degen said the applicant stated at Town Meeting that it would limit the number of units to what was needed to cover costs. The APR funds are taxpayers' dollars. Mr. Degen requested that the Board ask the applicant for a financial disclosure.

Mr. Degen said the proposed intersection would not work well because the radius is not adequate for a ten-wheel truck. This will hurt his business and livelihood. Mr. Pine said the engineers would look at the turning radius.

Chairman Barringer suggested that the Planning Board request a written opinion from Town Counsel on the question of financial disclosure since it has received conflicting verbal opinions.

Planning Administrator Michelle Collette said she spoke with Town Counsel Elizabeth Lane late in the afternoon of the September 11, 2003 public hearing. Attorney Lane said the Planning Board could request that the applicant provide the information based upon the Town Meeting presentation. However, the following day, Attorney Judith Cutler left a message stating that the Board requesting such information from the applicant would be inappropriate.

Member Wilson said the applicant should be given credit for presenting splendid architectural design and a good site plan. The housing units are modest in size. The size of the proposed units should be considered in the deliberations about the total number of units.

Abutter William Grennell said he uses his truck to plow snow and must get a running start to get up Chestnut Hills Road. This is a dangerous location for children to wait for the school bus.

Gray Tuttle said this site is an amazing area. It would be beneficial to the Town to preserve the open land as shown on the proposed plan.

Board of Health Chairman Susan Horowitz said the soil contamination is a concern to the Board of Health. The Board of Health would have a problem locating houses closer to Orchard Lane. Mr. Pine agreed and said the GLF will work with the Board of Health on the soil contamination issues.

Amy Degen asked if traffic flow is the Board of Selectmen's responsibility. Selectman Peter Cunningham said it is part of the Planning Board's review process at this stage. Any changes to the intersection also require the approval of the Board of Selectmen.

Member Perkins asked if the neighbors agreed with the one-way street. The neighbors said they did. Member Perkins said it would be safer and less confusing if the road is one-way.

Member Clements read the definition of "lane" from Section 346-3 of the Subdivision Regulations:

"C. LANE -- A dead-end street or loop street which cannot serve as access to more than 12 dwelling units and cannot be extended."

Mr. Degen asked how the Board could waive a regulation that says "cannot." Member Wilson said the Board should request an opinion from Town Counsel on this question.

Chairman Barringer read the definitions of "lane," "minor street" and "collector street." He said the definition of "lane" is not consistent with Section 346-10 E Dead-end streets which states:

"(1) A dead-end street, whether temporary or permanent, shall not serve more than 10 lots nor have a pavement center-line length longer than 1,000 feet from the edge of pavement of the intersecting street to the dead-end street's most distant point unless, in the opinion of the Board, a greater length is necessitated by topography or other local conditions. A dead-end street shall not access from an existing way that is a dead-end street unless the total number of lots on the existing way and the proposed subdivision road does not exceed 12. See the Determination of Dead-end Street Length Detail."

Reporter Connie Sartini asked if the Board could approve a "minor street" extending from a "lane."

Mr. Pine said the Board must determine access adequacy to the proposed development.

Paul Funch said the proposed plan would make an existing, dangerous road safer. Chairman Barringer noted that the additional traffic would increase the probability of accidents. The applicant will submit a traffic study to address these concerns.

Lynn Mueller said the six parking spaces used by the public and not by the neighbors would add to the traffic.

Susan Horowitz asked if parking for horse trailers would be provided. Chairman Barringer said that is a good suggestion.

Amy Degen asked if the traffic study would be done at the definitive plan stage. Chairman Barringer said, "yes," that is when a traffic study is normally done.

Chairman Barringer said the outstanding issues are:

- Town Counsel's opinion on financial disclosure and the discrepancy in the subdivision regulations;
- Clarification on the need for a disclosure letter from Member Wilson;
- Public safety officials' comments on the proposed subdivision roadway.

Mr. Degen noted that compliance is required with the items in the JNEI October 9, 2003 report.

Member Perkins said the engineering issues could be addressed at the definitive plan stage.

Chairman Barringer asked the applicant to respond to the items in the JNEI report. Mr. Pine agreed.

The Board voted unanimously to continue the public hearing on October 23, 2003 at 9:00 PM.

PUBLIC HEARING – HIGH OAKS REALTY SPECIAL PERMIT MODIFICATION

The Board held the continuation of the public hearing to consider the application submitted by High Oaks Realty Trust to modify the shared driveway serving two lots on Old Dunstable Road. Contractors Paul and Peter Bradley, and design engineer Dan Wolfe were present.

Mr. Wolfe said the proposed change in the plan shifts the shared driveway to the left by eight feet in order to establish better grades. He said he added the notation to the plan that the retaining wall must comply with Mass Highway

Standards as requested by the Board at the last public hearing. The maximum height of the retaining wall will be four feet on the uphill side of the driveway and three feet on the downhill side.

The Board received the report dated October 7, 2003 from Judith Nitsch Engineering, Inc. (JNEI). Mr. Wolfe said all the issues in the JNEI report have been addressed.

Chairman Barringer read the memorandum dated October 9, 2003 from the Fire Chief. Mr. Wolfe said he met with the Fire Chief on the site to be sure all his concerns were addressed. The driveway will be wider than what is required. It will be leveled and stabilized.

Member Clements asked about the slope of the embankments. Mr. Wolfe said the slope would be 2:1 on the uphill side and 3:1 on the downhill side. Member Clements asked if the retaining walls would be installed the entire length of the driveway. Mr. Wolfe said, "no," the walls would be installed as shown on the plan. He said the applicant is trying to avoid removing more trees. Member Clements asked about the curve at the top of the driveway. Mr. Wolfe said he walked it with the Fire Chief. The grades on the site today are not final. The finished slopes will not be greater than 8%.

Member Wilson asked if fill would be bought onto the site. Mr. Wolfe said, "no," they would have excess earth material.

Member Eliot said she walked the site with the Board on Saturday, October 4. She asked about the height of the drop off. Mr. Wolfe said it would not be any more than three feet.

Member Eliot asked about drainage onto Old Dunstable Road. Mr. Wolfe said only runoff from the front portion of the driveway flows toward the road.

Member Wilson asked if the driveway would be crowned. Mr. Wolfe said, "yes," the driveway will be pitched to direct water to the lower side.

Member Wilson asked about erosion control. Mr. Wolfe said the applicant prepared a planting scheme. In addition, the Earth Removal Advisory Committee granted an Erosion Control Permit that the applicant must follow.

Member Eliot said she is still not convinced that there will not be any problems. The driveway is in fill, not on original land. She suggested that the driveway go through a two-year test to be sure there are no problems for the homeowners. She suggested that the applicant submit a bond that the Board can hold for two years.

Member Lewis agreed, noting that the loose soil may wash out if there is not enough lateral support. He said icing problems could become a headache for the homeowners.

Chairman Barringer asked if the applicant would be willing to post a bond for two-years. Mr. Bradley said Robert Kiley is the owner, and he could not speak for him. Mr. Wolfe said the Bradleys have been working in Town for 13 years, and they care about the houses they build and the homeowners. They have a proven track record. Mr. Bradley said the driveway was designed to meet shared driveway standards.

Mr. Wolfe said he is confident that the driveway will function. He estimated the cost of construction to be around \$6500.00 including correcting the erosion problems and paving. Chairman Barringer suggested that the applicant post a \$10,000.00 bond for a period of two years. Mr. Wolfe said he could not speak for Mr. Kiley.

The Board voted unanimously to continue the public hearing on October 16, 2003 at 9:30 PM.

PUBLIC HEARING (con't) – MASON BACK 100 SPECIAL PERMIT

The Board continued the public hearing to consider the application submitted by the Groton Land Foundation to create two new lots served by a shared driveway off Old Dunstable Road. GLF Directors Robert Pine, Aleta Manugian, Dan Wolfe, and June Johnson were present.

Mr. Pine said he walked the site with Planning Board members on October 4, 2003. One of the lots has been enlarged by 10,000 sq ft in response to comments at the previous public hearing.

Member Eliot asked about the access easement for the adjoining lot. Mr. Wolfe said it is defined in the deed and will be shown on the ANR plan.

Member Eliot asked if the driveway could be combined with the existing driveway. Mr. Wolfe said the grade of the existing driveway is too steep and does not comply with the Shared Driveway regulations.

Member Wilson asked about vegetation clearing. Mr. Pine said they would only clear what is necessary to construct the houses, sewage disposal systems and driveways.

Member Clements said he favors the new plan because it preserves more open space. However, the proposed houses will be closer to the existing houses on Old Dunstable Road.

Member Lewis asked about the area of each of the lots. Mr. Pine said one lot will have 72,000 sq ft and the other will have 60,000 sq ft.

Member Lewis asked if the driveway would be gravel or asphalt. Mr. Pine said it would be asphalt because of the slope.

Chairman Barringer asked if there would be a clearing restriction on the plan. Mr. Pine said, "yes." Ms. Johnson said there would be restriction in the deed stating that no cutting is allowed without written permission of the Groton Conservation Trust.

Mr. Accamozzo said the previously approved hammerhead lots with five and eight acres each would have had houses with a higher value that would generate more tax revenue than the proposed smaller houses on smaller lots. The Town will be losing tax revenue with the revisions to the plan.

Mr. McDonald expressed concern about water running toward his property at the end of the shared driveway. Mr. Pine said these are well-drained soils so there should not be any drainage issues.

Member Clements said the vegetation is fairly sparse in this area. Mr. Pine said they would plant four evergreen trees to help screen the abutting lot.

Mr. Carpenter asked about the distance between the houses on the new hammerhead lots on Old Dunstable Road and the proposed new lots. Mr. Pine said the vegetation is very thick and there is a good distance between the houses and the existing hammerhead lots.

The Board voted unanimously to close the public hearing.

Meeting adjourned at 10:45 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

MC/lg

