

**GROTON PLANNING BOARD  
NOVEMBER 13, 2003  
MINUTES**

Chairman Barringer called the meeting to order at 7:30 PM in the Town Hall  
Members present: Barringer, Clements, Degen, Eliot, Lewis, Perkins and Wilson

**PUBLIC HEARING (con't) – A.L. PRIME SPECIAL PERMIT & SITE PLAN REVIEW**

The Board held the continuation of the public hearing to consider the application submitted by A. L. Prime for a special permit to install underground storage tanks in a Water Resource Protection District. The Board also considered the site plan for renovations to the existing service station including the addition of a convenience store. Applicant Nasser Buisier, Attorney James Gmeiner, engineer Anthony Guba of Ayoub Engineering, engineer Gary Shepherd of David Ross Associates, and many abutters were present.

Mr. Shepherd summarized the required approvals including the Planning Board's site plan approval, Board of Selectmen's licenses, MassHighway's curb cut approval, Board of Health's approval, and Building Inspector's approval.

Mr. Shepherd said the site is very small and everything does not fit easily. The applicant is working with the Planning Board to provide the best plan to improve and upgrade the facility. This is a pre-existing, grandfathered use. The Building Inspector and Town Counsel have a difference of opinion on whether a special permit from the ZBA is required. The proposed change will benefit the Town by bringing the tanks into compliance with current regulations, installing double-walled tanks, providing a fire suppression system, improving traffic and sight distance, and providing better landscaping. The site is not attractive today because it is an older, run-down facility. The proposed improvements will have a higher valuation resulting in more tax revenue.

Chairman Barringer asked if there are double-walled tanks there today. Mr. Shepherd said, "no," they are single-walled.

Chairman Barringer read the letter dated November 13, 2003 from the Building Inspector reiterating his opinion that a ZBA special permit is not required for expansion of a non-conforming use. Member Lewis stated that he disagrees with the Building Inspector's opinion in this matter. He stated that the Planning Board should look at zoning issues.

Member Wilson said he is comfortable with the information submitted by the applicant to date.

Member Clements said he agrees with the Building Inspector's letter – it is not up to the Planning Board to determine whether this use is an increase in non-conformity at this site.

Member Degen said he agrees with Member Lewis – the Planning Board must look at zoning issues during the site plan review process. He said he does not want to go against Town Counsel's opinion.

Chairman Barringer read from the Schedule of Use Regulations in the Zoning By-law. Gas stations are permitted in the B-1 District. He said he does not see the need for a ZBA special permit. Better underground fuel storage tanks are in the Town's best interest. The applicant has addressed the issues raised by the Planning Board.

Attorney Matthew Donahue, representing abutters Cain, Kenney and Sweeney, said the process is murky. Town Counsel's opinion and the Building Inspector's opinion do not agree. The case is ripe for an appeal due to the applicant's failure to follow process. The underground tanks cannot be considered an accessory use to a use not permitted in the Water Resource Protection District. The Planning Board cannot go forward and approve the plan without a ZBA special permit. Mr. Donahue stated that the Planning Board could not act on this application because there is a jurisdictional power struggle. The Planning Board does not have the authority to act until after the ZBA has granted a special permit. Mr. Donahue asked how the Board could approve underground storage tanks for a use not permitted in the Zoning By-law.

Member Lewis said installation of new underground tanks is an improvement because it protects the land, soil, and groundwater.

Applicant Nathan Buisier said the Fire Chief prefers the new, larger tanks because there is less chance of accidental spills with less frequent deliveries. Chairman Barringer noted that the increase in the number of pumps might increase amount of business and deliveries. Mr. Guba said industry studies show that the level of risk depends upon age of the tank, piping, monitoring, and maintenance factors.

Abutter Lloyd Isley said Mr. Donahue does not represent all of the abutters. He said he is in favor of the proposed improvements to the site.

Member Degen asked if the applicant received an opinion from MassHighway on whether a new curb cut is required. He said this is an expansion of a non-residential use that will change the character of the neighborhood with a new canopy, lights, etc.

Lorraine Isley said the improvements would benefit the neighborhood by improving traffic flow. There have been several accidents in this location. The alarm system is out dated. The streetlights shine into their bedroom. They prefer a canopy over the pumps instead of the existing, open condition. Mrs. Isley said the applicant is trying to improve the situation and make a more attractive site.

Chairman Barringer said the Board must consider the criteria under §218-32 before acting on the special permit. Member Perkins added that the Board must also consider the criteria in §218-30 Water Resource Protection Districts.

Chairman Barringer asked if the plan of the underground containment system was stamped by an engineer. Mr. Guba said, "yes," he stamped the plans in accordance with 527 CMR 9 standards.

Member Lewis asked about the list of chemicals to be stored on the site. Mr. Buisier said it was submitted to the Board. Member Lewis asked if everything would be stored inside. Mr. Buisier said, "yes."

The Board voted unanimously to close the public hearing.

### **PUBLIC HEARING (con't) – VERIZON SPECIAL PERMIT**

The Board continued the public hearing to consider the application submitted by Verizon to add its equipment to the telecommunication tower on Gibbet Hill. Attorney James Valeriani, RF engineer Jarod Robinson, Microwave Engineer Roque Fial, Real Estate Manager Steven Bozkurtian, and Construction Manager JoJo Umali represented Verizon at the hearing. Landowner Steve Webber and David Maxson of Broadcast Signal Lab (the Board's consultant) were also present.

Mr. Valeriani said Verizon is willing to reduce the length of its standard array from 12 ft to 10 ft mounted on a "T" frame (see diagram in file). The microwave dish must be installed above 95 ft in the 130 –140 ft space leased by Verizon. Mr. Valeriani said the Planning Board cannot require other carriers to modify their equipment after the permits have been granted. The ten-foot lease space is industry standard.

RF engineer Jared Robinson said he prepared additional studies of the pathway as requested by the Planning Board. The line of sight from the DEM fire tower to the South Acton tower is obstructed at the 90 ft elevation. The microwave dish must be installed at a minimum elevation of 95 ft so there will not be any obstructions.

Mr. Valeriani submitted a photosimulation demonstrating Verizon's 10 ft, T-mounted equipment compared with Nextel's 13-ft and Sprint's 15-ft arrays. Mr. Valeriani said the reduction to 10 ft is the best Verizon can do.

Chairman Barringer read the letter dated November 13, 2003 from Town Counsel Patricia Cantor.

Member Degen agreed that the 10 ft T-mounted equipment is better than the two conventional arrays at lower elevations. He said Verizon must prove that it cannot flush mount its equipment on the tower.

Member Clements asked about screening the tower for the abutting Wilcox property. He suggested that screening be provided to the Wilcox's satisfaction, regardless of cost.

Member Wilson agreed that effective screening for the Wilcox property is important. He stated that the proposed 10 ft T-mounted equipment is less obtrusive than the standard arrays. He asked if the process to retrofit the equipment can continue as new technology becomes available.

Member Eliot said the Board must make a decision between flush mounted and the proposed equipment. She requested that Verizon approach the other carriers and ask them to work with the Planning Board to modify their special permits.

Member Perkins asked the applicant to address screening for the Wilcox property. Mr. Valeriani said he discussed the matter with Mr. Wilcox at length. Verizon would like to come up with a landscaping plan.

Construction Manager JoJo Umali said he investigated the cost of plantings with local nurseries. Blue spruce trees with a 10 ft height are about \$400-500 each. The cost is about \$700 each with installation.

Member Perkins asked how many trees will be needed. Mr. Valeriani said that is up to Mr. Wilcox.

Mr. Wilcox said he contacted a landscaping company for an estimate and received a quote of \$28,800 to plant three trees with heights of 25 ft, 28 ft, and 30 ft. These heights are required to block the view of the tower.

Member Perkins said she was pleased that an effort was made to reduce visibility of the tower. She said she hoped Verizon and Mr. Wilcox could reach a compromise on the trees.

Member Degen suggested planting 12-14 ft blue spruce trees as a possible compromise.

Member Lewis cautioned that tall trees may not survive the wind at the top of the hill. Smaller trees may have a better chance. He suggested that a reasonable height tree be planted.

Chairman Barringer asked David Maxson if the -85 dBm is a reasonable signal as the applicant indicated. Mr. Maxson said there are many other measurements. Verizon's standard of -85 dBm is relatively new.

Member Degen asked if the applicant is required to flush mount its equipment, will it be able to install the cellular, PCS, and microwave dish in the 10-ft space. Mr. Maxson said the 10-ft lease area is a rule of thumb, not a standard. It is a custom in the industry. Careful engineering is required to use the 10 ft space.

Member Degen asked if the Planning Board approves the flush mount without the microwave dish, will it be prohibiting service. Mr. Maxson said he could not respond to that question directly. Mr. Valeriani noted that Mr. Maxson is not an attorney and that is a legal question. Mr. Maxson said service can be provided by either a microwave dish or a landline. Mr. Valeriani said microwave dishes are part of every Verizon installation whenever possible.

Member Eliot asked why the microwave dish cannot remain on the DEM fire tower. Mr. Valeriani said it is logistically impossible to maintain two locations. Mr. Maxson asked the height of the DEM fire tower. Mr. Valeriani said it is 60 ft from the ground. Mr. Maxson asked how to reconcile the numbers with the elevations stated in Mr. Valeriani's letter dated September 22, 2003. Microwave Engineer Roque Fial said these numbers are measured above base elevation. The microwave dish must be 91 ft above base elevation. Mr. Valeriani said Verizon's lease area on the Gibbet Hill tower is elevation 130 – 140 ft. The microwave dish must be above 95 ft. Mr. Maxson asked if testing was done at elevation 130 ft on the Gibbet Hill tower. Mr. Fial said a minimum height of 95 ft is required – a elevation of 90 ft does not work.

Chairman Barringer said the 95 ft elevation on the Gibbet Hill tower is not available. Mr. Valeriani said it is not within Verizon's lease area. Mr. Maxson agreed that Verizon cannot install the microwave dish at a lower elevation unless other carriers are willing to work it out.

Member Degen asked if Nextel is at the lowest elevation. Mr. Valeriani said, "no," Cingular is lowest on the tower. Steve Webber confirmed that Cingular has a lease for the 90 – 100 ft elevation. Mr. Webber said it took years to negotiate the lease agreements and he will not open up the leases with the other carriers. Mr. Webber stated that Verizon's service with the microwave dish will be good for the Town of Groton. Verizon serves more customers in Groton than the other carriers.

Member Wilson asked if the PCS and cellular services can be done within a 10 ft space. Mr. Maxson said it can be engineered if the applicant is willing to investigate all reasonable possibilities.

Ted McMahon of 71 Lovers Lane said he is not an abutter to the site, but he does have a view of the tower from his property. He requested that the Board work hard to preserve the views.

Chris Forbes of Baddacook Pond Road expressed gratitude to the Webbers and to Verizon. He said the tower is an eyesore compared to the view of the hill preserved by the Webbers. He said he would be grateful if the carriers could mitigate the visual impact of the tower.

Mr. Valeriani said this is the fourth public hearing. Verizon has been diligent in providing information to the Planning Board. In summary, Mr. Valeriani said the microwave dish is needed to link with the South Acton tower; the RF engineer submitted testimony with the application; the Board heard testimony from the tower owner about modifying the tower; Verizon submitted a scaled-down design of its equipment; Verizon is willing to provide plantings for the abutter. Mr. Valeriani requested that the Board close the public hearing.

Member Wilson noted that the Board's consultant pointed out deficiencies in the numbers submitted by the applicant. Mr. Valeriani said Verizon cannot flush mount its equipment in the 10 ft lease space. Sprint and Nextel are lower on the tower, but their equipment is clearly visible. Verizon reduced its array to 10 ft while Nextel's is 13 ft and Sprint's is 15 ft.

Member Degen said Verizon still has not proven that it cannot flush mount its equipment. Mr. Valeriani said they have proven why they require the standard array. He noted that Nextel's application was not reviewed by the Planning Board's expert. Verizon's equipment is consistent with other carriers. Verizon reduced the size of its array. The application meets the requirements for the special permit and site plan approval.

Member Wilson said the Board must see the numbers demonstrating that flush mounting will not work.

Mr. Valeriani said the Board approved Nextel's application for a standard array without requiring review by an expert. Verizon has been diligent in trying to make this work. The monopole structure was intended for standard arrays.

RF engineer Jarod Robinson said Verizon would need a 12 ft lease area to flush mount its equipment.

Member Degen asked if the Board could approve the application for the PCS and cellular equipment without the microwave dish. Mr. Valeriani said, even without the dish, this would be discriminating under the Federal Telecommunications Act.

Member Wilson asked David Maxson if he was satisfied. Mr. Maxson said it would be helpful to have the numbers as justification, but the applicant is not inclined to provide this information. Mr. Maxson said this is the first time a carrier is proposing to install two licensed services in a 10-ft space. This is different than the other carriers on the tower. It is a better design for the network. The Board must balance this with impact on the community.

The motion was made by Perkins to close the public hearing. ***The motion was seconded and passed with Barringer,***

***Degen, Eliot, Lewis, Perkins, and Wilson in favor; Clements opposed.***

Member Degen asked if the Board could approve the application with a condition to flush mount equipment without a plan submitted by the applicant.

Member Wilson suggested that the Board approve the application to flush mount for only one license with the microwave. Technology may change in the future.

Chairman Barringer noted that the applicant has two valid licenses from the FCC.

Member Eliot said she is inclined to approve the special permit with a condition to flush mount absent statistics that say it will not work. She said the Board should initiate discussions with the other carriers. Chairman Barringer said he did not know if the Board has any leverage to ask the other carriers to enter into such discussions.

The motion was made by Degen to ask Town Counsel if the Board can include a condition requiring that Verizon flush mount its equipment.

Member Lewis stated that the Board is trying to encourage collocation to reduce the number of towers throughout the Town.

Member Perkins said there is a considerable amount of information to review before the Board makes a decision on this application.

The motion was made by Degen requesting that the Board request Town Counsel to attend the meeting when it deliberates the special permit decision. ***The motion was seconded and passed unanimously.***

#### **ACCESS ADEQUACY DETERMINATION – WACHUSETT TRAIL**

*(Member Degen stepped down and did not participate.)*

The Board considered the Request for Determination of Access Adequacy submitted by Habitat for Humanity to construct one house with frontage on Wachusett Trail. The lot is owned by the Groton Conservation Trust (GCT) at the present time. June Johnson of the GCT, Brad Bigelow, Steve Boczenowski, and Steve Lieman were present.

Ms. Johnson explained that the GCT will donate a building lot to Habitat for Humanity for construction of one single-family house. The lot is located off Whitney Pond Road on Wachusett Trail.

Member Wilson asked if any other lots are served by Wachusett Trail. Ms. Johnson said abutters have the right to access their land through Wachusett Trail. The GCT will convey the fee in Wolf Trail to Habitat for Humanity.

Member Lewis said Whitney Pond Road is only 13 ft wide. Ms. Johnson said the Board should address its concerns to the Highway Surveyor because Whitney Pond Road is a public way.

Member Lewis said the Board must determine the adequacy of other roads going to Wachusett Trail as well as the adequacy of Wachusett Trail. Whitney Pond Road is very dangerous and should be improved. It is not adequate to serve the proposed lot.

Member Clements asked about frontage for the proposed lot. Ms. Johnson said there is frontage on Wachusett Trail, Wolf Trail, and Berry Trail. The Zoning Board of Appeals granted a variance for area and setback. The ZBA determined that the lot is a grandfathered lot of record.

The motion was made by Lewis to determine that Wachusett Trail is **not** adequate in its present condition to serve Lot 1 shown on the plan entitled, "Plan of Land in Groton, Mass. For Habitat for Humanity", prepared by Bill Boston Survey, Inc., dated June 4, 2003 (a copy of the plan is attached). The road will be adequate if the following conditions are met:

1. Wachusett Road shall be improved to a width of 16 feet with an 8-inch gravel base.
2. The public safety officials shall determine that access to the site is safe and adequate prior to the issuance of any building permit for Lot 1.

***The motion was seconded and passed unanimously.***

The motion was made by Lewis to determine that Whitney Pond Road is **not** adequate in its present condition. The road will be adequate if the following conditions are met:

1. The applicant shall work with the Highway Surveyor to improve Whitney Pond Road to a width of 16 feet with an 8-inch gravel base. The road shall be pitched toward the gravel bank and not toward the lake from its intersection with Lone Lane to Lots 2991-2992 shown on the above-referenced plan.
2. The applicant shall obtain the consent of the Highway Surveyor prior to implementing the road improvements.

***The motion was seconded and passed unanimously.***

#### **SITE PLAN REVIEW - SURRENDEN FARMS LOT 8**

The Board met with Attorney Ray Lyons regarding the site plan approval for Lot 8, Surrenden Farm. Mr. Lyons submitted a letter dated November 10, 2003 from the Board of Health stating that no soil remediation is required on Lot 8.

The motion was made by Wilson to remove Condition #8, which states:

“The Board of Health shall retain jurisdiction of the soil remediation activities related to the conversion of the former orchard areas to residential uses. No construction related activities, including proposed remediation efforts, shall begin on the site until the Board of Health has approved the soil remediation plan proposed by the applicant.”

***The motion was seconded and passed unanimously.***

#### **CALDWELL SMITH PERFORMANCE BOND RELEASE**

The motion was made by Degen to release the performance bond for the Caldwell Smith subdivision. ***The motion was seconded and passed unanimously.***

#### **WILLIAMS BARN COMMITTEE**

The motion was made by Lewis to recommend appointment of Member Degen to the Williams Barn Committee. ***The motion was seconded and passed with, Barringer, Clements, Eliot, Lewis, Perkins, and Wilson in favor; Degen abstaining.***

#### **FY 2005 BUDGET REQUEST**

The Planning Board reviewed the level-funded budget request for FY 2005. The motion was made by Degen to request an amount of \$97,349. ***The motion was seconded and passed with, Barringer, Clements, Degen, Perkins, and Wilson in favor; Lewis opposed.***

Meeting adjourned at 11:00 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator

