

**GROTON PLANNING BOARD
JANUARY 29, 2004
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

SITE PLAN REVIEW – RAYMOND LELIEVRE, TOWNLINE ROAD

The Board continued its review of the site plan submitted by Raymond Lelievre to convert an existing, 1960 sq ft building from a single-family house to an office building. The business-zoned property is located on Townline Road (Route 119) near the Townsend and Pepperell borders.

Mr. Lelievre submitted a sketch showing the interior office space and conference areas. He requested that the Board waive the 13 required parking spaces because he was not sure there would be enough room on the site. He stated that adding an access onto Proctor Road might not be feasible. Mr. Lelievre said diagonal parking might be possible because the building is set back 60 ft from the road. The sight distance on Route 119 is good in both directions.

Member Perkins asked if the parking backs out onto Route 119 today. Mr. Lelievre said people do not usually back out onto Route 119 – they usually back up and turn around on the site.

Chairman Barringer said the Board needs measurements shown on the drawing.

Member Perkins asked if Mr. Lelievre's business would be the only office in the building. Mr. Lelievre said he hopes to rent two other small office spaces as shown on the diagram. His business requires only three spaces – one for his vehicle, his wife's vehicle and an occasional salesman.

Member Perkins said if a real estate office moves in, it could be very busy. She suggested that the applicant meet with a design engineer to determine how the parking area could work.

Chairman Barringer noted that there are other areas on the site that could be used for parking.

Mr. Lelievre said when he bought the property, there were only six or eight parking spaces there. He said he would like to work with the Board to resolve the matter.

Chairman Barringer said the Board must be sure there will not be any safety problems. Mr. Lelievre said that he did not want any safety problems either.

Member Degen suggested that the applicant construct a retaining wall or other barrier to prevent people from backing out onto Route 119. He cautioned the applicant not to do any work within the Route 119 right-of-way.

Member Perkins said the applicant should ask the Building Inspector about whether Americans with Disabilities Act (ADA) requirements apply to this site.

Member Lewis said the applicant should meet with an engineer to see if 13 spaces can be created. After doing so, the applicant can ask the Planning Board for a waiver.

Mr. Lelievre said he spoke with the Building Department and Planning Board office before purchasing the site. He was told that he could submit a "sketch" under Site Plan Review rather than an engineered drawing (see §218-25C(1) Level I). The engineering services could cost up to \$20,000 or \$30,000. Mr. Lelievre said this is an expense he did not anticipate when he purchased the property.

The Board offered to work with Mr. Lelievre to come up with a solution. Member Lewis said he would walk the site with Mr. Lelievre.

Mr. Lelievre said he would like to withdraw and resubmit the site plan. *The Board voted unanimously to accept the withdrawal of the site plan without prejudice.*

PUBLIC HEARING - ROCKY HILL SPECIAL PERMITS & DEFINITIVE PLAN

The Board continued the public hearing to consider the Rocky Hill special permits, site plans, and definitive plan submitted by Fox Meadow Realty Corporation. Applicant David Moulton, Attorney Robert Collins, and design engineer Russell Wilson were present.

Mr. Collins submitted a revised plan showing the 12 starter homes. He said the applicant would request a waiver for slope requirements when the design plan for the subdivision road is submitted. All the houses will have three bedrooms, and they will be modest in size and in price.

Member Eliot said she appreciated the revisions to the plan. She asked if there would be a buffer between the 12 starter homes and the lots on Whip-o-will Lane. She asked about the slopes in this location.

Member Wilson said at the site walk, the engineer said the slopes are about 8 to 10%, which is significant. He asked why the road must go up the side of the hill. Mr. Collins said the previous plan showed a road with 8' retaining walls on each side.

Member Wilson said he prefers the design with houses on only one side of the road. He noted that the latest revision to the plan responds to the concerns expressed by the Board at the site walk.

Member Degen asked if the application was submitted under §218-26 or §218-27C. Mr. Collins said, "both". Member Degen said the site plan must be consistent with the Town Meeting vote to approve the concept plan. He asked if acreage for the 12 starter homes meets the requirement for 80,000 SF plus 10,000 SF per bedroom.

Mr. Collins said when he submitted the application, he submitted one for the entire site and four separate applications for smaller sections of the development. He said the definitive plan must be approved and bonded prior to construction of the homes. All the special permit decisions will be cross-referenced so they cannot be taken out of context. The eight affordable units are part of a "stand-alone" special permit because they are located on a separate, ANR lot. The other special permits cannot be utilized until the subdivision road is approved and bonded. Mr. Collins said there would be 260 acres set aside as open space for the overall site.

Member Degen asked if the lot line could be adjusted for consistency with the by-law. Mr. Collins said the density for the overall site is far below what is permitted under the by-law, but the lot line can be moved if the Board wishes.

Member Perkins asked if the application was submitted under multifamily or cluster. Mr. Collins said, "both." Member Degen said the higher standards must be applied.

Member Lewis said the Board must look at the whole picture, not just the 12 starter homes.

Member Degen asked if any waivers would be requested. Mr. Collins said cut and fill and slope waivers will be requested.

Member Degen asked the length of the private driveway. Mr. Collins said 920 ft. Member Degen asked if it would be constructed to "lane" standards. Mr. Collins said, "yes."

Member Lewis expressed concern about water running down the side of the hill onto the house sites.

Member Perkins asked if the private road ends in a cul de sac or a "T" turn-around. Mr. Collins said it is a "T" turn-around. The Board said the public safety officials, especially the Fire Chief, must sign off on the proposed "T" turn-around.

Chairman Barringer said the proposed subdivision road with a 10% grade and curve may be very difficult to maneuver. In addition, the private driveways appear to be very steep. Mr. Wilson said he would determine the grades of the driveways as shown on the plan.

The motion was made by Degen to request an opinion from Town Counsel on whether the lot area requirements of §218-27C(4) apply to the individual lot with the 12 starter homes or the entire parcel. The motion was seconded.

Member Perkins said prior to asking Town Counsel for an opinion, the Board should look at the mathematical equation showing lot area requirements submitted by the applicant for this project.

Member Eliot said the Board should be able to interpret the by-law on its own without incurring the expense of asking Town Counsel for an opinion.

The motion did not pass with Degen in favor; Barringer, Eliot, Lewis, Perkins and Wilson opposed; Clements abstaining.

The Board voted unanimously to continue the public hearing on February 19, 2004 at 7:30 PM.

PERFORMANCE BOND REDUCTIONS

Walnut Run - Attorney Robert Collins requested that the Board prepare a revised estimate of the cost to complete the Walnut Run subdivision because most of the work has been completed. The Board will ask Judith Nitsch Engineering, Inc. (JNEI) to look at the site and update the estimate. However, the winter weather may make it difficult to observe site conditions.

Deer Haven – Attorney Robert Collins requested that the Board reduce the amount held in the performance bond for Deer Haven since all the outstanding issues have been addressed.

Planning Administrator Michelle Collette said the conservation restriction has been submitted to the Conservation Commission, a building permit has been issued for the two affordable units, and all earth removal issues have been resolved.

The motion was made by Perkins to reduce the performance bond to \$74,307.31 as recommended in the JNEI report dated August 21, 2003. ***The motion was seconded and passed unanimously.***

Groton Woods – Attorney Collins requested that the Board release the lots on Forest Drive, Paugus Trail and Winding Way from the covenant. The roads have been completed and gone through more than one winter season. Mr. Collins said the Board would continue to hold the \$5000.00 in the present bond. Mr. Lacombe will provide the Board with indemnification.

The motion was made by Perkins to accept the indemnification letter from the developer, release the lots in the Groton Woods subdivision, and that the Board will continue to hold the \$5000.00 bond as offered by the applicant. ***The motion was seconded and passed unanimously.***

MASTER PLAN UPDATE

The Board will discuss master plan implementation at its meeting on February 5, 2004. Member Perkins requested that the Board discuss the possibility of adopting an “accessory apartment” provision and examine whether or not duplexes should be allowed by-right. The Housing Task Force has discussed both issues. The Board agreed.

VERIZON SPECIAL PERMIT RECONSIDERATION

The Board discussed its vote on the special permit decision for Verizon’s equipment on the Gibbet Hill tower. On January 15, 2004, the Board voted to reconsider its vote taken on January 8, 2004. The decision has not been filed with the Town Clerk. The deadline is February 13, 2004.

Member Lewis explained his reasons for wanting to reconsider his vote. He said when the Board granted the original

special permit to the Webbers for construction of the tower, it was understood that the tower would be constructed for collocation. There was no condition in the original special permit requiring that all equipment be flush-mounted. There is only four feet difference between flush-mounted equipment and the ten-foot horizontal array offered by Verizon.

Member Lewis said the Planning Board considered the landowners' efforts to protect Gibbet Hill and Angus Hills as a factor in granting the original special permit. The tower has helped the landowner financially. This very important land has been saved from development, thanks to the Webbers. The Board must keep promises it makes to landowners. Member Lewis asked the other members of the Board to reverse their votes.

Chairman Barringer said he voted against the decision to require flush-mounted equipment because there are already other standard arrays on the same tower. Six months earlier, the Board approved a standard array for Nextel without any peer review and without challenging the coverage maps. He said the Board cannot arbitrarily say one carrier can have a standard array and another carrier cannot. He said the Board encouraged the applicant to construct a 150 ft tower to accommodate collocation without any condition on flush-mounted equipment.

Member Wilson said he agrees and hopes the applicant will work with the Willcoxes to address their concerns about visual impact on their property.

Member Clements said the Board's thinking has evolved after reviewing several applications. Flush-mounted equipment is less visually obtrusive at this height. Member Clements said the Board consulted with Town Counsel in making its decision to require flush-mounted equipment. Chairman Barringer responded that the technology had not changed in the six months between Nextel's and Verizon's applications.

Member Degen agreed that the Board has learned a tremendous amount over time. However, one more standard array on this tower will not make that much difference visually. He agreed that the Board must be sure that maximum screening is provided for the Willcoxes.

Member Perkins said she, too, supports the Webbers' efforts to save the land, but the financial impact was not discussed during Verizon's public hearing. However, Verizon did offer to reduce its standard array to ten feet. She said that the Board should tell applicants up front that it prefers flush-mounted equipment. Perhaps the Board should propose an amendment to the Zoning By-law requiring flush-mounted equipment.

Member Eliot said she agrees with statements made by other Board members about requiring flush-mounted equipment. Verizon never verified that flush-mounted equipment would not meet its needs. She stated that the Board never promised there would be no restrictions on the special permits. She said she has asked each applicant to work together to accommodate other carriers.

Member Degen asked for a point of clarification from the applicant on whether the orientation of the standard array can be the same as the others on the tower. Attorney James Valierani said the carriers may have different orientation angles, but the platforms can be lined up.

The motion was made by Lewis to grant a special permit, subject to § 218-25.1 Personal Wireless Services Facility, and approve the site plan, subject to § 218-25 Site Plan Review, to Cellco Partnership, dba Verizon Wireless, to collocate antenna and required ground equipment on Gibbet Hill Tower's approved 150-foot monopole style telecommunications tower on land owned by Gibbet Hill Tower, LLC, with the following findings and conditions:

Findings:

The Planning Board made the following findings based upon the criteria set forth in Zoning By-Law §§ 218-25.1 and 218-32.1:

§218-25.1:

1. The addition of this antenna array is consistent with and complies with §218-25.1 H (6) and (7) requiring that antennae be collocated wherever possible and that towers be “designed and constructed to accommodate the maximum number of uses technically practical...”

The Planning Board granted Special Permit 2002-05 on February 15, 2002 to Gibbet Hill Farm, LLC, for construction of a 150 ft telecommunication tower. The Board waived the 120 ft height limitation in order to provide all extant licensed carriers sufficient space to collocate on the tower. The tower was located in a natural depression on the side of the hill rather than at the top of the hill to minimize visibility of the tower.

Special Permit 2002-05, Finding #8 states:

“The applicants demonstrated to the Planning Board's satisfaction that it has made a good faith effort to collocate the proposed services upon an existing structure or facility and has encouraged collocation of these and future proposed services on this proposed tower. A 150 ft tower will permit collocation of up to 6 carriers on this facility thereby reducing the number of additional towers at or near this site that would otherwise be required to fulfill adequate telecommunications coverage.”

2. The applicant demonstrated to the Planning Board's satisfaction that the location of the Verizon's antenna array on the Gibbet Hill tower is necessary to provide personal wireless services coverage to the area. The applicant submitted the following evidence to the Board:
 - Affidavit from Radio Frequency Engineer Jared Robinson (Item #4)
 - Three Radio Frequency Plots showing “Existing coverage”, “Coverage without Groton Site”, and “Proposed Coverage” (Item #9 submitted with the application)
 - Letter dated November 12, 2003 from Attorney James Valeriani in response to the Board's request that Verizon flush mount its equipment
3. The Board received a report dated November 5, 2003 from its consultant, David Maxson of Broadcast Signal Lab, evaluating the documents submitted by the applicant. While the Planning Board's consultant concluded that equipment on the DEM fire tower and flush-mounted equipment on the Gibbet Hill tower would provide coverage to the service area, the Board determined that there is not a substantial enough difference in the visual impact of the proposed array compared to the flush-mounted array in consideration of the potential benefits in quality of service and demand for new facilities.
4. The Board received a letter dated November 6, 2003 and photographs from abutters Bill and Susan Willcox and Timothy Steele regarding adverse visual impact on their properties. The Board will require landscaping to mitigate the visual impact.

§218-32.1:

1. **Social, economic and community needs:** The additional antenna array on the Gibbet Hill Tower, LLC, approved 150-ft monopole telecommunication tower will serve the communications needs of the community by improving the quality of wireless communication within the Town of Groton and surrounding areas.
2. **Traffic flow and safety:** There are no traffic flow or safety issues associated with the addition of the antenna array on Gibbet Hill's approved tower.
3. **Adequacy of utilities:** The Groton Electric Light Department has indicated that it will be able to serve the proposed telecommunication facility and additional equipment as designed.
4. **Neighborhood character:** The additional cellular and PCS antennae arrays and microwave dish will be

installed at the 130-140 ft elevation AGL on Gibbet Hill's approved tower. The antenna will be collocated on an existing tower thereby minimizing impact on the neighborhood character in contrast to the applicant erecting an additional tower in or near the same location in order to serve its needs. The antenna will be a "Valmont Pole Mount, T-arm antenna mount, 10 ft across" as shown on the diagram submitted by Verizon at the November 13, 2003 public hearing.

5. **Impacts on the environment:** The additional antennae array will have minimal impact on the natural environment and will have far less impact than construction of another tower.
6. **Fiscal impact on the Town:** There are three important reasons for allowing collocation at this Facility. The first, as mentioned in the Master Plan, is to work with Landowners to reduce impacts to the Town, neighbors, lands and to preserve conservation lands and open space by modifying the development (reduced housing). Since the landowner acquired the land in 2000, it has been their desire to preserve Groton's Centers View, protect the farmland and the surrounding woodlands through conservation. In their efforts to maintain this large expanse of open space, they have kept the livestock (that maintains the grass slopes) and sought income sources that will allow the property to remain relatively free from development. The proposed additional use to the telecommunications facility is an excellent source of revenue that will allow the landowner to keep alterations to the landscape at a minimum. It supports the Town's request for collocation that reduces the need for more towers on this property or other parts of the Town and it will allow the Town to locate on this tower, at no cost. The construction of an additional antenna array on the tower for the benefit of Verizon will not alter negatively the fiscal impact on the town of this personal wireless facility. The applicant will pay property taxes to the Town of Groton for the value of the associated facilities.

Conditions:

1. Verizon's equipment will be installed between the 130 and 140-ft elevations AGL on Gibbet Hill Tower, LLC's approved tower that is subject to conditions in Special Permit 2002-05 granted by the Planning Board on February 7, 2002.
2. The telecommunication facility shall comply fully with all applicable requirements of Groton Zoning By-law § 218-25.1 Personal Wireless Services Facility.
3. The telecommunications facility will comply with all applicable conditions enumerated in Special Permit 2002-05 granted to Gibbet Hill Tower LLC by the Planning Board on February 7, 2002.
4. On the annual anniversary date of the issuance of this special permit, the applicant shall submit to the Building Inspector evidence that the facility is in compliance with all state and federal requirements, including compliance with radio frequency emissions. The facility must cease operations if any emissions exceed these requirements.
5. The placement, construction and modification of a personal wireless services tower and its accessory structures, buildings and equipment shall be performed in accordance with all applicable local, state and federal requirements for the operation of such a facility.

The visual impact of any personal wireless services facility and any personal wireless services tower shall be minimized to the maximum extent possible.

The additional antennae array platform installed on the tower by Verizon shall be the same color and finish as other approved carriers' equipment on the tower and will be oriented so that the plane faces of the antennae array platforms are in the same plane as one of the other existing standard array platforms on the tower. The antennae will be a "Valmont Pole Mount, T-arm antenna mount, 10 ft across" as shown on the diagram submitted by Verizon at the November 13, 2003 public hearing.

6. As offered by Verizon at the public hearing, landscaping shall be provided to screen the abutting property shown as Assessor's Lot 224-21. The applicant shall submit a landscaping plan to the Planning Board for its review and approval prior to the issuance of a building permit. The landscaping shall be installed prior to final sign-off

by the Building Inspector. The Planning Board encourages the applicant to work with the abutting property owner on the proposed landscaping plan.

7. Night lighting of the personal wireless services tower (aside from security lighting at the base of a tower) shall be prohibited unless required by the Federal Aviation Administration. If the Federal Aviation Administration requires lighting, then the lighting used shall be the minimum lighting required.
8. There shall be a minimum of one parking space for each personal wireless services tower to be used in connection with the maintenance of a personal wireless services tower and the facility; however, the Planning Board may require additional parking spaces depending upon the number of providers and antennas and dishes that are to use the facility. The site shall not be used for overnight or permanent storage of vehicles.
9. Performance guaranty - The carrier shall provide a bond, in a form acceptable to the town, or shall place into escrow, the amount of \$15,000.00 to cover the costs of removing the facility from the subject property and, furthermore, said funds shall be held by an independent escrow agent to be appointed by the carrier and the Planning Board. The carrier shall authorize and, as necessary, shall provide the authorization of the owner of the property to allow the town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.
10. Annual certification shall be provided by the owner or operator of the personal wireless services facility to the Planning Board and the Building Commissioner demonstrating continuing compliance with the standards of the Federal Communications Commission, the Federal Aviation Administration and the American National Standards Institute.
11. 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.
12. 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.
13. 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.

COMMENTS TO THE ZBA – GROTON RESIDENTIAL GARDENS

The Board discussed the latest revisions to the Groton Residential Gardens plan and FST report dated January 23, 2004 and will offer the following comments to the ZBA:

1. Access to the proposed 4000 SF retail building and parking area appears to be situated on land not owned by the applicant. A portion of this retail development site seems to be located within the right-of-way of what is now "Mill Street." Did a representative of the Town of Groton co-sign the application as landowner? If not, how can the ZBA consider a plan for land not under the control of the applicant?
2. At the present time there are ten (10) existing curb cuts on Route 119 from Arlington Street to the NEBS site (see attached sketch). The proposed development plan shows two additional curb cuts on Route 119 in this vicinity.
3. The Planning Board agrees with FST's recommendation that Mill Street should be realigned with the access to NEBS to accommodate future signalization of this intersection. The Town should work with the Montachusett

Regional Planning Commission to determine whether the intersection meets the warrants for signalization at the present time.

4. The Planning Board is very concerned that the proposed access to the residential development travels through the retail site. This shared access may result in serious safety considerations.
5. The Planning Board believes that additional curb cuts on Mill Street should not be permitted.

LETTER TO SHAWS

The Board received a copy of a memorandum dated January 28, 2004 from the Water Superintendent Thomas Orcutt to Shaw's architect regarding installation of the domestic water and fire sprinkler systems at the Boston Road Market Place.

The Board will send a letter to Shaw's reminding them that the retail development must be constructed as shown on the approved site plan entitled, "Site Plan for Boston Road Marketplace, Boston Road, Groton, Massachusetts," (Sheets 1 – 6), prepared by Stamski & McNary, dated July 23, 2002, with revisions through March 25, 2003 and that any changes to the approved plan require modification under § 218-25 Site Plan Review.

MINUTES

The motion was made by Degen to approve the January 22, 2004 minutes. ***The motion was seconded and passed with Barringer, Clements, Degen, Eliot, Lewis, and Wilson in favor; Perkins abstaining.***

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

