

**GROTON PLANNING BOARD
FEBRUARY 12, 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

PUBLIC HEARING - REEDY MEADOW ESTATES

In accordance with the provisions of Chapter 41, Sections 81-U and 81-T, the Groton Planning Board held a public hearing to consider the application submitted by John J. Lorden for approval of the definitive plan entitled, "Reedy Meadow Estates - Definitive Subdivision of Land in Pepperell & Groton, Mass.," prepared by David E. Ross Associates, Inc., dated January, 2002 with revisions through August 9, 2002. The proposed subdivision is located on Assessors' Map 229, Parcel 2, on the westerly side of Nashua Road.

Chairman Barringer called the public hearing to order. Clerk Perkins read the notice published in the January 23 and 30, 2004 issues of the *Groton Herald*. Gary Shepard of David E. Ross Associates represented the applicant at the public hearing. The Board's consulting engineer, William Maher of Judith Nitsch Engineering, Inc. (JNEI), and several abutters were present.

Mr. Shepard presented the plan to create five new lots in Groton on a parcel of land located at the Groton-Pepperell town line. The site is a former earth removal area so the subdivision will improve the condition of the land. The area is located within an "Area of Critical Environmental Concern (ACEC)" and is a possible natural habitat area. A preliminary plan was submitted and withdrawn in Groton two years ago. The area along Reedy Meadow Brook is protected as a "riverfront" area under the Wetlands Protection Act. The detention basin is located within the buffer zone.

Mr. Shepard said the Pepperell Planning Board denied a definitive plan for the portion of the site in Pepperell based upon the provisions of the Water Resource Protection Districts. The Court overturned Pepperell's decision and remanded the plan back to the Pepperell Planning Board. Since there are only five lots in Groton, a special permit for Major Residential Development is not required. However, ANR lots may be created along the subdivision road in the future. The drainage systems will be separate in each town so there will not be a question about which town has to maintain the system. The houses in Pepperell will be on water and sewer. The houses in Groton will be on individual wells and sewage disposal systems since there is no intermunicipal agreement. Mr. Shepard said he would respond to the issues identified in the report dated February 5, 2004 from Judith Nitsch Engineering, Inc. (JNEI). However, he disagreed with JNEI's comment about stormwater infiltration, so a waiver may be required.

Member Degen asked if the plan meets all the subdivision regulations without reliance on waivers.

Member Lewis asked if the plan is still in litigation with the Town of Pepperell, why is the Planning Board discussing it.

Chairman Barringer read the comments from the Pepperell Planning Board regarding the litigation, which states that there has been no ruling from the Court to date.

Member Lewis said the Board must wait until the litigation is resolved in Pepperell before considering this plan. The applicant can submit a plan showing only the land in the Town of Groton.

Member Lewis said the plan cannot rely upon waivers of the Subdivision Regulations. Mr. Shepard said he would challenge JNEI's interpretation that a waiver is required for the proposed stormwater system.

Chairman Barringer asked Mr. Shepard to explain the status of the litigation. Mr. Shepard said the subdivision plan is dependent upon approvals in both towns. The entire road will be constructed to provide two access points – one in Groton and one in Pepperell. Mr. Shepard said he will ask the applicant's attorney to attend the next public hearing to

address the legal issues.

Member Degen said the Board cannot approve the plan in Groton until the subdivision is approved and bonded in Pepperell under §346-9C (1).

Member Lewis said, at this point, the Board should only be discussing the development in Groton and not the portion of the plan in Pepperell because it is in litigation.

Member Eliot suggested that the developer go ahead with the plan in Groton with lots on a dead-end road. Mr. Shepard said the applicant is willing to continue the public hearing in order to comply with §346-9C(1).

Chairman Barringer read the comments from the Police Chief, the Conservation Commission, the Board of Health, the Sewer Commission, the Water Department, and the Highway Surveyor. He also read two letters from Harlan Fitch.

Mr. Shepard said the applicant will work with the Water Department to resolve the intermunicipal agreement issues.

Mr. Shepard noted that a reserve strip was created because the lots in Pepperell do not comply with frontage requirements in Groton. This strip will prevent lots from accessing Crawford Way in Groton.

Chairman Barringer asked William Maher of JNEI to present his report. Member Lewis stated that he is reluctant to hear the report when the plan is dependent upon the subdivision road in Pepperell. In addition, there are too many problems with the proposed drainage system.

Member Wilson agreed that there are too many uncertainties on the Pepperell side of the parcel. He said the Town adopted new Major Residential Development and Flexible Development provisions to discourage this type of conventional development.

Member Degen said the applicant of the Academy Hill definitive plan proved to the Planning Board that the Basic Number of Lots could be built without waivers. The Board then considered alternative plans. He expressed concern about creating five lots now with the potential to create additional ANR lots in the future. The applicant must prove the plan can be constructed without any waivers.

Member Clements asked about the distance from the stream to the outlet of the retention basin. Mr. Shepard said it is 100 ft.

Member Perkins asked where the ANR lots would be located on the definitive plan. Mr. Shepard said on Lot G-5.

Member Wilson noted that these potential ANR lots were excluded from the plan to avoid the Major Residential Development provisions.

Mr. Shepard said he would like an opportunity to bring legal counsel to the next public hearing. Member Lewis asked if the applicant is willing to pay the Town's costs of having Town Counsel present. Chairman Barringer said the applicant is not present to respond to that question.

Member Degen said the proposed plan is skirting the Major Residential Development provisions and not using Flexible Development. He said he would like to see a special permit plan rather than the conventional plan submitted by the applicant. He said he would like to have Town Counsel attend the next public hearing.

Mr. Shepard said the outstanding issues are: 1. the status of the litigation in Pepperell; 2. the proposed reserve strip; 3. the need for a waiver for the infiltration basin; 4. the potential to create ANR lots on Lot G-5 and the applicability of Major Residential Development.

The motion was made by Wilson to send a letter to the applicant requesting that the applicant fund the cost of having Town Counsel attend the next public hearing to address the legal issues related to the proposed definitive plan. The

motion was seconded.

Chairman Barringer said the Board should ask legal counsel if the Board can review only the Groton portion of the site and not consider the portion that is in Pepperell because it is in litigation.

Member Eliot said the applicant could submit a revised plan showing only the land in Groton. The applicant could modify that plan at a later date. She said it is premature to ask Town Counsel for an opinion at this time.

Member Clements agreed that a legal opinion is not needed at the present time. Member Wilson disagreed and said the Board needs legal advice now. Member Lewis said he thinks it is premature to ask Town Counsel for an opinion at this time. Member Degen said he is willing to continue the hearing to give the applicant an opportunity to come back with a revised plan that does not rely on waivers. The Board should discuss whether a legal opinion is needed after a revised plan is submitted.

The motion was defeated with Degen and Wilson in favor; Clements, Eliot, Lewis, and Perkins opposed; Barringer abstaining.

Chairman Barringer opened the hearing for public comment.

John Trubiano, 476 Nashua Road, said he is concerned about the configuration of the proposed intersection because he lives directly across the street.

Kevin Donaruma, 435 Nashua Road, said there is a 40 to 50 ft drop in elevation where the hill behind his house was excavated. He said there is evidence of previous excavation in his yard.

Harlan Fitch asked how the Town boundary was located and how far it is from the original road stone. He requested that the road stone be shown on the plan. Mr. Shepard said David Ross Associates surveyed the Town line for Groton and Pepperell so he is confident that it is shown accurately on the definitive plan.

Robert Breton, 464 Nashua Road, asked if the Planning Board will review the traffic impact from the proposed development. Chairman Barringer said the Board can request that the applicant submit a traffic study if necessary.

Planning Administrator Michelle Collette asked how much sand and gravel had been removed from the site and whether excavation into groundwater had taken place. Mr. Shepard said he would inquire about the former earth removal operations at the site.

The motion was made by Lewis to continue the public hearing on March 11, 2004 at 7:30 PM. ***The motion was seconded and passed with Barringer, Clements, , Eliot, Lewis, Perkins, and Wilson in favor; Degen opposed.***

MISCELLANEOUS BUSINESS

MassHighway ENF – The Board will review the ENF filed by MassHighway for the Four Corners intersection and will vote on comments to MEPA at its meeting on February 19, 2004.

Comments to MRPC – The Board will review the draft Executive Order 418 plan prepared by the MRPC and will vote on comments at its meeting on February 19, 2004.

Habitat for Humanity – Member Lewis informed the Board that he will meet with representatives of Habitat for Humanity about improvements to Wachusett Road and Whitney Pond Road.

Comments to Board of Selectmen – The Board voted unanimously to submit comments to the Board of Selectmen that the proposed earth removal exemption for the lot owned by Robert Prescott on Farmers Row is premature because the Historic Districts Commission has not reviewed the plans and a building permit has not been issued yet.

Community Preservation Act (CPA) – Member Clements updated the Board on the research done by the Community

Preservation Act Task Force. He said the group is investigating the costs and benefits of adopting the CPA provisions. Funds can be used to protect open space, provide affordable housing, and preserve historic structures.

The Board stressed the need for an educational process including experiences from other communities that have already adopted the CPA. Member Clements said they have contacted many other towns.

Land Acquisition Committee – Planning Administrator Michelle Collette suggested that the Board consider reconvening the Land Acquisition Sub-committee and request that the Committee update the parcel prioritization list. The Board agreed.

MINUTES

The Board voted unanimously to approve the minutes of January 29, 2004, as corrected.

The Board voted unanimously to approve the minutes of February 5, 2004.

Meeting adjourned at 9:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator