

**GROTON PLANNING BOARD
FEBRUARY 26, 2004
MINUTES**

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

Members present: Barringer, Degen, Eliot, Lewis, Perkins and Wilson

Member absent: Clements

WORK SESSION WITH MARK BOBROWSKI

The Board met with Attorney Mark Bobrowski to discuss drafting provisions for accessory apartments and eliminating by-right duplexes. Selectman Virginia Wood, Board of Health member Susan Horowitz, and Building Inspector Assistant Paula Martin were also present.

Members of the Board stated that they would like to find a way to allow homeowners to create accessory apartments to provide housing for family members. Mr. Bobrowski said the proposed by-law could be drafted to limit the size of the unit to approximately 800 sq ft. The by-law may include provisions stating that the accessory apartments can only be rented to family members or that the houses be owner-occupied. Deed restrictions can be required to ensure that the units qualify as affordable.

Chairman Barringer said deed restrictions would encumber the property when it is time for resale. Homeowners may not want to have such restrictions on their deeds.

Selectman Wood said the Housing Task Force thought accessory apartments would be beneficial because they would help meet a social need rather than qualify under Chapter 40B. She asked how the Town would be able to enforce provisions that require renting only to family members.

Member Lewis noted that there is a need for handicapped accessible apartments and asked if the by-law could require that accessory apartments meet Americans with Disabilities Act (ADA) requirements. Mr. Bobrowski said requiring ADA compliance adds a significant amount to the cost of constructing the units. Member Wilson noted that some homes cannot be retrofitted easily to meet ADA requirements.

Mr. Bobrowski said accessory apartments must have a separate access, a separate kitchen and a firewall under the State Building Code.

Susan Horowitz asked about compliance with Title Five. Selectman Wood asked if a small accessory apartment could be created without having to install a two-chamber system under Title Five. Building Inspector Assistant Paula Martin said Title Five requirements are based upon the number of bedrooms. A sewage disposal system designed for four bedrooms could serve two bedrooms in each unit. Susan Horowitz said this a very gray area, and a variance from Title Five may be required.

Member Degen said if accessory apartments are permitted, homeowners could apply for permits to create such apartments rather than by-right duplexes. This will allow people to earn revenue and stay in their homes. Duplexes require separate gas and water hookups that are very costly.

Mr. Bobrowski said an as of right duplex is significantly larger than an accessory apartment. If special permits are required for accessory apartments, then special permits should also be required for duplexes.

Chairman Barringer said the Board should also address the creation of accessory apartments on hammerhead lots and lots created under flexible development. Mr. Bobrowski said the Board could limit such apartments to existing structures only or limit the increase in gross floor area to a percentage of the existing floor area.

Member Lewis said the by-law should also consider lot size, especially for undersized lots in the Lost Lake area.

Mr. Bobrowski said he would draft a proposal for the Board's consideration.

Member Wilson said the Board should summarize its objectives for the new by-law.

Member Lewis said the by-law will promote diversity and help the elderly financially.

Selectman Wood said there are many social benefits to allowing accessory apartments, thereby allowing the elderly to remain in their homes.

Member Degen said the Board must be prepared to address water and sewer issues for accessory apartments.

Members agreed that accessory apartments should be allowed on flexible development and hammerhead lots.

Member Perkins noted that caregivers may also occupy accessory apartments.

Member Wilson said by-right duplexes are no longer needed now that the Town has adopted the affordable housing requirements under Flexible Development.

Members also agreed that special permits should be required for duplexes. Member Lewis noted that duplex construction has not been problematic, but developers do use it as a threat with conventional plans.

PUBLIC HEARING – PROPOSED ZONING AMENDMENT

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the following proposed zoning amendment:

ARTICLE ____. TO SEE IF THE TOWN WILL VOTE TO AMEND THE ZONING BY-LAWS BY DELETING EXISTING SECTION 218-28 AND BY SUBSTITUTING THE FOLLOWING THEREFOR:

“SECTION 218-28 RATE OF DEVELOPMENT

A. Purpose. The purpose of this section, "Rate of Development," is to promote orderly growth in the Town, consistent with the average rate of residential growth over the period 1999-2003, to phase growth so that it will not unduly strain the community's ability to provide basic public facilities and services, to provide the Town, its boards and its agencies information, time, and capacity to incorporate such growth into the Master Plan for the community, and to preserve and enhance existing community character and the value of property.

B. Applicability; Subject Dwellings. This Rate of Development By-law shall apply to the issuance of a building permit for any dwelling unit with three or more bedrooms (hereinafter, a Subject Dwelling). Beginning on the date of adoption of this section, the Town shall issue only fifty-six (56) building permits for the construction of Subject Dwellings in any calendar year (hereinafter, the annual rate of development), prorated for the remainder of calendar year 2004. Forty-two (42) of such permits shall be reserved for Subject Dwellings located within any Major Residential Development granted a special permit after the effective date of this by-law. The remaining fourteen (14) such permits shall be reserved for Subject Dwellings not located within a Major Residential Development granted a special permit after the effective date of this by-law.

C. Interpretation. For the purposes of this section, where otherwise applicable a duplex shall constitute two Subject Dwellings and a multifamily dwelling shall constitute the number of Subject Dwellings contained therein; the conversion of a single-family to a two-family dwelling shall be deemed the creation of one Subject Dwelling.

D. Exemptions. The issuance of a building permit for a dwelling unit in any of the following circumstances, regardless of the number of bedrooms in the dwelling, is exempt from the annual rate of development and the issuance of such building permit shall not be used in any computation of the annual rate of development:

1. The alteration, enlargement, restoration, or reconstruction of a dwelling existing on a lot as of the date of adoption of this section.
2. The construction of one (1) new dwelling on a lot in existence as of the date of adoption of this section where such lot was held in separate ownership from any adjacent land. The burden of proof shall be upon the applicant for such permit to demonstrate that the lot in question (a) was in existence as of such date, and (b) that no adjacent land was held in common ownership or control.
3. Any dwelling unit restricted by deed for persons or households over the age of fifty-five (55).
4. Any dwelling unit restricted by deed to persons or households of low or moderate income, as defined by the Commonwealth's Department of Housing and Community Development.
5. Any dwelling unit for sale or for rent containing one or two bedrooms only;
6. Any dwelling unit in a Flexible Development established pursuant to the provisions of Section 218-4, governing "Transfer Lots".

E. Special Permit Exemption. The Planning Board may, by the grant of a special permit, determine that the issuance of building permits for any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Law, is exempt from the annual rate of development and the issuance of such building permits shall not be used in the computation of the annual rate of development. Such special permit shall be granted only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on

1. schools and other public facilities;
2. traffic and pedestrian safety;
3. recreational facilities, open spaces, agricultural resources, and unique natural features; and
4. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

F. Procedures. Building permits shall be issued in accordance with the following procedures:

1. The Building Inspector shall act on each permit application in order of submittal. Any permit application that is denied because the Town has reached the annual rate of development shall be denied in writing for that reason, with the date of such denial clearly marked thereupon.

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2. The Planning Board shall maintain a list of such denied permit applications, in the order of such denials. An applicant denied a building permit because the Town has reached the annual rate of development may request, in writing, that such denial be registered with the Planning Board.
3. On or before January 5th, the Planning Board shall transmit to the Building Inspector its list of permits denied because the Town reached the annual rate of development.

4. The Building Inspector shall first issue building permits to otherwise qualified applicants from the Planning Board's list.
5. Any building permits not issued in any calendar year shall not be available for issuance in any subsequent year.

G. Time Limitation and Extension. This section shall expire on January 1, 2010; provided, however, that this section may be extended without lapse of its provisions and limitations, by vote of the Town Meeting prior to such date.

SECTION 218-28.1. SUBDIVISION PHASING

A. Purpose. The purpose of this section, "Subdivision Phasing," is to ensure that the development of dwelling units with three or more bedrooms within a division or subdivision of land created after the effective date of this Section shall be phased so as not to unduly strain the town's ability to provide public facilities and services; to avoid disturbance of the social fabric of the community; to maintain the community's desired rate of growth; and to provide the town an opportunity to study growth and plan accordingly.

B. Applicability. Any tract of land divided or subdivided pursuant to any provision of G.L. c. 41, ss. 81K - 81GG, the Subdivision Control Law, after the effective date of this Section shall be subject to the provisions of this Section (hereinafter, a "Subject Property"). Any proposed division or subdivision of a single tract or a combination of adjacent tracts which were in the same ownership as of the date of the adoption of this section shall be deemed a Subject Property.

C. Phasing. The issuance of building permits in any calendar year for a dwelling containing three or more bedrooms on a Subject Property shall not exceed ten (10%) percent of the total number of building permits to be issued in that year as established in the annual rate of development set forth in Section 218.18.B (hereinafter, the "annual phasing quota").

D. Exemptions. Dwelling units set forth as exempt in Section 218-28.D shall also be exempt from the provisions of this Section.

E. Special Permit for Relief from Annual Phasing Quota. The Planning Board, by grant of a special permit, may authorize the issuance of building permits for dwelling units with three or more bedrooms within a division or subdivision of land created after the effective date of this Section on a Subject Property in excess of the annual phasing quota, or, in the alternative, exempt the Subject Property from the annual phasing quota. The Planning Board may grant such special permit only if the Board determines that the probable benefits to the community outweigh the probable adverse effects resulting from granting such permit, considering the impact on

1. schools and other public facilities;
2. traffic and pedestrian safety;
3. recreational facilities, open spaces, agricultural resources, and unique natural features;
4. conformance with Master Plan or Growth Management Plans prepared by the Planning Board pursuant to G.L. c. 41, s. 81D.

Particular consideration shall be given to special permit applications that demonstrate a reduction in allowable density of twenty-five percent (25%) or more. The Planning Board may engage a qualified economic analyst, at the expense of the applicant, to assist the Board in making its required finding.

F. Special Permit for Larger Land Divisions. Where the tract of land will be divided into more than the number of lots in the annual rate of development, the Planning Board may, by special permit, authorize development at a rate not to exceed ten percent (10%) of the units per year.

G. Zoning Change Protection. The protection against subsequent zoning change granted by G.L. c. 40A, §6 to land in a subdivision shall, in the case of a development whose completion has been constrained by this section beyond eight (8) years, be extended to ten years.

H. Relation to Real Estate Assessment. Any landowner denied a building permit because of these provisions may appeal to the Board of Assessors, in conformity with G.L. c. 59, §59, for a determination as to the extent to which the temporary restriction on development use of such land shall affect the assessed valuation placed on such land for purposes of real estate taxation, and for abatement as determined to be appropriate.”

Chairman Barringer called the public hearing to order. Clerk Perkins read the notice published in the February 6 and 13, 2004 issues of the *Groton Herald*

Member Degen said the purpose of the proposed by-law is to promote orderly growth in Town.

Member Lewis said he would like to know how many dwelling units results in the hiring of a new police officer or fireman. He asked how many dwelling units result in construction of a new school.

Member Degen said there are approximately 300 potential dwelling units at the present time, including approved subdivision plans and comprehensive permit applications. The Town has no control over the build-out of these units other than the existing by-law with a 120 permits in 24 months threshold. Adoption of the proposed rate of development provisions will allow the Town sufficient time to study its infrastructure improvements. Member Lewis said he agreed that such a study is needed.

Member Wilson said the proposed by-law will allow the Town to plan for incremental growth.

Harlan Fitch requested that the Board prepare a diagram demonstrating how the proposal will work.

Mr. Bobrowski said the by-law permits 56 permits per calendar year based upon an average of permits issued during the previous five years. The permits will be divided with 42 in Major Residential Developments (MRD) and 14 outside MRD's. Permits granted under the exemptions section will not apply toward the 56 units.

Member Degen said he has advocated for reducing the number of 56 to 40. Mr. Bobrowski said the number could be lowered based upon an average of the previous five years if you subtract permits that would have been exempt. Planning Administrator Michelle Collette will provide Mr. Bobrowski with those numbers.

Chairman Barringer reviewed the written comments submitted by GMAC member Steve Webber.

(Members Degen and Lewis left the meeting.)

Assistant Assessor Rena Swezey requested that the Board eliminate the section dealing with abatements. Mr. Bobrowski said the section is simply advisory in nature. Mrs. Swezey said the paragraph puts the Assessors in a difficult situation because assessments are based upon the value of the lots. The Board agreed to eliminate the section on abatements.

Mr. Bobrowski walked through the procedures contained in Section F, items 1 through 5, which apply to denial of building permits after the limit has been reached.

Chairman Barringer asked if the market rate units in the Chapter 40B developments would be counted. Mr. Bobrowski said only if they have three bedrooms, because two bedroom units are exempt.

Paula Martin said three-bedroom units in 40B developments could use up all the available permits. Mr. Bobrowski said that is true with the by-law, as written.

Selectman Wood requested that the Board change “economic analyst” to “consultant.”

Mr. Bobrowski will prepare revisions to the proposed by-law based upon comments heard at the public hearing.

The Board voted unanimously to continue the public hearing on April 1, 2004 at 7:00 PM.

PRE-SUBMISSION REVIEW – TOWN LINE AUTO

The Board met with Vincent Lemire of Town Line Auto to discuss paving his used car lot. Mr. Lemire said the ZBA granted a special permit to sell eight used cars. He would like to pave 75 – 80% of the lot and the existing access. Some landscaping will be added when the paving is done.

Member Perkins asked what the acreage of the lot is. Mr. Lemire said he was not sure. The Assessors Maps show a 1.85 acre lot. Mr. Lemire said the area he wants to pave is about 105’ x 55’.

Chairman Barringer said a Level I submission seems appropriate for this site, especially since it is a very busy intersection with many safety concerns.

Member Perkins said the Board must also review drainage, lighting and signage.

Member Eliot said customer access to and from the site is also an important consideration.

The motion was made by Perkins to require a Level I site plan for Town Line Auto. ***The motion was seconded and passed unanimously.***

COMMENTS TO MEPA

The Board will submit comments to MEPA supporting MassHighway’s proposed intersection improvement and signalization plan for the Four Corners. The Board will also commend MassHighway for agreeing to install the utilities underground.

LIAISON REPORTS

Chairman Barringer reported that the group working on improvements to the Main & Mill Street intersection is making progress. Developer Robert Walker agreed to realign the intersection as shown on the Mill Run Plaza plan and to contribute funds for the future signalization of the intersection as part of the mitigation plan for his comprehensive permit application.

Meeting adjourned at 9:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

