

GROTON PLANNING BOARD
MARCH 11, 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 (con't) – REEDY MEADOW ESTATES DEFINITIVE PLAN

The Planning Board continued the public hearing to consider the Reedy Meadow Estates definitive plan submitted by John Lorden. John Lorden, design engineer Gary Shepard of David E. Ross Associates, and several abutters were present. The Planning Board's engineer, William Maher of Judith Nitsch Engineering, Inc. (JNEI) was also present.

Attorney John Lorden, landowner and applicant, explained the history of the site in Groton and Pepperell. The Town of Pepperell took a portion of the land by eminent domain in 1970 for the Jersey Street well. Over the years, zoning became more and more restrictive. The Town of Pepperell took additional land by eminent domain. Eventually, sewer was extended to the area in Pepperell. Mr. Lorden said he submitted a subdivision plan that was denied by the Pepperell Planning Board based upon the Water Resource Protection Districts provisions. He filed an appeal in Court. In a summary judgment decision, the Court overturned the denial of the definitive plan. The Court ordered Pepperell to amend its Water Resource Protection District by-law. Mr. Lorden submitted a copy of the Court document for the record.

Mr. Shepard said the Pepperell portion of the plan has been very complicated. The land in Pepperell is very long and narrow so only three or four lots can be created on a dead-end street in Pepperell. The proposed plan shows one access in Groton and one in Pepperell. The change in the Town line does not affect the plan. Mr. Shepard gave a brief summary of the Town line change that is now in its third reading in the State Legislature to correct technical problems with the previous bill. The new Town line will be eight feet off the edge of pavement. There is no case law on this point since a town line change is uncommon. Town Counsel must address this issue for the Town.

Member Lewis said the Board expects the bounds to be shown correctly on the plan.

Member Perkins asked about outstanding engineering issues as well as endangered species concerns. Mr. Shepard said the applicant would file a Notice of Intent with the Groton Conservation Commission and with the Natural Heritage and Endangered Species Program. However, the application cannot be submitted until there is a more definitive plan.

Member Perkins asked if the road could begin and end in Groton. Mr. Shepard said the road goes from Pepperell into Groton. Access to the lots in Groton would not have to be through Pepperell. All houses in Groton can be accessed through Groton.

Mr. Lorden said he wanted to attend this meeting to discuss his options with the Planning Board. He asked how he could change the plan to meet Groton's requirements. He stated that he would like to set aside open space along Reedy Meadow Brook and asked his engineer to draw a concept plan. However, this is not a dead-end street in Groton. Road access, public water and sewer are from Pepperell.

Member Perkins asked about the future division of Lot G-5 and the applicability of Major Residential Development. Mr. Lorden said he would agree to meet all of Groton's requirements.

Mr. Shepard said the road must connect with the subdivision road in Pepperell. Otherwise, the subdivision cannot be constructed in both towns. He asked the Board to work with the applicant to provide access to the land in Pepperell.

Chairman Barringer read the latest revisions to the Subdivision Regulations, § 346-9C(1), adopted on April 10, 2003, which state:

“The Planning Board will not approve a subdivision of land where access to any portion of the subdivision tract in Groton is through another Town.”

Members Perkins and Eliot agreed that this language is ambiguous. Member Wilson said it is not ambiguous at all. It is very clear that a through road cannot be constructed in two towns.

Mr. Lorden said access must always come from Pepperell for this land. Member Wilson said the viability of this subdivision should not hinge on a road through Pepperell.

Mr. Shepard asked if the road in Groton were 1000 ft long to the Town line, how would the regulation apply. Member Wilson said the regulation is clear – there is no access through another town.

Member Lewis agreed that a cul de sac cannot be extended to a subdivision road in another town.

Mr. Shepard asked if they could build a 1000 ft road to the Town line. Chairman Barringer said it would not comply with § 346-9C(1).

Member Degen agreed that §346-9C(1) states that access to all lots in Groton should be through Groton; otherwise, the plan does not comply with the regulations. The definitive plan does not comply with the regulations in effect as of the date of submission.

Member Clements said the only alternative plan is a 1000 ft dead-end street with ten lots or less.

Chairman Barringer agreed that §346-9C(1) does not permit the proposed road as shown on the plan.

Mr. Shepard showed the Board a sketch of a loop road with a 900 ft cul de sac. Member Perkins said the loop road still depends upon access through Pepperell. Member Wilson agreed that the 1000 ft dead-end requirement does not satisfied by §346-9C(1).

Member Lewis said the applicant could submit the plan and request a waiver of §346-9C(1).

Member Wilson asked if the applicant intends to build a conventional, two-acre lot plan. Mr. Shepard said the applicant intends to build a subdivision, but he will work with the Board on other plans such as an eight-lot plan with open space along the brook.

Member Perkins asked if such a plan would be submitted under Flexible Development. Mr. Shepard said, “yes.”

Member Degen noted the grade change behind the existing ANR lot. He said the plan must comply with the maximum seven-foot cut and fill requirements of the regulations. He said existing grades in this area may present problems.

Member Eliot said this is an opportunity to eliminate the existing ANR lots by incorporating them into the subdivision. More affordable units could be created. She suggested that the Board conduct a site visit to look at the grading issues.

Member Degen said the Board should either act on this plan or the applicant should withdraw the plan and resubmit a plan that complies with the zoning and the subdivision regulations.

Member Eliot said it is not necessary to withdraw the plan. The applicant could submit a revised plan.

Member Perkins said the Basic Number of Lots plan must not rely on any waivers. She said she would like to hear from the Planning Board’s engineer first.

William Maher of JNEI presented his report dated February 26, 2004. The major concerns include endangered species habitat, steep grades, lot grading, and conformance with zoning. He asked if the site would be served by public water or private wells. If there is not public water, then a fire cistern is required in the subdivision regulations. An NPDES permit is required for the underground infiltration system. He questioned discharge stormwater from Pepperell into the

drainage system in Groton.

Member Degen said a special permit for Major Residential Development must be submitted if there are more than five lots. He noted that Lot G-5 contains 9.42 acres. The Board should act on the proposed plan unless an application for a special permit is submitted.

Member Lewis said the Board should give the applicant time to respond.

Member Eliot said the Board should walk the site when a new plan is submitted.

Planning Administrator Michelle Collette confirmed that the deadline for the Board to act is 135 days under Chapter 41, § 81-U, because a preliminary plan, submitted in December 2001, was withdrawn. The deadline is May 28, 2004. Mr. Lorden and Mr. Shepard agreed.

The Board voted unanimously to continue the public hearing on April 8, 2004 at 8:30 PM.

PUBLIC HEARING (con't) – ROCKY HILL SPECIAL PERMIT & DEFINITIVE PLAN

The Board voted unanimously to continue the public hearing for the Rocky Hill special permit and definitive plan to March 18, 2004 as requested by the applicant.

SPECIAL PERMIT DECISION – DISTRICT 6 FIRE COMMUNICATIONS

The Board discussed the draft special permit decision for the District 6 Fire Communications' antenna on the Gibbet Hill tower.

The motion was made by Lewis to GRANT a special permit to utilize the provisions of Groton Zoning By-law Section 218-25.1 Personal Wireless Services Facility to relocate existing fire radio and antenna to Gibbet Hill Tower's approved 150-foot monopole style telecommunications tower on land owned by Gibbet Hill Tower, 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:

1. **Social, economic and community needs:** The additional antenna on the Gibbet Hill Farm LLC approved 150-foot monopole telecommunication tower will serve the communications needs of Fire District Six Mutual Aid Association within the Town of Groton and 17 surrounding towns.
2. **Traffic flow and safety:** There are no traffic flow or safety issues associated with the addition of the antenna 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 as designed.
4. **Neighborhood character:** The additional antenna will be installed at 150 feet elevation AGL on Gibbet Hill's approved tower. The antenna will be an "omnidirectional fiberglass antenna," approximately five feet in length and 1.75 inches in diameter as shown on the diagram submitted by the applicant. The antenna will not be very visible from surrounding areas.
5. **Impacts on the environment:** The additional antenna 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:** The proposed Gibbet Hill tower will not have an adverse fiscal impact on the Town because it will not have a negative effect on the valuation of nearby properties and will not require any

town services. The construction of the antenna on the tower for the benefit of the Fire District will enhance the Town's public safety departments' ability to communicate and provide services in an emergency.

7. The applicant is co-locating its antenna on an approved 150 ft monopole tower owned by Gibbet Hill Tower, LLC. The Fire District's ground equipment will be stored in the cabinet owned by Nextel.

Conditions:

1. The Fire District's equipment will be installed at 150 feet elevation AGL on Gibbet Hill, LLC's approved tower which is subject to conditions in Special Permit 2002-05 granted by the Planning Board on February 7, 2002. The antenna will be an "omnidirectional fiberglass antenna," approximately five feet in length and 1.75 inches in diameter as shown on the diagram submitted by the applicant (see attached).
2. The equipment shall comply fully with all applicable requirements of Groton Zoning By-law § 218-25.
3. The equipment will comply with all applicable conditions enumerated in Special Permit 2002-05 granted to Gibbet Hill Farm 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. 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.
6. 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.
7. 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.
8. 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.
9. 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.
10. 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.

ANR PLAN & ACCESS ADEQUACY – HABITAT FOR HUMANITY

(Member Degen stepped down and did not participate.)

Member Wilson disclosed for the record that he has done pro-bono work for Habitat for Humanity and did not receive

any payment for his professional services.

The Board discussed its decision of November 13, 2003 on the determination of access adequacy for Wachusett Trail with June Johnson of the Groton Conservation Trust (landowner) and Steve Boczenowski of Habitat for Humanity (applicant).

Mr. Boczenowski requested that the Planning Board amend its decision so that improvements to the road must be completed prior to occupancy permit rather than building permit. He said Habitat for Humanity would like to begin work as soon as possible.

Chairman Barringer noted that there are safety concerns during construction, and emergency vehicles must have access for injured workers, fires, and other emergencies. In addition, the safety of the volunteer responders must be considered.

Ms. Johnson also requested that the required road improvements end at the property line rather than at the Lot 2991-2992 lot line as stated in the Board's decision. Member Lewis said this location was included in the original decision because the road is only 12 ft wide, so safety vehicles must have a place to turn around. Ms. Johnson said they met with the Highway Surveyor to discuss the work, and it is not appropriate to require that this applicant provide the turn around for the Town. Member Lewis agreed that the Board does not usually require improvements beyond the applicant's property.

Chairman Barringer reiterated that the roads are not adequate as they exist, and they must be improved to provide access for emergency vehicles. Ms. Johnson agreed that there is no question that the Whitney Pond Road must be improved to its intersection with Wachusett Trail.

Chairman Barringer asked why the applicant did not want to improve the road prior to constructing the house. Mr. Boczenowski said Habitat is relying on local businesses to help with construction including installation of the water mains. They do not want to repair the road until the water mains are installed. The project may take up to six months to complete. The road is in reasonable shape to allow access for construction vehicles.

Member Perkins said she would be satisfied as long as the Fire Chief signs off the access prior to the building permit being issued.

Member Lewis said the applicant must be sure other people in the area have access when the water mains are being installed. He said if the public safety departments sign off on the building permit, he would agree to allow improvements to be completed prior to occupancy permit.

The motion was made by Lewis to amend the Board's vote of November 13, 2003 to require improvements to Whitney Pond Road to the intersection with Wachusett Trail at Lot 2996 rather than to the Lot 2991-2992 lot line. ***The motion was seconded and passed unanimously.***

The motion was made by Lewis to amend the Board's vote of November 13, 2003 to require that improvements to Wachusett Trail and Whitney Pond Road be completed prior to issuance of occupancy permit rather than building permit. ***The motion was seconded and passed unanimously.***

ANR PLANS

Habitat for Humanity, Wachusett Trail

(Member Degen stepped down and did not participate.)

The Board considered the Approval Not Required plan submitted by Habitat for Humanity showing one building lot on Wachusett Trail. Attorney June Johnson said the plan shows a non-conforming lot of record to be donated by the Groton Conservation Trust to Habitat for Humanity. The Zoning Board of Appeals granted a variance for acreage and set-back requirements. No structures will be constructed on Wolf Trail (unimproved) as shown on the plan.

Ms. Johnson requested that the Planning Board waive the \$75.00 filing fee for the ANR plan for the non-profit

organization. The Selectmen waived building permit fees, and the ZBA waived its filing fee.

The motion was made by Perkins to waive the filing fee for the ANR plan submitted by Habitat for Humanity. *The motion was seconded and passed unanimously.*

The motion was made by Perkins to endorse as Approval Not Required the plan entitled, "Plan of Land in Groton, Mass. for Habitat for Humanity," prepared by Bill Boston Survey, dated June 4, 2003. *The motion was seconded and passed unanimously.*

Lavalley Family Trust, Candice Lane

The Board considered the Approval Not Required plan submitted by the Lavalley Family Trust showing one unbuildable parcel off Candice Lane in the Lavalley Hill subdivision. Attorney Ray Lyons presented the plan

Mr. Lyons said the Lavalley family would like to sell the existing house on Lot 1 and build a new house on Lot 2. The family does not want to sell the 15.76 acres shown as Parcel 1A on the plan. Parcel 1A will be combined with Lot 2 as required in the ZBA variance.

Member Lewis said Candice Lane can only serve Lots 1, 2, and 3 as stated in the LaValley Hill definitive plan approval. Mr. Lyons agreed that the subdivision road can never be extended. Parcel 1A abuts the Bertozzi Farm to the north, the Groton Conservation Trust to the east, and the Lyman property to the south. The ANR plan does not change the number of building lots in the subdivision. The restrictions recorded with the plan in 1990 still apply. The ANR plan is not a subdivision because all lots have frontage on a subdivision road.

Planning Administrator Michelle Collette suggested that a note be placed on the plan indicating that Parcel 1A would be combined with Lot 2. Mr. Lyons said such a note is not necessary.

The motion was made by Degen to endorse as Approval Not Required the plan entitled, "Plan of Land in Groton, Mass. for James Lavalley," prepared by Bill Boston Survey, dated July 10, 2003, revised January 28, 2004, with the following condition:

Prior to endorsement, a notation shall be added to the plan stating that "Parcel 1A will be combined with Lot 2" as represented by the applicant's attorney at the Planning Board meeting. *The motion was seconded and passed with Barringer, Clements, Degen, Lewis, Perkins, and Wilson in favor; Eliot abstaining.*

INFORMAL DISCUSSION – HOOPER DRIVEWAY, TOWNSEND ROAD

Attorney Ray Lyons met with the Board to discuss the possible construction of a shared driveway serving two lots off Townsend Road. He asked if the Board would consider waiving the shared driveway regulations to allow a 12 ft wide, rather than 16 ft wide, driveway in the area of the wetlands crossing to reduce impact on the wetlands. The applicant will submit a Notice of Intent for construction of one house and the driveway. However, the applicant may want to construct another house for their parents in the future.

Members of the Board expressed their opinions. Some said the driveway should comply with the 16 ft width requirements, while others said they would consider granting a waiver to a width of 12 ft as long as the Conservation Commission approved the wetlands crossing.

PERFORMANCE BOND RELEASE – WOODLAND PARK

The Board considered the request submitted by Robert M. Hicks to release the remaining \$10,000.00 held in the performance bond for the Woodland Park subdivision. The bond is being held to cover the street trees that were planted last year.

The motion was made by Perkins to hold the bond until July 8, 2004 to be sure the street trees survive. *The motion was seconded and passed unanimously.*

LIAISON REPORTS

Surrenden Farm – Member Degen reported that he attended the Board of Health meeting as liaison to that Board for

the discussion of the Surrenden Farm soil remediation. He said the Planning Board should not have approved the Surrenden Farm definitive plan without final approval by the Board of Health.

Attorney Ray Lyons said the Planning Board had an affirmative report from the Board of Health when it approved the definitive plan. The conditions of approval stated that the Board of Health would retain jurisdiction over soil remediation.

Member Lewis said the Planning Board could have kept the hearing open and waited for the Board of Health to complete its review process.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator