

**GROTON PLANNING BOARD
OCTOBER 14, 2004
MINUTES**

Chairman Eliot called the meeting to order at 6:30 PM in the Town Hall

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

Member absent: Wilson

BERTOZZI FARM - PERFORMANCE BOND REDUCTION

The Board received a report dated October 14, 2004 from Judith Nitsch Engineering, Inc. (JNEI) recommending a reduction in the performance bond for the Bertozzi Farms subdivision. The motion was made by Lewis to reduce the performance bond for the Bertozzi Farms subdivision to \$109,527.79 as recommended in the report dated October 14, 2004 from Judith Nitsch Engineering, Inc. *The motion was seconded and passed with Eliot, Clements, Lewis and Perkins in favor, Barringer abstaining.*

BOSTON ROAD MARKET PLACE SOILS EVALUATION

The Board met with Board of Health members Susan Horowitz and Robert Hanninen to discuss the evaluation of the fill to be used at the Boston Road Marketplace (Shaw's Supermarket) construction site. Licensed Site Professional (LSP) Michael Burke of Jaworski Geotech represented Shaw's at the meeting.

Mr. Burke said the material will be taken from the Aggregate Industries site in Littleton. He submitted copies of the soil analysis showing that the volatile organic compounds (VOC) and heavy metals were all below detection limits. The four metals that were detected are all within the normal range for soils in the US.

Member Barringer asked what EPA limits were used. Mr. Burke said they used the EPA's S-1 classification. Member Barringer asked Mr. Burke to submit the reference documentation. Mr. Burke agreed.

Board of Health Member Robert Hanninen asked about the MCP limits for chromium in soils. Mr. Burke said the limits are below reportable limits and he will submit the supporting documentation.

Board of Health Chairman Susan Horowitz asked if the material is virgin soil. Mr. Burke said, no," it is tailings from the gravel and crushed stone operations. Dr. Horowitz asked if there are any pesticides or PCB's in the soil. Mr. Burke said, "no."

Member Barringer said he does not have a problem with the materials as long as the soil meets regulatory limits. The LSP must certify that material is clean and submit supporting documentation on EPA and MCP regulatory standards.

Mr. Burke said he is an LSP in the Commonwealth of Massachusetts and will not allow any contaminated material to be transported to the site. Dr. Horowitz asked if Mr. Burke would be supervising operations. He said, "yes."

The motion was made by Barringer to accept the 40,000 cubic yards of fill as described in the report dated September 29, 2004 from Aquarian Analytical, Inc., submitted by LSP Michael Burke of Jaworski Geotech, Inc., with the following conditions:

1. The LSP shall submit a copy of the applicable EPA and MCP regulatory standards to the Planning Board for its files.
2. The fill material to be used shall not be from an area excavated using perchlorate explosives.
3. The LSP shall certify that the material used on site is from the same source area specified in the above referenced report.

The motion was seconded and passed unanimously.

Board of Health Chairman Horowitz called the Board of Health meeting to order.

The motion was made by Hanninen to accept the 40,000 cubic yards of fill with the same conditions contained in the Planning Board's vote. ***The motion was seconded and passed unanimously.***

Mr. Burke said an additional 20,000 cubic yards of fill from a second source will be needed, but they do not have laboratory reports on the soil quality yet.

Contractor David Marious explained the application submitted to the Board of Selectmen to remove 5000 cubic yards of excess loam from the site. The excess material will be transported to Littleton. The material has no structural integrity and can only be used for landscaping.

The motion was made by Perkins to defer to the Earth Removal Advisory Committee's recommendation on the proposed removal of excess material from the Boston Road Marketplace site. ***The motion was seconded and passed unanimously.***

PUBLIC HEARING - REEDY MEADOW ESTATES DEFINITIVE PLAN

The Board received a request from the applicant for an extension of the deadline and a continuation of the public hearing to allow the applicant more time to work with the Natural Heritage and Endangered Species Program (NHESP).

The motion was made by Perkins to extend the deadline to January 15, 2004 as requested by the applicant. ***The motion was seconded and passed unanimously.***

The motion was made by Perkins to continue the public hearing on December 9, 2004 at 7:30 PM. ***The motion was seconded and passed unanimously.***

PUBLIC HEARING – REZONING PETITION

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 rezoning petition submitted by Walter Platt and others:

“To see if the Town will vote to re-zone from R-A (Residential-Agricultural) to R-B (Residential-Business) certain premises situated at 214 Main Street owned by Walter H. B. Platt, consisting of approximately 0.63 acres of area, which premises is a portion of the land described in a deed recorded with Middlesex South Registry of Deeds in Book 43270, Page 328, being shown as parcel 95 on Assessors' Map 112, or take any action thereon.”

Chairman Eliot called the hearing to order. The Board read the notice published in the September 24 and October 1, 2004 issues of *The Groton Herald*. Petitioner Walter Platt, Attorney Ray Lyons, and several abutters were present.

Mr. Lyons presented the petition to rezone the 27,000 sq ft lot from R-A to R-B. There is an existing building containing 4400 square feet. There are four apartments in the building at the present time. If the property is rezoned, one of the units will be converted to business use. Most business uses require a special permit from Zoning Board of Appeals.

Chairman Eliot read the letters from Attorney Ray Lyons, the Board of Assessors, and abutters Bayard and Lois Underwood.

Member Perkins asked about parking. Mr. Platt said there are eight parking spaces there today. These spaces will be maintained for the residential use. Parking for the architectural office will be on-street.

Member Perkins asked about access for the parking area. Mr. Lyons said there is an easement over the abutting land owned by the Congregational Church. Mr. Platt added that they do not plan to add any new parking spaces. Parking for the architectural offices may include one for an architect, one for an interior designer and one client per day.

Production will continue to be located at the Adams Avenue facility. Mr. Lyons said §218-23 requires a total of eleven spaces, two per dwelling unit and a minimum of five for the business use. The by-law also provides credit for ten on-street parking spaces.

Member Clements stated that the Master Plan states that the Town should maintain the present mix of commercial and residential uses in the Town Center. Mr. Platt said he believes the proposed rezoning is consistent with the Master Plan because the structure will remain residential in appearance and it is in keeping with the pedestrian nature of the Town Center.

Member Lewis agreed that a vibrant Town Center should support small, local businesses.

Member Barringer asked about the square footage of the office space. Mr. Platt said it will contain 1000 square feet.

Chairman Eliot stated that a special permit is required for the office use. Mr. Lyons agreed that any business or change of use requires a special permit from the Zoning Board of Appeals and site plan review by the Planning Board.

Chairman Eliot asked whether the applicant had gone to the Historic Districts Commission yet. Mr. Platt said, “not yet,” but his business involves the restoration of historic homes.

John Bruner, who owns a house on School Street in the Historic District, said if he rezones his property, the value increases by 50%. He said the proposed rezoning is an attempt to increase the value of the property without contributing anything to the Town. Chairman Eliot noted that healthy businesses do contribute to the Town.

Assessor Hugh McLaughlin spoke in favor of the proposed rezoning because it will generate more tax revenue with less demand on Town services. This is a long term direction the Town must pursue. The Town had 90% residential properties 12 years ago and today 95% of the Town is residential.

Member Barringer noted that this is not “spot” zoning. Mr. McLaughlin said the Town adopted zoning in 1963. Since then, the only other areas to be rezoned have been voted on a case-by-case basis. The Town’s business base is eroding over time. The Town’s tax base relies too heavily on residential use.

Tamara Smith asked why Mr. Platt needed office space on Main Street. Mr. Platt said he started his business 14 years ago in his home on Boston Road. The business grew and moved to the facility on Adams Avenue. They now have 30 employees and they are out of office space. Mr. Platt said the business is still growing. Approximately 1/3 of the customers are in Groton and 2/3 are in the Concord-Carlisle area. His alternative would be to move the business to another Town, but he would prefer to stay in Groton.

Assessor Edward Kopec said the Town should encourage business to expand and stay in Groton. This business does not interfere with traffic or create problems with noise. The Town should be proud to have such a flourishing business.

Chris Murphy said the objectives of the Comprehensive Master Plan include protecting the historic character of the Town Center. He said the proposed use will restore an older home, and the Town could not ask for a better use. This is a “win-win” situation for everybody.

Abutter Jennifer Rand expressed concerns about potential uses after Mr. Platt. Mr. Lyons said this is the primary reason the petition requests rezoning to R-B rather than B-1. There are significant controls in the Zoning By-law for all uses in the R-B District. A special permit is required, and any abutter within 300 ft can appeal the special permit decision.

Member Lewis said he supports the expansion of this business in the Town Center, but he is concerned that the Town is losing rental property. He asked if the applicant is willing to keep the rental units if this property is rezoned. Mr.

Lyons said other modifications to the rental units would be very expensive.

Member Degen said any new owners in the R-B District would be subject to the special permit granted by the ZBA and site plan review by the Planning Board. Any change of use would require a new special permit and site plan review. The Town needs economic development.

Harlan Fitch noted that land in eastern Groton was rezoned from business and manufacturing use to residential use, but land owned by NEBS was rezoned from residential to business use. NEBS is an example of a small business that began in someone's garage and grew into a very successful company. Mr. Fitch said he would not like to change the Town Center from residential to business use. He said we must look at the proposal very carefully.

Mr. Platt stated that he plans to maintain the residential units above the business use. He agreed that an appropriate mix is important.

Abutter Bayard Underwood expressed the concerns stated in his letter to the Planning Board. He said there is already too much blacktop in this area, especially with the recent changes at Two Hollis Street. The Historic District is the most important area of Town. He said he helped establish the Historic District when it was adopted by Town Meeting. He said he is also in favor of mixed-use zoning. However, he is opposed to this particular rezoning and would prefer more residential use.

Mr. Underwood asked if Mr. Platt owns the property yet. Mr. Platt said, "yes." Mr. Underwood said he is not concerned about Mr. Platt's business, but about what may happen with a new owner in the future.

Mrs. Underwood expressed concerns about the lack of parking for the existing apartments, especially during the winter. There are only five parking spaces on the site.

Tim Hess, an architect who works for Mr. Platt, stated that he likes working in the Town Center because he can walk to work. He supports the pedestrian nature of the Town Center and hopes more people will be able to walk to work and reduce traffic on Route 119.

William Shute of the Union Congregational Church said the consensus of the Church was not to oppose this rezoning petition.

Melissa Lark said she hopes the Planning Board works to keep local businesses in the Town Center. She spoke in favor of the rezoning petition.

Member Degen asked whether Mr. Platt would consider placing an Historic Preservation Restriction on the property. Mr. Platt said he would explore it.

Member Clements said he would like to see Mr. Platt continue his business in Town, but he has reservations about such a use in the Historic District.

The Board voted unanimously to close the public hearing.

The motion was made by Perkins to recommend that Town Meeting vote in favor of Article 31 to rezone the property located at 214 Main Street to Residential Business. The proposed rezoning is consistent with the Goals and Objectives of the Comprehensive Master Plan including:

- To support appropriate business activity in the Center.
- To support existing businesses.
- To allow business development along Main Street only to the extent that it meets the other objectives of the area.

- To balance business needs with residential needs in any rezoning efforts.
- To manage Groton Center's business planning in a manner that allows Main Street to function as a through route for commuter traffic, provides protection for existing businesses, provides opportunities for a limited amount of business growth and protects the Center's historic character.
- To prevent the Center from deteriorating due to business migration to other parts of town.
- To encourage small retail and service businesses that will meet the needs of Groton residents and continue the town's tradition of having businesses that are "locally grown".
- To encourage businesses that will fit within and enhance the community's small town character.

The Board believes that rezoning the site to R-B will have sufficient controls over the proposed use of the property, including the requirement for a special permit from the Zoning Board of Appeals and site plan review by the Planning Board.

The Board encourages the petitioner to consider placing a Historic Preservation Restriction on the property for additional protection of the historic value of the structure.

The motion was seconded and passed with Eliot, Barringer, Degen, Lewis, and Perkins in favor; Clements opposed.

PUBLIC HEARING – ROCKY HILL SPECIAL PERMITS & DEFINITIVE PLAN

The Board continued the public hearing to consider the Rocky Hill special permits and definitive plan. Applicant David Moulton, Attorney Robert Collins, engineers Robert Pine and Drew Garvin were present.

Mr. Pine presented the most recent revisions to the definitive plan including a new road profile. The plan and drainage calculations were sent to Judith Nitsch Engineering, Inc. (JNEI) for review. All the issues contained in the JNEI report dated October 14, 2004 will be addressed.

Mr. Garvin explained the revisions to the plan and drainage system including the reasons for requested cut and fill waiver.

Member Lewis asked where the cut and fill waiver is located. Mr. Garvin said the area of cut and fill is located off Route 119 so that the road can span the valley. There will be a 10 ft cut and a 9 ft fill in this area. Mr. Collins added that a box culvert will be constructed to span the wetlands in this location.

Member Lewis asked if the cut and fill is balanced. Mr. Pine said, "yes," the excavation for homes in the 55 and older area will provide fill for the road base. Mr. Garvin noted that the road is 3066 ft long, and the pavement width is 24 ft within a 60 ft wide right of way.

Member Lewis asked about curbing. Mr. Collins said this issue was discussed at length with the Natural Heritage and Endangered Species Program (NHESP). There will be no vertical curbs on this site so turtles will be able to cross the road without falling into catch basins. Member Lewis asked the applicant to specify the length of curbing in the requested waiver.

Mr. Pine said the Board may want to change the regulations on curbing because granite curbing traps turtles in the road way. They would like to use Cape Cod berms through this site. Member Degen said he is not in favor of using Cape Cod berms because they do not hold up well when snow is plowed. He said he prefers sloped granite curbing. Member Lewis said he has concerns about how well sloped granite curbing works, too.

Member Degen said the applicant must submit a complete list of waivers for the Board's consideration. He asked about the slope of the roadway near the 55 and older housing and whether it meets the leveling requirements. Mr. Garvin responded that it meets the regulations.

Member Clements asked about construction phasing. Mr. Collins said the entire loop road will be constructed first including the bridge and wetlands crossing.

Member Lewis asked the applicant to consider a donation to the Lost Lake Fire Station in exchange for the requested waivers. Mr. Collins said the applicant is donating 500 acres of conservation land as part of this plan.

Planning Administrator Michelle Collette reminded the applicant to check with the 9-1-1 Liaison about the street names.

The Board voted unanimously to continue the public hearing on November 18, 2004 at 7:30 PM.

INFORMAL DISCUSSION – JAMES PATIERNO, 960 LOWELL ROAD

The Board met with Attorney Robert Collins to discuss a possible three-lot subdivision of a 7.5 acre lot, owned by James Patierno, located at 960 Lowell Road, as described in Mr. Collins letter dated September 21, 2004 to the Board.

Mr. Collins said there is one small house on the lot today, and Mr. Patierno would like to keep the house affordable. He asked if the Board would consider a plan with the existing house on 30,000 square feet and three new lots if the existing house is preserved as affordable. Mr. Collins noted that affordable housing units are not required if there are less than ten units in the development.

The Board said Mr. Collins must submit a special permit application for Flexible Provisions.

MILL RUN PLAZA – SITE PLAN REVIEW MODIFICATION

The Board considered the proposed modification of the Mill Run Plaza site plan in order to ascertain that the drainage system design is adequate to serve the commercial development, the relocation of Mill Street, and the Groton Residential Gardens 40B development. Attorney Collins represented the applicant at the meeting. Mr. Collins stated that the drainage system design is now consistent on all three plans, and there are no other proposed changes to the plan. He stated that the developer, Robert Walker, would like to construct the relocated Mill Street this fall.

The Board received a report dated October 14, 2004 from Judith Nitsch Engineering, Inc. (JNEI) confirming the adequacy of the drainage system design.

Member Degen noted that there have been many problems during construction. Recently, water was pumped out onto Mill Street when the stockpile of soil was being removed. The drainage system must be installed and be able to function as designed. Mr. Collins said the Board could include such a condition of the site plan review modification.

Member Degen said there should be no discharge of water off site. He also requested that the sub-surface infrastructure be installed for the traffic light and that a bond be posted for the drainage system. Mr. Collins said he would not have a problem with increasing the bond, based upon an estimate provided by JNEI. However, the street light has not been designed and may not be installed for many years.

Abutter Ron Alcott expressed concerns about structural damage to their house resulting from construction at the site. His claim is being addressed by the insurance company. He objected to trash pick up in the early morning because there will be a dumpster within 100 ft of their bedroom window. Mr. Collins said trash removal will be between 8 AM and 5 PM.

Mrs. Alcott requested that the dumpster be relocated and that there be no snow plowing during the night. There is plenty of time to plow in the morning before businesses open. Member Degen said this may not be realistic during a heavy snow storm. Member Lewis said the Board of Selectmen deal with hours of operation and snow plowing issues.

The motion was made by Degen to approve the modification of the Mill Run Plaza site plan as shown on the plan entitled, "Overall Grading and Drainage Plan, Mill and Main Street, Groton, MA, Prepared for Ryan Development," prepared by LandTech Consultants, Inc., dated September 28, 2004, with the following conditions:

1. All conditions of the site plan approval dated February 20, 2004 remain in full force and effect.
2. All conditions of Erosion Control Permit 2003-09 and Request for Compliance, dated October 12, 2004, are incorporated into the approval of the modified site plan.
3. There shall be no runoff, debris or siltation onto Main Street, Mill Street, or the relocated Mill Street.
4. The dumpster located near the pedestrian pathway between Building # 2 and Building #3 shall be moved to a more suitable, alternative location.
5. All dumpsters shall be covered, screened and landscaping around three sides of the perimeter as shown on the approved landscaping plan.
6. There shall be no trash removal before 8 AM or after 5 PM.
7. The snow storage area near the emergency vehicle access road at the intersection of Mill Street and Arlington Street shall be eliminated.
8. There shall be no snow plowing between 10 PM and 5 AM, depending upon the severity of the snowstorm.
9. The developer shall post a performance bond with the Planning Board to cover the cost of installing the detention/retention basins 1, 2 and 3 and related infrastructure. The bond shall be posted in the amount estimated by Judith Nitsch Engineering, prior to construction of the Mill Street relocation.

The motion was seconded and passed unanimously.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

