

**GROTON PLANNING BOARD**  
**NOVEMBER 4, 2004**  
**MINUTES**

Chairman Eliot called the meeting to order at 7:30 PM in the Town Hall

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

**MILL RUN PERFORMANCE BOND**

The motion was made by Degen to accept the cost to complete estimate of \$106,207.02 for work on the drainage system at Mill Run Plaza as recommended by Judith Nitsch Engineering, Inc. (JNEI) in the report dated November 2, 2004. *The motion was seconded and passed unanimously.*

**PUBLIC HEARING – BAY COMMUNICATIONS SPECIAL PERMIT**

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board held a public hearing on November 4, 2004, continued on December 2, 2004, to consider the application submitted by Bay Communications LLC and Nextel Communications of the Mid-Atlantic, Inc. for a special permit to utilize the provisions of Groton Zoning By-law Section 218-25.1 Personal Wireless Services Facility to construct a 190-foot monopole telecommunications tower and attach antennas at an antenna centerline height of 150 ft and install associated equipment as shown on the plan entitled, "Bay Communications – West Groton, MA 1224E," prepared by Aerial Spectrum, Inc., dated September 21, 2004. The proposed telecommunication tower is located on land owned by the Town of Groton, shown as Assessors Map 248, Parcel 41, on the easterly side of Cow Pond Brook Road.

Chairman Eliot called the public hearing to order. Clerk Degen read the notice published in the October 15 & 22, 2004 issues of *The Groton Herald*. Attorney Scott Lacey represented Bay Communications at the public hearing. Selectman George Dillon, Bay Communications agent Carey Diehl, Nextel agent George Chianis, and Nextel's Radio Frequency Engineer Nooshin Zareian were present.

Attorney Lacy described the site and the proposed 190 ft telecommunication facility designed to accommodate six carriers. The facility will be located on land owned by the Town of Groton and leased to Bay Communications. The compound for ground equipment will be contained in a 100' x 100' fenced area near the Highway Department's salt storage building. The monopole tower will be located 530 ft from the southern property line, 810 ft from the eastern property line, and more than 1000 ft from the northern property line.

RF Engineer Nooshin Zareian presented the coverage maps and technical information to the Board. She described the location of existing towers and gaps in coverage. Nextel's equipment will be installed at the 150 ft slot on the 190 ft tower in order to fill in the coverage gaps, especially on Route 40.

Mr. Lacy said the Town of Groton has a financial stake in this application since it is leasing the site to Bay Communications.

Member Lewis expressed concern about the 190 ft height of the tower, especially with all MIT's equipment on the other side of the hill in Westford. He said the proposed 190 ft height is beyond the height allowed in the Zoning By-law. Planning Administrator Michelle Collette said the by-law allows towers at a height greater than 120 ft if authorized by the Planning Board.

Chairman Eliot read the comments from the Police Chief, the Water Commissioners and the Sewer Commissioners. She read the letter dated November 1, 2004 from Director Joseph Salah of MIT's Haystack Observatory, located on the abutting property.

In response to MIT's letter, Mr. Lacy stated that the licensed carriers cannot interfere with other users under Federal Law. If they do, they must modify their equipment to correct the situation.

Member Lewis asked if Nextel tried to locate on the tower in Westford. Mr. Lacy said they investigated it, but the site

would not work because the only slot available is at 108 ft. This height would not provide Nextel with the coverage it needs.

Member Wilson said the Board should schedule a site walk. He asked when the balloon test would be done.

Member Clements said Nextel must be sure to comply with MIT's requirements.

Member Degen said this is a good location for the proposed tower with all the other equipment located nearby on MIT's land. He asked if Bay Communications could construct the tower at 150 ft with the based designed to be extended to 190 ft in the future. Mr. Diehl said, "yes," the tower can be extended in ten-foot increments.

Member Lewis asked about the difference in coverage with Nextel at 150 ft or at 120 ft. Member Wilson agreed that there did not seem to be much of a difference in coverage as shown on the plots submitted with the application.

Member Clements said he was at the public hearing when the Zoning Board of Appeals (ZBA) granted the variance for the tower. Mr. Lacy said the variance allows the tower to be located approximately 200 ft from the occupied highway department building and 25 ft from the salt storage shed. Both buildings are on land owned by the Town. In addition, the equipment shed will have a height of 10' 4" rather than 10' or less as required in the by-law.

Member Wilson asked about the gap in coverage along Route 40. Mr. Lacy said mobil users must be able to initiate and maintain a call. If they cannot, it is considered a gap in coverage.

Member Barringer asked about the difference in coverage if Nextel is at 120 ft rather than 150 ft. He said equipment at 150 ft appears to provide about 0.1 mile more coverage than at 120 ft, but it does not eliminate the gaps. Mr. Lacy said the carrier is proposing the minimum height to close gaps in coverage. Member Barringer said it appears to be the same at 120 ft as with 150 ft, based upon the information submitted with the application. Member Barringer said he is in favor of siting a tower on this site, but not at a height taller than what is necessary. Mr. Lacy said they would submit additional information to the Board to justify the 150 ft height.

Chairman Eliot asked about the Town adding its equipment to the tower. Mr. Lacy said such a provision is included in the lease agreement between Bay Communications and the Town of Groton.

Member Perkins asked if flush mounting is possible. Mr. Lacy said it dramatically affects the signal if the equipment is flush mounted.

Planning Administrator Michelle Collette asked the Board if the application should be sent to the Board's RF consultant for review. The motion was made by Lewis to send the application to David Maxson of Broadcast Signal Lab for review. The motion was seconded and passed with Barringer, Eliot, Lewis, Perkins, and Wilson in favor; Clements and Degen opposed.

Member Lewis asked if the tower would have lighting. Mr. Lacy said, "no."

Member Degen asked if Nextel is willing to install its equipment at 120 ft instead of 150 ft. Mr. Lacy said the Board should do the site walk and see the balloon test first.

The Board scheduled the site walk for Saturday, November 20, 2004 at 8:00 AM. The balloon test will be conducted from 7:30 AM to 12 noon at the same date.

The Board voted unanimously to continue the public hearing on December 2, 2004 at 7:30 PM.

### **MEADOW BROOK AGRICULTURAL RESTRICTION**

Jeffrey and Linda Mendenhall met with the Board to discuss the agricultural restriction on their ten-acre property. The existing farm house and lot were part of the Meadow Brook special permit and definitive subdivision. The special permit included a condition that an agricultural restriction be placed on the ten-acre lot along Nashua Road. Former

landowner George Kirk was present.

Mr. Mendenhall said he applied for a building permit to construct a 12' x 24' horse shelter along the side of the fenced pasture area. The Building Inspector granted the building permit for the shelter. The neighbors in the Meadow Brook subdivision complained to the Building Inspector that the shelter violated the agricultural restriction. Mr. Mendenhall requested that the Planning Board interpret the special permit and agricultural restriction for this shelter. He submitted a brochure and photographs demonstrating that this is a working horse breeding farm. Many of the award-winning horses on the farm are from Germany. The shelter is needed for the mares and foals. Such equestrian use is consistent with the agricultural use of the property. Mr. Mendenhall said he and his wife moved to Groton because the Town is supportive of agriculture.

Mr. Kirk said the deed said there should be "no structures" constructed on the restricted land. However, the restriction on the lot was intended to keep the land in active agricultural use and to prohibit building houses.

Member Degen suggested that the Board ask Town Counsel for an opinion on whether it should modify the special permit decision. Member Lewis said such a special permit modification requires a public hearing with notice to all the residents in the subdivision and to all abutters.

Mrs. Mendenhall said the shelter must be constructed by January when the mare will give birth to the foal. All members of the Board agreed that they would like to help the Mendenhalls find a solution to this problem.

The motion was made by Clements to send a letter to the Building Inspector stating that, in the Planning Board's opinion, in accordance with Zoning By-law 218-31, that the 12' x 24' horse shelter under construction on the Mendenhall's property, located at 401 Nashua Road, is consistent with the intent of the agricultural restriction and special permit granted for the Meadow Brook subdivision. *The motion was seconded and passed with Barringer, Clements, Eliot, Perkins, and Wilson in favor; Lewis opposed; Degen abstaining.*

### **SPECIAL PERMIT DECISION – ACADEMY HILL**

The Board reviewed the draft special permit modification for the Academy Hill subdivision. Member Clements stated that he disagreed with Finding #5 because environmental impacts are not minimized. The construction of 94 units is too much density for this sensitive site.

The motion was made by Perkins to modify special permit 2002-08 granted to LandWest, Inc. to utilize the provisions of Groton Zoning By-law § 218-26 Open Space Residential Development, subsections 218-26F(2) Cluster Development to construct 94 dwelling units as shown on the plan entitled, "Plan to Accompany Application for Cluster Development Pursuant to Section 218-26F (2) for Academy Hill in the Town of Groton, Massachusetts"; prepared by Beals Associates, dated January 23, 2002 with revisions through August 24, 2004, based upon the following findings and with the following conditions:

#### **Findings:**

1. **Social, economic and community needs:** The alternative "cluster" plan will meet the needs of the town for a variety of housing types. In particular, the proposed detached single-family and multifamily condominiums and affordable multifamily units meet housing needs that have been expressed in the town's comprehensive plan. The total number of dwelling units has been reduced from 106 to 94 as stated in the application to modify the special permit. The total amount of protected open space has increased from 61% to approximately 70% of the total land area.
2. **Traffic flow and safety:** The proposed road cuts have adequate sight distances. Internal circulation in the proposed plan strikes an acceptable balance between the needs of prospective residents and public safety departments, and the need to preserve wildlife migration corridors and existing natural drainage systems. Traffic flow and safety in the region will be negatively affected but to a lesser extent than with the conventional plan.

3. **Adequacy of utilities:** All utilities are adequate to serve the proposed development. The West Groton Water Supply District (WGWSO) confirmed that it will be able to serve the needs of the alternative plan.
4. **Neighborhood character:** The alternative plan includes a mix of single-family and multifamily uses that are consistent with those in nearby neighborhoods and with the overall character of the community. Lot sizes and frontages will be similar to those of other recent subdivisions approved in this area of town. The proposed dwelling units will be sited so as to minimize visibility from existing public ways.
5. **Impacts on the environment:** The alternative plan reduces environmental impact by:
  - Reducing lot sizes and frontages;
  - Reducing the construction of impervious surfaces;
  - Eliminating the through road shown on the approved definitive plan and housing development in the most environmentally sensitive areas of the parcel and permanently restricting this area;
  - Preserving existing watershed hydrology as recommended in the Lawrence Academy team's presentation on stormwater management at the Massachusetts Envirothon;
  - Increasing the amount of protected open space from 61% to 70% including large tracts of restricted open space that can be linked with other, similarly restricted land in the area.
6. **Fiscal impact on the Town:** The alternative plan is entirely residential and also permanently restricts large portions of the parcel from further development. The cluster plan will have less fiscal impact on the Town than the conventional plan, which could be constructed entirely with two-family houses.
7. **Transfers.** Twelve (12) of the previously granted 38 transfer "incentive lots" used to create additional housing units are no longer included in the special permit application. The applicant may, at the applicant's option, use the remaining 26 transfer "incentive lots" to accelerate development as provided in § 218-28A(2).

### **Conditions:**

1. All conditions of Special Permit 2002-08 remain in full force and effect unless modified herein.
2. The applicant shall submit an application to modify the Academy Hill definitive plan approved by the Planning Board on May 14, 2002. The applicant shall obtain a Conservation Permit pursuant to the Massachusetts Endangered Species Act, GL Chapter 131A, §3, from the Natural Heritage and Endangered Species Program prior to submitting the proposed definitive plan modification to the Planning Board.
3. As offered by the applicant, all open space parcels shall be deeded to the Town to be managed by the Conservation Commission and made subject to a permanent conservation restriction pursuant to MGL Chapter 184, §§ 31 to 33. The conservation restriction and deed must be recorded at the Registry of Deeds and evidence of recording submitted to the Planning Board and Building Inspector prior to the release of any lots from the covenant.
4. As offered by the applicant, ten (10) affordable units will be constructed in compliance with the affordable housing requirements of § 218-26F2(f). The applicant shall submit a detailed description of how the ten (10) required affordable units will be provided will be included with the definitive plan modification. The applicant shall also submit a construction-phasing plan for the affordable units at the definitive plan modification stage.

5. § 218-26F(2)(c) Access, states "A shared driveway shall serve no more than ten dwelling units. All shared driveways shall comply with the construction standards set forth in § 345 Shared Driveways.
6. This special permit shall not be in effect until certified copies of the special permit decision and the subsequently endorsed definitive plan are 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.
7. 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 and subsequently approved definitive plan shall constitute commencement of substantial use.
8. This special permit runs with the land and applies to any successor in interest or successor in control.

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

### **STREET ACCEPTANCE PLANS**

As requested by the Board of Selectmen, the Planning Board endorsed street acceptances plans for Hayden Road (in Carmichael II subdivision), Madeline Drive, Integrity Way, Pacer Way, Sawtell Drive, and Wildflower Lane. The Special Town Meeting voted to accept all the streets as public ways.

### **MINUTES**

The Board voted unanimously to approve the October 7, 2004 minutes.

Meeting adjourned at 9:45 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator