

**GROTON PLANNING BOARD
DECEMBER 9, 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

PUBLIC HEARING (con't) – REEDY MEADOW DEFINITIVE PLAN

The Board held the continuation of the public hearing to consider the Reedy Meadow Estates definitive plan. Design engineer Gary Shepard of David E. Ross Associates requested a continuation of the hearing because they are still working with the Natural Heritage and Endangered Species Program (NHESP). The Board said it would like the applicant to provide a progress report at the continuation of the public hearing.

The Board voted unanimously to continue the public hearing on January 13, 2005 at 9:00 PM.

SPECIAL PERMIT DECISION – BAY COMMUNICATIONS/NEXTEL

The Board discussed the draft special permit decision for the Bay Communications' 190 ft telecommunication tower on land owned by the Town of Groton. Nextel's equipment will be installed at the 150-ft elevation. The Board debated whether the tower should be constructed at a height of 190 ft or at a height of 150 ft with an option to extend the height to 190 ft in the future.

Member Clements said the 190 ft tower will not be a visual problem in this location. Member Lewis noted that the tower will be on land leased by the town and will benefit the Town.

Member Degen stated that he would prefer to have the tower constructed at 150 ft with the base to support an extension to 190 ft in the future.

The motion was made by Barringer to permit the construction of the tower at 190 ft because the base elevation is lower than the road and the height of the tower will be similar to other structures in the area. *The motion was seconded and passed with Barringer, Clements, Eliot, Lewis, Perkins, and Wilson in favor; Degen opposed.*

The motion was made by Barringer to grant a special permit to Bay Communications LLC and Nextel Communications of the Mid-Atlantic, Inc. to utilize the provisions of Groton Zoning By-law Section 21825.1 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, 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 proposed 190-ft monopole telecommunication tower will serve the communications needs of the community by improving the quality and service areas of wireless communication within the Town of Groton and surrounding areas.
2. **Traffic flow and safety:** There are no traffic flow or traffic safety issues associated with the proposed facility.
3. **Adequacy of utilities:** The Groton Electric Light Department has indicated that it will be able to serve the proposed telecommunication facility as designed. No other utilities are required.
4. **Neighborhood character:** The proposed facility will be sited in an open area with few existing residential uses in close proximity. The base of the tower will be at a lower elevation than the surrounding topography. The

tower will be adequately screened by location from said existing residences, but the tower will be visible from some portions of Route 40; some hilltop areas in Groton; from the abutting Town transfer station, highway garage, and recreational fields, and from MIT Haystack Laboratory in Westford.

5. **Impacts on the environment:** The proposed facility will have minimal impact on the natural environment. The facility will be located in an open area within an existing municipal use area that includes the Town highway garage and transfer station. The location of the 190 ft tower at a base elevation lower than lands and Cow Pond Brook Road to the east will reduce the apparent height and; therefore, the visual impact of this structure. The visual impact will be low to moderate as evidenced by the balloon test required in §218-25.1E(2) and by the photo simulations submitted by the applicants as attachments to the letter dated November 29, 2004 from Aerial Spectrum to Bay Communications, LLC. The structure is below the AGL (Above Ground Level) height that would require night lighting to comply with FAA requirements. There are no other impacts on the environment within the jurisdiction of this Special Permit.
6. **Fiscal impact on the Town:** The proposed facility will have a positive fiscal impact on the Town. The applicants will pay personal property taxes to the Town of Groton for the value of the facility and associated facilities. The applicants will lease the land for this telecommunication facility from the Town of Groton. The construction of this facility will not have a negative effect on the valuation of nearby properties and it will not require any town services.
7. The applicants demonstrated to the Planning Board's satisfaction that the proposed facility could not be located at a more appropriate site and still meet the applicants' needs to provide wireless services coverage as required by federal law, that the proposed tower height is the minimum necessary for the purpose, and that the proposed 190-ft tower height will reduce requirements for additional telecommunications towers in the Town of Groton.
8. The 190-ft tower will permit collocation of up to six (6) carriers on this facility thereby reducing the number of additional towers at or near this site that could be required to fulfill adequate telecommunications coverage. Collocation of additional carrier facilities on this tower will reduce the likelihood that additional towers will be required in this or other locations in Groton in order to affect adequate telecommunications to comply with FCC requirements.

Conditions:

1. The title of the plan shall be revised so it does not refer to "West Groton" because the site of the proposed tower is located in the easterly area of Groton.
2. The applicant will work with the Town's Tree Warden to relocate the sapling trees wrapped in burlap so that they are not in the construction area.
3. The applicants must obtain any other permits required from other boards, departments, or agencies including application for any required variances from the Zoning Board of Appeals.
4. On the annual anniversary date of the issuance of the special permit, the applicants shall submit to the Building Inspector evidence that the facility is in compliance with all then current state and federal requirements, including compliance with radio frequency emissions in effect at the time. The facility must cease operations if not in compliance with such regulations.
5. The tower owner shall make all reasonable efforts to ensure that all subsequent co-located telecommunications facilities on this tower align and orient their respective antennae platforms to conform to the orientation of the faces of Nextel antennae platform in order to minimize the visual effect of the tower facility.
6. As offered by the applicants, during construction and operation of the tower and facilities, the applicants shall make every reasonable effort to minimize detrimental effects on normal operation of the adjacent, abutting MIT

Haystack Observatory.

7. As offered by the co-applicant, Nextel, the equipment shelter, constructed to house equipment at the base of the tower, shall be designed and constructed with integral EMI/RFI shielding sufficient to attenuate EMI/RFI radiation from said shelter in order not to interfere with the normal operation of the adjacent, abutting MIT Haystack Observatory.
8. The applicants shall provide to MIT Haystack Observatory administration offices and the special permitting authority contact information (responsible employee, address, telephone number, and e-mail address (if applicable)) within the applicant's organizations for offices responsible for this permitted transmitter and tower facility. This contact information must be updated within 5 working days of any change in said information.
9. As required in Item #19 of the Lease Agreement dated May 17, 2004, the applicants, at no cost to the Town, shall permit the installation, maintenance and use of an antenna or antennas on the facility for local public safety or other municipal purposes.
10. Co-applicant, Nextel, at its expense, will install and maintain automatic fire alarm systems connected to the Town of Groton emergency services departments in its equipment shelter located at this facility.
11. Any extension, addition of cells or construction of a new or a replacement personal wireless services facility or accessory structures, buildings or equipment shall require the issuance of a new special permit under this chapter.
12. The placement, construction and modification of a personal wireless services tower and its accessory structures, buildings and equipment shall be performed in accordance with all applicable local, state and federal requirements for the operation of such a facility. In addition, the following location and siting requirements shall apply.
13. Fencing shall be provided to control access to the base of a personal wireless services tower in order to prevent access to the tower. The fencing shall be chain link of sufficient height and strength for said purpose and shall not consist of barbed wire or razor wire.
14. Announcement signage shall be provided that indicates "No Trespassing" and "Danger" and a telephone number which shall provide twenty-four-hour access to the operator of the facility in the event of an emergency. Signage shall not be placed above a height of ten feet and shall comply with all other signage requirements set forth under Chapter 196, Signs.
15. Accessory structures (equipment shelters) for the personal wireless services tower shall be limited to one structure per antenna or dish or other transmitting device per each applicable special permit and shall not exceed six (6) structures at the base of the tower. Accessory structures shall be constructed so as to share a common wall. No structure shall exceed 400 square feet in size and 11 feet in height as permitted in the variance granted by the ZBA. Each structure shall be of the same design and color as every other accessory structure.
16. As requested by the Fire Chief and Highway Surveyor (see attached) no fence or structure shall be located within 18 ft of the existing highway garage. The fenced in compound area shall be moved 25 feet to the west so the rear entrance of the highway garage is not blocked.
17. The visual impact of any personal wireless services facility and any personal wireless services tower shall be minimized to the maximum extent possible by:
 - a) The applicants have demonstrated to the Planning Board's satisfaction that the proposed personal wireless services tower is the minimum height necessary to accommodate the transmitter/receivers. The height of the proposed monopole structure will be 190-ft as stated in the application.

- b) A gray finish shall be used on the portion of the outside of a personal wireless services tower that rises above the tree line in order to blend into the landscape. The applicant shall present color samples to the Planning Board for its review and approval prior to issuance of the building permit.
 - c) 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.
 - d) 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.
18. Performance guaranty - The carriers shall provide a bond, in a form acceptable to the town, or shall place into escrow the amount of \$100,000.00 to cover the costs of removing the facility from the subject property and, furthermore, said funds shall be held by an independent escrow agent to be appointed by the carrier and the Planning Board. The amount of the surety shall be certified by an engineer, architect or other qualified professional registered to practice in the Commonwealth of Massachusetts. The carriers shall authorize the town or the escrow agent to enter upon the subject property to remove the facility when the facility has been abandoned or discontinued.
 19. The facility shall be deemed to be abandoned or discontinued if it has not been used for the purpose for which it was constructed for a period of one year or more. Once abandonment or discontinuance has occurred, the carrier shall remove the facility from the subject property within 90 days. In the event that the carrier fails to remove the facility, the town shall give notice to the carrier and, if appropriate, the independent escrow agent that the facility shall be removed forthwith, and the town or the escrow agent, after affording written notice seven days in advance to the carrier, shall remove the facility.
 20. The applicant shall procure and maintain during the term of the Lease the insurance required in Item 16 of the Lease Agreement dated May 17, 2004.
 21. 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 then current standards of the Federal Communications Commission, the Federal Aviation Administration, the American National Standards Institute, and all applicable state and federal standards.
 22. Prior to the commencement of construction at the site, the applicant shall submit the following:
 - a) Certified drawings and structural engineering calculations, prepared by a registered professional engineer in the Commonwealth of Massachusetts.
 - b) Documentation of bonding and insurance certificates as required in Conditions 18 and 20 above.
 23. 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.
 24. 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.

25. This special permit runs with the land and applies to any successor in interest or successor in control.
26. The special permit for construction of the telecommunication tower on land owned by the Town of Groton is based upon the Lease Agreement dated May 17, 2004 between the Town of Groton and Bay Communications, LLC. All terms and conditions of the Lease Agreement are hereby incorporated into this special permit.

The motion was seconded and passed unanimously.

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

The Board continued the public hearing to consider the Rocky Hill special permits and definitive plan. Applicant David Moulton, Attorney Robert Collins, design engineer Robert Pine of Pine Swallow Associates, and design engineer Drew Garvin of R. Wilson Associates were present.

The Board received a report dated November 18, 2004 from Judith Nitsch Engineering, Inc. (JNEI). Mr. Collins said many of the items contained in the JNEI report would be resolved by the request for waivers contained in his letters dated November 3 and 4, 2004.

Mr. Pine said he realized the Board still has concerns about grade changes in the area of the units for people 55-years and older. He presented a three-dimensional model showing final grades and location of the structures in this area. The model depicted how the housing would be located to have views of the open area in the center of the site. Each unit will have a patio in the rear which looks out to the adjacent open space. The excavated fill will be used for construction of the roadway system on site. The Board expressed its appreciation to Mr. Pine for presenting the model.

Member Perkins asked about drainage problems in this location. Mr. Pine said the sand and gravel soils drain well and have good infiltration rates. Approximately 20,000 cubic yards of material will be removed from this area and used for construction on site. The average depth of fill to be removed is two feet. The use of this material will avoid the need to bring thousands of truckloads of gravel onto the site. Mr. Collins added that the development will result in a self-contained, balanced site.

Chairman Eliot asked about runoff problems. Mr. Pine said they will use existing contours to direct runoff to an existing depression. The nearby vernal pools will be protected. The Natural Heritage and Endangered Species Program (NHESP) is requiring that the development recreate the natural hydrology and groundwater elevations of the site.

Member Barringer asked how lawn chemicals will be controlled to avoid impact from runoff to the vernal pools. Mr. Pine said they plan to use roof recharge devices to direct rainwater into the ground, limit the area of clearing close to the houses and preserve a significant wooded buffer between the lawns and vernal pools.

Member Barringer asked if the area would be maintained by a homeowners association or by individual owners. Mr. Collins said a Homeowners Association will be established so it will be easy to monitor the situation.

Member Wilson asked about cut and fill in this area. Mr. Pine said there will be cuts but not much fill in this location.

Member Wilson asked if there is enough room for both the primary and reserve sewage disposal systems. Mr. Pine said, "yes," there is plenty of room but the systems have not been designed yet.

Member Perkins asked where drainage would be located. Mr. Garvin pointed out several, smaller recharge areas that will be used. Mr. Pine noted that smaller retention areas are required by NHESP. Member Perkins asked about the use of road salt with the steep grades. She asked if the Conservation Commission would address this issue. Member Clements said, "yes."

Planning Administrator Michelle Collette asked if all the roads would be maintained by the homeowners association. Mr. Collins said some roads would be public ways and others would be maintained by the homeowners.

Member Lewis said the cul de sacs must be constructed to meet the Highway Surveyor's standards if the Town is going to plow and maintain the roads.

Mr. Collins requested that the Board close the public hearing on the special permits for the 24 units of 55 and older housing because there are no outstanding issues.

The motion was made by Degen to close the public hearing on the special permits under §§ 218-26 and 218-27C for the 55 and older housing. *The motion was seconded and passed unanimously.*

The motion was made by Barringer to continue the hearing on the definitive plan and remaining special permit on January 13, 2005 at 7:30 PM. *The motion was seconded and passed unanimously.*

BOSTON ROAD MARKETPLACE SOIL EVALUATION

The Board considered the reports dated December 7, 2004 from JGI Eastern regarding the fill from Westminster to be used at the Boston Road Marketplace. LSP Michael Burke and landowner Robert Lacombe were present at the meeting.

Member Barringer asked Mr. Lacombe if he still owns the site. Mr. Lacombe said, "yes." Member Barringer disclosed, for the record, that Mr. Lacombe pumps his sewage disposal system. Mr. Lacombe responded that is his son's business, not his.

Member Barringer asked about volatile hydrocarbons. Mr. Burke said 12 samples were taken – 4 sets of 3 each. The lab reports show non-detect for toluene.

Member Barringer asked about chromium and lead. Mr. Burke said they are not above allowable limits.

The motion was made by Barringer to accept the reports dated December 2, 2004 and December 7, 2004 from JGI Eastern, Inc. for material to be used as fill at the Boston Road Marketplace. *The motion was seconded and passed unanimously.*

LANDSCAPE ARCHITECTS RFP

The Board reviewed the draft RFP for landscape architects to perform peer review on behalf of the Planning Board. The motion was made by Degen to accept the draft, as edited, and to advertise in the Central Register. *The motion was seconded and passed unanimously.*

COMMENTS TO ZBA – SQUANNACOOK HILL COMPREHENSIVE PERMIT

The Board discussed and edited the draft comments to the ZBA on the Squannacook Hill Comprehensive Permit application. The Board voted unanimously to send the following comments to the ZBA:

Traffic & Pedestrian Safety

1. The Board has concerns about the lack of a guardrail for the visitor parking area with the Versa-lok® retaining wall because there is a six foot elevation drop in this location. The Versa-lok wall must be designed and inspected by a Registered Structural Engineer. Both the design and as-built plan must be stamped by the structural engineer. There shall be guardrails installed at the top of all retaining walls.
2. Since there may be many children living in this area, the ZBA should be sure there is safe pedestrian access throughout the site. Vertical granite curbing shall be installed throughout the site to improve pedestrian safety and control drainage.
3. A crosswalk shall be painted on Townsend Road from the development to Cutler playing fields.
4. The proposed traffic flow in the area of the cul de sac should be improved as recommended by the Board's traffic engineer and public safety officials to be sure it provides adequate access for emergency vehicles.

5. Road construction should meet the design specifications of the Subdivision Regulations. It should be noted that the Subdivision Regulations state that a dead-end street shall not serve more than ten units.

Drainage

6. The applicant should submit a hydrological study evaluating impacts from the development of this site on groundwater, surface water and the Squannacook River.
7. Catch basins should be designed to function on the road with a steep slope.
8. Catch basins should be installed on Townsend Road at the driveway entrance to prevent flooding on Townsend Road.
9. There should be no runoff or erosion onto Townsend Road or abutting properties.
10. All catch basins should include oil and grease traps. All culverts with a diameter of 12" or greater should have trash racks to protect children from injury. A dry well should be installed in the retention basins.
11. Snow should not be plowed into the retention basin because it could have a negative impact on the Squannacook River. The Planning Board recommends that snow be removed from the site so snow banks do not cause a safety hazard.

Utilities

12. One of the two dumpsters shown on the plan should be eliminated. The ZBA should require that the dumpster be screened and covered with a locked cover.
13. The ZBA should ask the utility departments to submit comments on the installation requirements for utilities on the site. The requirements for the separation between underground utility lines and water mains should be shown accurately on the plan. The utilities shall not be installed in the center of the road so access to the site will not be blocked during an emergency repair.

Density & Design

14. The Board recommends that the ZBA reduce the density by eliminating Units 1 – 6 entirely. Less density would result in less impervious surface, less sewage disposal, and less snow storage, etc.
15. The Board recommends that the ZBA require an alternative design plan that better suits the steep topography of the site, works with the difficult soils, and protects the wetlands along Townsend Road at the bottom of the hill. Again, the Board recommends that Units 1-6, which appear to be located in the buffer zone, be eliminated entirely.
16. The height of any structures should not exceed thirty five (35) feet for safety reasons and because such buildings would be out of scale with the character of the neighborhood.

Other Comments

17. The ZBA should request that the applicant provide funding to improve Cutler Field located across Townsend Road from the site of the proposed development. Children who live in this development will not have a play area on the site and will frequent Cutler field.
18. The Board strongly urges that the applicant and ZBA consider making all the units in this project rental units because the Town needs more rental apartments and 100% of the units would count toward the Town's required

10% affordable housing.

19. The applicant should submit the following additional information:

- Plan and profile of the proposed roadway
- Proposed grading plan
- Proposed sewage system location and design plans
- Calculation of the amount of pavement and other impervious area
- Landscaping plan
- Lighting plan and photometric diagram.

20. The Planning Board reiterates its request that the applicant attend a Planning Board meeting to discuss the details of the proposed plan.

21. The Board believes the applicant's request for waivers should be more detailed rather than a general request to waive entire sections of the by-law. In addition, the applicant should submit the rationale for each requested waiver.

22. The Planning Board reserves the right to submit additional comments to the ZBA on any future revisions to this plan.

TOWN COUNSEL OPINION

Member Barringer expressed concern that day-time meetings with 40B applicants may be in violation of the Open Meeting Law. He said such meetings should be posted and should have a quorum of an elected or an appointed board with minutes taken for the record. The alternative is for the Board of Selectmen to appoint an official sub-committee assigned to the task. This is Town business and should be part of the open, deliberative process. Such a sub-committee would be subject to provisions of the Open Meeting Law. Other members shared the concern. Members also objected to such meetings being held during day-time work hours when volunteer Board members are unable to attend.

The motion was made by Barringer to request an opinion from Town Counsel on the applicability of the Open Meeting Law in this matter. *The motion was seconded and passed unanimously.*

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

