

**GROTON PLANNING BOARD  
MAY 12, 2005  
MINUTES**

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

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

Member absent: Wilson

**PUBLIC HEARING (con't) – SCENIC ROADS REGULATIONS**

*(Note: Member Degen did not participate.)*

The Board continued the public hearing to consider the proposed Scenic Road Regulations. Tree Warden/Highway Surveyor Robert T. Delaney was present.

Mr. Delaney said the Tree Warden should have jurisdiction over removal of trees and the Highway Surveyor should have jurisdiction over removal of stone walls and refer matters to the Planning Board when deemed necessary. The Board agreed.

Connie Sartini suggested that the Board consider adopting a reduced filing fee for seniors. The Board said the \$50.00 fee will only cover the cost of publishing the notice and mailing it to abutters. The fee is charged only when the Planning Board holds a public hearing.

West Groton Water Supply Superintendent asked about installation of water mains. The Board responded that work by utilities is exempt as stated in the regulations.

The Board voted unanimously to close the public hearing.

The motion was made by Perkins to adopt the Scenic Roads Regulations as follows:

**Section 1 Statutory Provision**

These regulations have been duly adopted by the Groton Planning Board to implement the provisions of the “Scenic Roads Act”, M.G.L. Chapter 40 Section 15C, and Chapter 184, § 3, of the Code of the Town of Groton.

**Section 2 Purpose**

The Scenic Roads By-law governs the cutting and removal of trees and stone walls during repair, maintenance, reconstruction or paving of roads by any agency, for the purpose of providing protection to the environmental, aesthetic and historical values of the Town’s roads. The Planning Board has adopted these regulations with the following objectives:

- A. To maintain the natural beauty that exists along scenic roads in Groton,
- B. To enhance the rural character of the Town and encourage compatibility with existing roadside features,
- C. To encourage more environmentally sensitive development along the scenic roads in the Town, and
- D. To develop a growth of shade trees along Groton’s scenic roads to reduce the growth of underbrush and reduce the cost of roadside maintenance.

**Section 3 Designation of Scenic Roads**

Chapter 184, §1, designates all roads in Groton other than Route 119, Route 225, Route 40, and Route 111, as scenic roads.

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## **Section 4 Definitions**

“**Cutting and removal of trees**” shall mean the removal of one or more trees, trimming of major branches or cutting of roots sufficient in the Tree Warden’s written opinion to cause eventual destruction of the tree.

“**Repair, maintenance, reconstruction, or paving work**” shall mean any work done within the right-of-way by any person or agency, public or private. Construction of new driveways or alteration of existing ones is included, insofar as it takes place within the right-of-way. Construction or alteration of water, sewer, electric, telephone, cable TV, or other activity within the right-of-way is also included.

“**Road**” shall mean the entire right-of-way of a vehicular traveled right-of-way including any necessary appurtenances including bridges structures, drainage systems, retaining walls, traffic control devices, sidewalks, but not intersecting streets or driveways. The right-of-way includes the area on and within boundaries of the public way. If the boundaries are not officially known, any affected tree or stone wall shall be presumed to be within the public right-of-way until shown to be otherwise.

“**Right of Way**” shall mean the side line of a street or way, as determined by deeds and plans recorded at the Registry of Deeds, or a building line laid out under MGL Chapter 82, § 37; where no line is thus legally established, then a line parallel with and 20 feet distant from the center line of a traveled way.

“**Stone Walls**” shall be construed to include assemblages of stone involving at least one (1) cubic foot of wall material per linear foot totaling not less than ten (10) feet in length.

“**Tearing down or destruction of stone walls**” shall mean the destruction of stone walls along a public way. Temporary removal and replacement of stone walls at the original location with the same materials is permitted with Planning Board approval if the Town Highway Surveyor is notified before the work begins so that it can confirm that the wall is properly replaced.

“**Trees**” shall include a living tree whose trunk has a diameter of four (4) inches, 4 ½ feet from the ground.

## **Section 5 Actions Exempt from Public Hearings and Approval**

### **5.1 For Tree Removal**

The procedures of this By-law shall not apply when the Tree Warden acts in an emergency in accordance with M.G.L. Chapter 87 to remove dead or damaged trees or limbs or trees, which may cause an obstruction to public travel or a dangerous situation with respect to utility lines.

### **5.2 For Stone Wall Removal**

A public hearing and approval by the Planning Board are not required when in the opinion of the Highway Surveyor, the following action is warranted:

The removal of no more than 24 feet of a stonewall for a driveway, or six (6) feet for a walkway.

## **Section 6 Design Standards**

6.1 Where stone walls exist, the maximum amount of stone wall to be removed is 24 feet for a driveway and six (6) feet for a walkway.

- A. Removed stone shall be used to repair other sections of the wall along the road,
- B. Stone wall sections to be removed for a driveway shall not exceed the driveway width by more than three (3) feet on each side for a total not to exceed 24 feet, and

- C. No wall shall be cut without construction of an appropriate terminus. Appropriate end points are required and consist of a stone wall with tapered ends turning back onto the lot along the drive, stone piers, granite post, or wooden post (with or without at gate).

6.2 Written approval by the Tree Warden is required for the removal of any and all trees. The Tree Warden shall determine whether an application and public hearing is required under Section 7 Procedures within then (10) days of receipt of the application.

## **Section 7 Procedures**

### **7.1 Filing**

When deemed necessary by the Tree Warden or Highway Surveyor, any person, organization, state or municipal agency seeking the written consent of the Planning Board regarding the cutting or removal of trees or the tearing down or destruction of stone walls, or portions thereof on a scenic road shall file a request with the Planning Board together with the following:

- A. The text of the legal notice identifying the location of the proposed action in terms enabling the readers to locate it with reasonable specificity on the ground without the need for additional plats or references, and describing in reasonable detail the proposed changes to trees and stone walls,
- B. A statement of the purpose, or purposes, for the proposed action,
- C. Plans, drawings, or other explanatory reference materials, including photos, showing the specific design or engineering details,
- D. Except in the case of Town Departments or not-for-profit conservation organizations, a filing fee of \$50.00 plus the cost of the legal advertisements shall be paid,
- E. The trees proposed to be removed shall be marked by the applicant and verified by the Tree Warden, edges of the drives or right-of-way shall be staked, showing edge of paved or traveled way, and if appropriate, edge of road right-of-way intersecting the existing scenic road, and
- F. Any further explanatory material useful to adequately inform the Planning Board.
- G. In the event the tree removal or stone wall destruction is related to construction of a subdivision or development subject to Site Plan Review, the applicant shall submit an application under this section concurrently the application for subdivision or site plan approval.

Notice of submittal shall be filed with the Planning Board and a copy of the submittal transmitted to the Tree Warden and Town Clerk after it is accepted and signed by the Planning Board.

### **7.2 Notice**

The Planning Board and Tree Warden shall, as required by statute, give notice of its public hearing by twice advertising in a newspaper of general circulation in the area, with the first publication of the notice to be at least fourteen (14) days prior to the hearing and the last seven (7) days prior to the hearing. Copies of the notice shall be sent to the Selectmen, Conservation Commission, Historical Commission, Tree Warden, and Highway Surveyor.

The Planning Board and Tree Warden may also require a sign to be posted on the property at least fourteen (14) days prior to the public hearing. This sign shall not exceed three (3) square feet in size and be posted in the location clearly visible to the public with the date, time and location of the public hearing.

### **7.3 Tree Warden**

The Planning Board hearings shall be held in conjunction with the Tree Warden acting under Chapter 87, M.G.L. Consent to an action by the Planning Board shall not be construed as inferring consent by the Tree Warden or the reverse, nor shall execution of these rules and regulations in any way lessen the Tree Warden's duties as allowed under Chapter 87, M.G.L.

The Tree Warden shall mark the trees shown on the plan as proposed to be removed and make recommendations to the Planning Board in this regard.

### **7.4 Timing of the Hearing**

The Planning Board and Tree Warden shall hold a public hearing within 30 days of receipt of a properly filed request, and shall make a decision within 45 days of that receipt, unless a longer time is agreed to by the applicant.

### **7.5 Reporting of Decision**

The Planning Board may require sufficient bond to be posted to cover the costs of required work within the road right-of-way and to protect vegetation and stone walls. Such bonding shall be specified in the Board's decision. The Board may also require restoration of stone walls and replanting of trees.

The decision of the Planning Board shall be made within 45 days of receipt of a properly filed request, unless a longer time is agreed to by the applicant. A decision of the Planning Board shall require a motion carried by a majority of Board members holding office at the time of the *vote*, and shall be in writing. Said decision shall be filed within fourteen (14) days of the decision with the Town Clerk; copies of which shall be sent to the Applicant, Selectmen, Tree Warden, Highway Surveyor, Conservation Commission, Historical Commission, and those persons who have requested a copy of the decision. If a bond is required, the Town Treasurer shall hold the bond and copies shall be sent to the Planning Board and Tree Warden.

### **7.6 Utilities**

The procedures of these regulations shall not apply to maintenance and operation of utilities.

### **7.7 Considerations**

In acting in regard to a Scenic Road, the Planning Board shall consider the following:

- A. Preservation of natural and cultural resources,
- B. Environmental and historical values,
- C. Preservation of scenic and aesthetic characteristics,
- D. Removal of invasive species,
- E. Public safety,
- F. Traffic volume and congestion,
- G. Relationship of the road design to the standards of the Planning Board's Subdivision Rules and Regulations,
- H. Compensatory actions proposed, such as revision to avoid or reduce damage to trees or stone walls,
- I. Financial and other consequences of design revision to avoid or reduce damage to trees or stone walls,

- J. Evidence contributed by abutters, Town Boards and Commissions, and other interested parties, and
- K. Other sound planning principles.

## **7.8 Enforcement**

### **A. Filing Requirement**

Failure to file with the Tree Warden and Planning Board, if deemed necessary by the Tree Warden, for permission to cut or remove trees or for destruction of any portion of a stone wall within the lay-out of the Scenic Road shall require an immediate filing as detailed in §7.1 Filing.

### **B. Compliance**

The applicant shall be required to restore the features if required by the Planning Board and Tree Warden. This restoration shall consist of replacing the stone wall as necessary and replacing the trees cut on an inch per inch basis (combined area of the replacement trees measured four feet above ground level to equal total area of the original tree trunk as measured at the stump) at locations specified by the Planning Board with direction from the Tree Warden.

Failure to comply with the duly issued decision of the Planning Board shall be subject to restoration as detailed above and other remedial measures the Planning Board deems necessary, including, but not limited to the enforcement of the bonding and restoration as detailed above. Any decision not exercised within two (2) years of issue shall be void and require new filing.

### **C. Determination of Applicability**

In historic ways or other ways where the right-of-way width is considered 'variable', the width of the right-of-way shall be determined by the Highway Surveyor, based on the statutory provisions of M.G.L. Chapter 87, Section 1.

"Chapter 87, Section 1 – Public Shade Trees Defined. All trees within a public way or on the boundaries thereof including trees planted in accordance with the provisions of Section 7 shall be public shade trees; and when it appears in any proceeding in which the ownership of or rights in a tree are material to the issue, that, from length of time or otherwise, the boundaries of the highways cannot be made certain by records or monuments, and that for that reason it is doubtful whether the tree is within the highway, it shall be taken to be within the highway and to be public property until the contrary is shown."

### **D. Fines**

Any fines permitted by M.G.L. Chapter 40, Section 15C or other statutes such as Chapter 87 Sections 1 through 13 or Chapter 242, Section 7 may be assessed for violations of these regulations.

### **E. Enforcement**

The Planning Board and the Tree Warden shall have the authority to enforce the provisions of these regulations.

***The motion was seconded and passed unanimously.***

**ANR PLAN – WEST GROTON WATER SUPPLY DISTRICT**

The Board considered the Approval Not Required (ANR) plan submitted by the West Groton Water Supply District (WGWS) showing parcels of land, owned by Elliott and Doris Blood, located off West Main Street. Superintendent Gordon Newell and Surveyor Rose Chaulk presented the plan.

Mr. Newell said the WGWS is purchasing 100 acres from the Bloods, including the abandoned railroad bed with 66 ft of frontage on West Main Street. A grant from the Executive Office of Environmental Affairs will help fund the acquisition of land for a future well site. The 100 acre parcel is located adjacent to the Town's 500-acre Town Forest. Passive recreation will be allowed on the property, but motorized vehicles and camping will be prohibited.

The motion was made by Lewis to send a letter of appreciation to Elliott and Doris Blood. ***The motion was seconded and passed unanimously.***

The motion was made by Barringer to endorse as Approval Not Required the plan entitled, "Plan of Land in West Groton, Mass. for the West Groton Water District," prepared by Rose Land Survey, dated April 25, 2005. ***The motion was seconded and passed unanimously.***

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

At the request of the applicant, the Planning Board voted unanimously to continue the public hearing for the Reedy Meadow Estates definitive plan to May 26, 2005, at 8:30 PM.

### **SITE PLAN REVIEW – WALTER PLATT BUILDERS, 214 MAIN STREET**

The Board considered the site plan submitted by Walter Platt to convert an existing residential space to an architect's office at 214 Main Street. Architect Tim Hess presented the site plan.

Chairman Eliot distributed a letter of disclosure filed with the Town Clerk and entered into the Planning Board's record.

Mr. Hess said the property was rezoned from R-A to R-B at Special Town Meeting in October, 2004. The Historic Districts Commission issued a Certificate of Appropriateness for the exterior changes to the building. Mr. Hess showed the Board photographs of the site and described the site plan. The office will be located in the lower front portion of the building. The other residential apartments will remain. Mr. Platt has a verbal agreement with the Union Congregational Church to continue using the driveway to access the parking area in the rear of the building. This parking area will only be used for residents and not for the business. The business will use the 10 on-street parking spaces as allowed in Section 218-23C(1). The office will only require five parking spaces for employees. A new portico will be constructed and some overgrown brush will be removed. There are no other proposed changes to the site.

Member Degen asked if a variance is required to extend the portico. Mr. Hess said, "yes," and they will apply to the Zoning Board of Appeals for a variance.

Member Degen asked if the applicant has written permission from the church to use the access. Mr. Hess said they are working with the church to acquire an easement.

Member Perkins asked about access for the disabled. Mr. Hess said it is not required. The Board said the Building Inspector will determine the need for compliance with the Americans with Disabilities Act.

Member Lewis said the easement from the church must be clear that this is a business use. Mr. Hess said only residents will use the access and parking area.

Member Perkins said a sign should be placed in the parking lot stating that it is only for residents. Mr. Hess agreed.

Member Barringer asked about the right-of-way on the easterly side of the property. Mr. Hess said the easement is for the telephone company.

Member Lewis asked about lighting. Mr. Hess said it will be in the portico and on a timer. Member Lewis asked that the lighting be shielded. Mr. Hess agreed.

Member Clements confirmed that the only parking on site is between the building and the church. Mr. Hess said, "yes." Tenants will park on site and parking for the business will be on the street.

Chairman Eliot read the comments from the Board of Health, the Police Chief, and the Water Department.  
(*Member Degen left the meeting.*)

Member Perkins asked whether the Board should wait until the ZBA grants the variance. Board members said the site plan approval could be conditional on the grant of a variance by the ZBA.

The motion was made by Perkins to approve the Level I site plan entitled, "Platt Builders Design Studio", prepared by Walter H. B. Platt, dated April 29, 2005 with the following conditions:

1. Construction of the portico shown on the plan requires a variance from the Zoning Board of Appeals because it does not meet set back requirements.
2. Lighting shall be shielded so there is no glare. Lighting shall not intrude onto other properties or public ways as required in Section 218-25G(1)(h).
3. The applicant shall post signs indicating that the parking area is for residential parking only.
4. The applicant shall obtain a written easement from the Union Congregational Church for use of the driveway to access the residential parking area as shown on the plan. The applicant shall submit a copy of the easement to the Building Inspector and Planning Board.
5. Parking for the disabled and access to the building shall comply with the requirements of the Architectural Access Board Regulations, 521 CMR, and the Americans with Disabilities Act, if applicable.
6. All signs must conform to the Sign By-Law, Chapter 196 of the Code of the Town of Groton.
7. The Planning Board shall review the project one year after the granting for the first occupancy permit to determine if any modifications are warranted.

***The motion was seconded and passed unanimously.***

#### **PUBLIC HEARING – ACADEMY HILL DEFINITIVE PLAN MODIFICATION**

At the request of the applicant, the Planning Board voted unanimously to continue the public hearing on the Academy Hill definitive plan modification to May 26, 2005, at 8:00 PM.

Meeting adjourned at 8:45 PM

Respectfully submitted,

Michelle Collette  
Planning Administrator