

GROTON PLANNING BOARD

APRIL 27, 2006

MINUTES

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

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

Member absent: Wilson

GAMLIN PRELIMINARY PLAN

(Member Degen stepped down because Mr. Gallant is his attorney.)

The Board considered the preliminary plan submitted by Albert Patenaude to create eleven lots on land owned by Robert Gamlin located off Old Dunstable Road and Bridge Street. Albert Patenaude, Mr. and Mrs. Gamlin, Attorney Robert Collins (representing the applicant), abutters, and Attorney John Gallant (representing the Bridge Street residents) were in attendance.

Chairman Clements said the Board received two letters – the letter dated March 26, 2006 and revised April 27, 2006 from Attorney Collins regarding the status of Bridge Street and the letter dated April 26, 2006 from Attorney Gallant.

Mr. Collins presented historical information supporting the status of Bridge Street as a public way based upon provincial laws going back to 1693. He said the State Legislature amended state statute in 1846 to create a process for the Board of Selectmen to lay out roads as public ways. In 1872, Town Meeting voted to accept Bridge Street from Cow Pond Brook Road to the east. In addition, there are references to Bridge Street in the 1824 Annual Town Meeting records.

Mr. Collins said the Town prepared an inventory of all roads in the 1980's when the Frontage By-law was adopted. Section 218-22A Frontage made the legal status of the road somewhat irrelevant and mandated that the road provide adequate physical access to lots. The Planning Board approved a small project development on Bridge Street in 1986 for the four existing homes.

Mr. Collins suggested that the Board send his letter with historical documents to Town Counsel for an opinion. He said the Board must consider the application under the provisions of §218-22A Frontage and the Subdivision Control Law.

Planning Administrator Michelle Collette said the Planning Board reviewed the physical condition of roads and filed an inventory with the Town Clerk in 1984 classifying roads as "a" through "e" in accordance with §218-22A Frontage.

Member Lewis said the Board established Request for Access Adequacy Determination process in the 1980's. When the Board approved the plan for the four existing lots on Bridge Street, it knew there would be an impact on other landowners. He said other landowners have a right to access their land over Bridge Street.

Mr. Gallant said he is representing the Bridge Street homeowners who are not opposed to Mr. Gamlin developing his land. The homeowners are questioning the legal status of Bridge Street, which is not a public way and not an "ancient way" prior to 1846. The Planning Board dealt with Bridge Street in 1986, 1991 and 1992. At those times, Town Counsel determined that Bridge Street was private not public. In 1992, Bridge Street was not in adequate condition to be adopted as a Town road and the Town Meeting voted to postpone the article requesting Street Acceptance.

Mr. Gallant said Bridge Street is not an "a", "b" or "c" road – it may be a "d" or an "e" under 218-22A as determined by the Planning Board when it approved the Country Way Estates definitive plan with a private lane agreement. This issue has been decided at least three or four times in the last decade. Using Bridge Street to access the proposed subdivision would overburden the easement. There is no evidence of acceptance of Bridge Street as a public way.

Mr. Gallant noted that the Gamlin property has access off Old Dunstable Road as well as Bridge Street. There is a wetland on the Gamlin side of Bridge Street so there would be less environmental impact if the subdivision road access from Old Dunstable Road.

Mr. Gallant concluded that he would like the opportunity to respond to the most recent letter submitted by Attorney Collins regarding Bridge Street.

Member Perkins suggested that the Board send Attorney Collins' letter to Town Counsel for an opinion.

Member Eliot said the question of Bridge Street was left unsettled when Country Way Estates was approved. Mr. Collins said the 1824 vote was obscure until this past week. He said he would confirm the information at the Registry of Deeds.

Member Lewis said the applicant should submit a Request for Determination of Access Adequacy so the Planning Board and public safety officials can review the physical condition of Bridge Street.

Member Barringer asked if Bridge Street was constructed to subdivision standards in 1986. Planning Administrator Michelle Collette said the road was constructed to Small Project standards.

Chairman Clements said he thought there was a way from Old Dunstable Road to Groton Street in Tyngsborough.

Mr. Gallant said Bridge Street was not constructed to subdivision standards. It is a private lane with a private lane agreement in the portion of the road shown on the Country Way Estates plan.

Chairman Clements said the Board must receive a legal opinion from Town Counsel on this matter.

Mr. Gamlin said a gate was installed on his property to prevent illegal dumping on land owned by the New England Forestry Foundation. Bridge Street goes beyond the railroad line and over the old stone bridge. That is why the road was named, "Bridge Street." Mr. Gamlin said he has 50% interest in this way.

Rodney Hersh said the Planning Board approved the subdivision plan in 1986 with an access easement for the abutters on the road. He said they are not objecting to Mr. Gamlin developing his land, but they are objecting to his using Bridge Street.

Mr. Pine said the Planning Board's decision in 1986 cannot take away another landowner's rights to access his land. There are environmental considerations, a wildlife corridor, and ecological reasons to access the site via Bridge Street rather than by Old Dunstable Road.

Chairman Clements asked if Mr. Gamlin's land has frontage on Bridge Street. Mr. Pine said, "yes," and New England Forestry Foundation does, too.

Mr. Gamlin stated that he planted trees on his land after the forest fire in 1943. He said he prefers that the houses access off Bridge Street.

Abutter David Bonnet said there are turtles and a wildlife corridor on his land. The private lane agreement is in place because the Bridge Street is substandard and does not meet the Subdivision Regulations. It is not eligible for acceptance as a public way unless it is improved. He said he prefers that the street remain private as stated in his deed.

The Board will request an opinion from Town Counsel on the legal status of Bridge Street and will consider the matter again on June 8, 2006 at 7:30 PM.

(Member Lewis left the meeting.)

SITE PLAN REVIEW – ROCKY HILL STARTER HOMES

Attorney Collins requested an extension of the deadline and continuation of the site plan review for the Rocky Hill Starter Homes.

The Board voted unanimously to extend the deadline to June 30, 2006.

The Board voted unanimously to continue the site plan review on May 18, 2006.

PERFORMANCE BOND RELEASE – BATTEN WOODS

The Board met with Ken Mok of Verdant Arch, developer of the Batten Woods subdivision. Mr. Mok requested that the Board release a portion of his bond so he could fix the drainage problems on Lot 1. Mr. Mok said he paved the road, planted trees and constructed the trail to the open space as requested by the Board.

Member Degen said he would like to hold the developer accountable, but he would be willing to release the \$10,000 so the work can take place on Lot 1. The Board is holding approximately \$67,000 at the present time.

Joyce Jackson, owner of Lot 1, said she has been requesting that the developer fix the drainage problem for two years. They cannot use their backyard because of the water problems. They had their attorney send letters to Verdant Arch, but there has been no response.

Chairman Clements said the Board sent a letter to the developer on March 30, 2006 requiring that the work on Lot 1 be completed by May 15, 2006. Mr. Mok said he needs some funds released from the bond in order to do the work.

The motion was made by Degen to reduce the amount held in the performance bond for the Batten Woods subdivision in the amount of \$10,000.00 based upon the satisfactory planting of the street trees. ***The motion was seconded and passed unanimously.***

The motion was made by Degen to require that all outstanding engineering invoices be paid in full no later than May 15, 2006. ***The motion was seconded and passed unanimously.***

PRE-SUBMISSION REVIEW - - GILLIS PROPERTY, 536 MAIN STREET

The Board met with developer Steve Gillis to discuss his plans to develop a new office building at 536 Main Street. The property was rezoned to B-1 in 2005.

The Board liked the preliminary architectural drawings, scale of the building and layout of the site. Member Barringer said under the most recent amendment to the Parking Requirements, the site must have two access points on Route 119 unless the Planning Board grants a waiver.

ROCKWOOD LANE STREET ACCEPTANCE PLAN

The motion was made by Barringer to endorse the Rockwood Lane As-Built and Street Acceptance Plan. ***The motion was seconded and passed unanimously.***

COMMENTS TO ZBA – PINE RIDGE COURT

The Board discussed its comments to the Zoning Board of Appeals on the Pine Ridge Estates Comprehensive Permit plan. The Board will submit the following comments on the “Conceptual Plan – Pineridge Court,” prepared by LandTech, Inc.; dated April 12, 2006:

1. A large portion of the 9.53 acre lot is shown as wetlands on the plan. In addition, the land is very flat. Drainage on the site may be problematic. The Planning Board strongly recommends that soil testing be performed prior to the commencement of any excavation on the site or granting of any building permits. Construction of the on-site sewage disposal system may impact the groundwater and functionality of the drainage system.
2. The Board believes that 32 units exceed the capability of the land to support this level of density with on-site sewage disposal, parking and drainage structures.
3. The Board is concerned that Jenkins Road and the intersection of Jenkins Road and Mill Street cannot

accommodate the level of traffic that will be generated by the proposed 32 units. The Board recommends that the ZBA work closely with its traffic engineer to be sure there is safe sight distance and that all traffic related issues are addressed.

4. The subdivision regulations do not permit the construction of 32 units on a dead-end street. Ten is the maximum number of units allowed on a dead-end street.
5. The plan is a conceptual sketch and lacks sufficient detail for the Board to offer more comprehensive comments. The Board reserves the right to provide additional comments in the future. The Board would like an opportunity to review the list of requested waivers.

MILL RUN PLAZA

Appeal To ZBA - The motion was made by Degen to request that hydrogeologist William Beyer of FST attend the Zoning Board of Appeals public hearing on the appeal submitted by Ryan Development of the Building Commissioners determination that the drainage problems are a zoning violation. ***The motion was seconded and passed unanimously.***

Letter to Attorney Fenton – The motion was made by Degen to send the letter to Attorney Fenton, as drafted by the Planning Administrator, in response to Mr. Fenton's letter dated April 19, 2006. ***The motion was seconded and passed unanimously.***

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette
Planning Administrator

