

**GROTON PLANNING BOARD
OCTOBER 4, 2007
MINUTES**

Chairman Barringer called the meeting to order at 7:30 PM in the Town Hall
Members present: Barringer, Capes, Eliot, Giger, Hess, Perkins and Wilson

PUBLIC HEARING – REZONING PETITION, 797 BOSTON ROAD

In accordance with the provisions of Chapter 40A, § 5, M. G. L., the Groton Planning Board held a public hearing to consider the following citizens' petition:

“To see if the Town will vote to amend the Town of Groton’s Zoning Map to rezone from R-A (Residential-Agricultural) to B-1 (Business District) certain premises located at 797 Boston Road, owned by 119 Partners, LLC, consisting of approximately 2.8 acres of land, which premises is described in a deed recorded with the Middlesex South Registry of Deeds in Book 45322 Page 597, being shown on the Town of Groton’s Assessors Map 133 Block: 49 Lot O, or take any action thereon.”

Chairman Barringer called the public hearing to order. Clerk Giger read the legal notice posted with the Town Clerk on September 10, 2007 and published in the September 14 and 21, 2007 issues of *The Groton Herald*.

Chairman Barringer explained that the public hearing is to consider the proposed rezoning of the property located at the Four Corners. The Planning Board will hold a public hearing on the proposed concept plan on October 18, 2007. He said the Planning Board is holding the public hearing in order to make its report to the Special Town Meeting as required in Chapter 40A. Approval of the rezoning petition required a 2/3 vote of Town Meeting.

Donald Van Dyne and Patrick Woods of 119 Partners, LLC, presented the proposed rezoning of the 2.8 acre site located at the intersection of Boston Road and Forge Village Road. Mr. Van Dyne said they acquired the residential property about 2½ years ago. He said he met with the Four Corners Neighborhood Association and decided not to submit a petition to rezone the property last year. Since that time, he has been approached by a tenant who would like to build on the site so he is requesting that the Town rezone the property at this time.

Mr. Van Dyne presented power point slides to describe the rezoning process and procedures. He said the concept plan is a working document. It is only the first step in a long process. The plan requires no variances or waivers, the use is similar to other uses in the area, it will provide services to the community, and it complies with the Dodson Associates design recommendations. Mr. Van Dyne pointed out that the parking would be in the rear of the site with green space around the perimeter. He described the pedestrian friendly nature of the proposed development. He said the traffic light at the intersection addresses traffic safety issues, the rezoning is consistent with the other three corners, the new uses will provide services to local residents and the commercial property will increase tax revenues. Mr. Van Dyne said this is just the beginning of the process – approval of the concept plan requires another Town Meeting vote.

October 4, 2007

Page 2

Chairman Barringer read the comments submitted by the Water Department noting that the site is located in a Water Resource Protections District – Zone III. The Highway Surveyor’s comments questioned whether the new curb cut met Mass Highways requirements. Mr. Van Dyne said his engineer will be sure the plan meets all the requirements during the Site Plan Review process.

Member Perkins said the concept plan gives the Planning Board and the voters an idea of what will be constructed at the site. The new development should remain within the footprint shown on the concept plan. She expressed concerns about the proposed underground parking facility and the elevation of groundwater since this site is in a Water Resource Protection District.

Mr. Van Dyne said the concept plan shows 14,820 SF of retail use, a 2000 SF restaurant with 30 seats, and a 4600 SF retail store. A total of 129 parking spaces are required, and 130 spaces are shown on the concept plan.

Member Hess said his comments would be more appropriate during the Site Plan Review phase of the project. However, he did not see how the proposed concept plan is in keeping with the recommendations of the Dodson report.

Member Giger asked about 119 Partners and the Chelmsford Capital Group. Mr. Woods and he and Mr. Van Dyne own the Chelmsford Capital Group. They set up separate legal entities for each project.

Member Giger expressed concern that the rezoning would have adverse effects on the neighborhood. Mr. Van Dyne said, in his opinion, there are no adverse effects from the proposed business development.

Member Eliot expressed concern about the architectural façade, in particular the blank wall.

Chairman Barringer noted that the Town Meeting warrant article is only the petition to rezone the property. A future Town Meeting vote is required for concept plan approval. Mr. Van Dyne agreed.

Member Wilson said the Board is only reviewing the rezoning petition – not the concept plan – at this hearing.

Member Perkins said the Board must see the concept plan in order to make a recommendation on the rezoning.

Chairman Barringer reiterated that the petition is only to rezone the property and not for approval of the concept plan.

Member Eliot said she would support rezoning this lot for commercial use, but only for the appropriate use and concept plan.

Member Wilson agreed that the site lends itself to business development, but there are other concerns with this concept plan.

Member Capes said he agreed that this plan is not pedestrian friendly and does not follow the recommendations of the Dodson report. It does not advance a unified village design.

October 4, 2007

Page 3

Mr. Van Dyne said it is a challenge to work with this corner. They placed the buildings in the front of the site with the parking in the rear and common areas will be provided as recommended by Dodson.

Chairman Barringer read the letter dated October 3, 2007 from Frank and Patricia Castellucci.

Richard Fichera of Laurel Lane said the applicant's presentation was slick and included generalizations. There is nothing that says the fourth corner has to be developed. The proposal has no aesthetic value for the Town. The town has no obligation to make a commercial venture a success.

Mr. Van Dyne said he purchased the site with the intent of having it rezoned for commercial use.

Michael Aha of Boston Road said rezoning this site is the "creep" into residential area. It would invite more commercial development.

Charles Lippman of Forge Village Road said the other corners are not fully developed yet. It is not a safe place to walk. The proposed plan is not well thought out.

Alice Smith of Laurel Lane said the Planning Board works very hard, but she is disappointed that members of the Board would offer comments before hearing from the public. This area is a neighborhood first, not a business zone. There is enough business there today. This is not an "urban village."

Sarah Campbell of Laurel Lane said Mr. Van Dyne reached out to the Four Corners Neighborhood Association. However, the proposed concept plan creates "creep" of business development. It should be stopped here and now. There are plenty of other business-zoned properties waiting to be developed.

Linda Diccio of Boston Road said she studied the rules and regulations pertaining to concept plans. Once this site is rezoned, anything is fair game. The future plans could be quite different from what is being presented at this public hearing. She pointed out Westford, Chelmsford and North Chelmsford as examples of what can happen.

Selectman Joshua Degen said the petitioners have a right to request that their property be rezoned. The Planning Board cannot support the proposed rezoning without a concept plan. There is not an article on the warrant requesting concept plan approval. Chairman Barringer read § 218-18 which states:

"The Planning Board shall neither sponsor nor favorably recommend any rezoning of land into a Business B-1 or Manufacturing M-1 District unless a concept plan (see Subsection E) for the area proposed for rezoning has been submitted to the Planning Board for review at the public hearing on the rezoning and is presented at the Town Meeting."

October 4, 2007

Page 4

Berta Erickson of Boston Road asked about consistency with the Comprehensive Master Plan. Town Planner Michelle Collette said the Board's recommendation on the proposed rezoning must be based upon consistency with the Master Plan.

Selectman Stuart Shulman asked if there would be any adverse traffic impacts on the intersection based upon the proposed commercial use of this site.

Linda Diccio asked if they could ask about traffic impacts at this hearing. Chairman Barringer said, "yes," because it is related to the proposed rezoning. He continued that the applicant has a right to request that the Town vote to rezone the property. However, there does not seem to be a pressing need for commercial development in this location at this time. Chairman Barringer said he would prefer to wait until there is a demonstrated need before rezoning the site. He said he believes the proposed warrant article is premature.

The motion was made by Perkins to close the public hearing. *The motion was seconded and passed with Members Barringer, Capes, Giger, Hess, Perkins and Wilson in favor; Member Eliot opposed.*

PUBLIC HEARING (con't) – PROPOSED STATION AVENUE OVERLAY DISTRICT

The Board held the continuation of the public hearing to consider the proposed Station Avenue Overlay District. The Board reviewed the revised text and traffic recommendation plan.

The Board discussed whether the number of required affordable units will be rounded up or down to the nearest whole number. Member Hess said he would like to encourage more commercial and less residential development.

Member Eliot said it makes sense to round off as suggested by Steve Webber because requiring two affordable units for a project with only seven units would be too onerous. Developers would construct six units and the Town would not receive any affordable units.

The motion was made by Wilson to approve the text stating, "Where the computation results in a fractional number, the fractional number shall be rounded *up or down to the nearest* whole number." *The motion was seconded and passed with Members Barringer, Capes, Eliot, Perkins and Wilson in favor; Members Giger opposed; Member Hess abstaining.*

The motion was made by Wilson to approve the density calculation text stating, "Where the computation of the allowable number of dwelling units results in a fractional number, the fractional number shall be rounded *up* to the nearest whole number. New dwelling units constructed in a SAOD Development shall not exceed 2000 square *feet* in gross floor area and shall not have more than three (3) bedrooms." *The motion was seconded and passed with Members Capes, Eliot, Perkins and Wilson in favor; Members Barringer, Giger opposed; Member Hess abstaining.*

There were no comments from the public. The Board voted unanimously to close the public hearing.

October 4, 2007

Page 5

PUBLIC HEARING – HUGHES-ORTIZ SITE PLAN REVIEW SPECIAL PERMIT

The Board continued the public hearing for Hughes-Ortiz to construct a new garage, parking spaces, and stormwater management system for the roofing business located at 60 Boston Road Street. Ms. Hughes Ortiz, design engineer Kevin Hardiman of David E. Ross Associates, and abutter James Cullen were present.

The Board received a letter dated October 4, 2007 from James Cullen, a letter dated September 10, 2007 from the Board of Health, and a message dated October 1, 2007 from the Board of Health.

Mr. Hardiman said the only outstanding issue is the plan for the retaining wall certified by a structural engineer. He said the plan was submitted two weeks ago.

Member Perkins asked if the area near the wall would be paved. Mr. Hardiman said, “yes.” Member Perkins asked if the paved area is all on one level. Mr. Hardiman said, “yes,” the paved area slopes toward the house.

Member Capes asked if Nitsch Engineering had signed off on the stormwater management system. Mr. Hardiman said, “yes.”

Member Eliot asked if there would be a 15 ft buffer between the retaining wall and Mr. Cullen’s property line. Mr. Hardiman said not in the location near the proposed garage. Mr. Cullen reviewed the plan and agreed that it was acceptable.

Member Wilson asked Mr. Hardiman to respond to the letter dated October 4, 2007 from abutter James Cullen. The retaining wall is one foot high and the water flows toward the center of the site. Mr. Hardiman said there are two large trailers used to hold equipment on the site today. The proposed garage will eliminate the trailers from the site.

Member Capes asked if the house is occupied as a residence. Mr. Hardiman said the site is zoned B-1 so residential use is allowed. The applicant does not live there, but may stay overnight occasionally. Chairman Barringer concurred that residential use is permitted in a B-1 District. Member Eliot said the question is an issue for the Building Inspector, not the Planning Board. Member Capes said the question of residential use affects the number of required parking spaces on the site.

Member Barringer reiterated the applicant’s requested waivers as noted on the plan.

The motion was made by Wilson to close the public hearing. *The motion was seconded and passed with Barringer, Capes, Eliot, Perkins and Wilson in favor; Giger and Hess abstaining.*

DECISION

The motion was made by Wilson to GRANT for a Special Permit, under the provisions of Groton Zoning By-law Section 218-25 Site Plan Review, for approval of the Level II site plan entitled, “Site Plan in Groton, MA,” prepared by David E. Ross Associates, dated November 27, 2006, with revisions through May 16, 2007, with the following findings, waivers, and conditions:

Findings:

The Planning Board made the following findings based upon the criterion set forth in Zoning By-Law § 218-25 and 218-32.1:

1. **Social, economic and community needs:** The approval of the site plan supports a small, locally-owned business that provides a service to the community.
2. **Traffic flow and safety:** The proposed special permit plan will have minimal impact on traffic on Boston Road.
3. **Adequacy of utilities:** The utility services, including public water and sewer, are available in this location.
4. **Neighborhood character:** The proposed design will protect the character of the neighborhood because the new garage will be available for storage, thereby eliminating the need for the existing outdoor storage containers. The proposed landscaping will enhance the visual appearance of the site.
5. **Impacts on the environment:** The proposed plan includes the installation of a stormwater management system which will improve the quality of water flowing to the nearby wetlands.
6. **Fiscal impact on the Town:** There is a positive fiscal impact on the Town by the use of the site for business.

Waivers:

The Board voted to grant the following waivers:

1. § 218-23(B) – to reduce the number of parking spaces from 12 to seven because there will never be more than seven vehicles parked on the site at one time.
2. § 218-25(G)(2)(h) – to waive the requirement for submission of a scale model.
3. § 218-25(G)(2)(e) – to waive the requirement for submission of a traffic study.
4. § 389-39(G) – to waive the requirement for the submission of existing and proposed topography within 200 ft of the site.
5. § 389-40(D)(7) – to waive the requirement for vertical granite curbing around the parking area.

Conditions:

1. The site shall be landscaped as shown on the plan entitled, “Landscape Plan in Groton, Mass. Prepared for Pat Hughes Ortiz,” prepared by David E. Ross Associates and Lorayne Black, ASLA, dated May, 2007.
2. The retaining wall shall be installed as shown on the plan entitled, “Project: Pat Ortiz, 60 Boston Road, Groton, MA 01450,” prepared by McKenzie Engineering Company, Inc., dated June 7, 2007.

3. No open or closed trash dumpsters shall be located on the premises at 60 Boston Road.
4. No storage trailers/containers shall be located on the premises at 60 Boston Road, and the two (2) storage trailer/containers presently located alongside the barn/garage shall be removed.
5. No retail store shall be operated on the premises at 60 Boston Road because are there not enough parking spaces to serve such use.
6. Snow removal and storage shall be done in accordance with the landscaping plan referenced in Condition #1 above.
7. Vegetative screening shall be used to minimize headlight glare onto public ways as required in Section 218-25G(1)(g).
8. Lighting shall not intrude onto other properties or public ways as required in Section 218-25G(1)(h).
9. No vehicles shall park within ten (10) ft of the fire hydrant on Boston Road [see 720 CMR 9.03.1(i)].
10. No vehicles shall park on Boston Road over night.
11. There shall be no net increase in the rate or volume of storm water runoff from the site as required in Section 218-25G(1)(c).
12. The drainage system shall be constructed and function in compliance with the "Massachusetts Department of Environmental Protection - Stormwater Management, Volume One: Stormwater Policy Handbook, and Volume Two: Stormwater Technical Handbook," dated March 1997.
13. The installation of the public water supply or public sewer system shall conform to the specifications of the Groton Water Department.
14. All signs must conform to the Sign By-Law, Chapter 196 of the Code of the Town of Groton.
15. The removal of any excess earth material from the site requires a Certificate of Exemption from the Earth Removal By-law, Chapter 134 of the Code of the Town of Groton. Chapter 134, Section 10 Exemptions.
16. Three copies of the final site plan approved by the Planning Board shall be submitted to the Board for endorsement as required in Section 218-25G(3).
17. All outstanding engineering invoices must be paid in full prior to issuance of a building permit.

18. 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.
19. 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.
20. 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 Members Barringer, Capes, Eliot, Perkins and Wilson in favor; Members Giger and Hess abstained because they were not eligible to vote.

STATION AVENUE TRAFFIC RECOMMENDATIONS

The Board reviewed the recommendations of the Station Avenue Redevelopment Committee and the public safety officials for traffic circulation in the Station Avenue area. The motion was made by Eliot to accept the Committee's recommendation on the traffic circulation plan. ***The motion was seconded and passed unanimously.***

The Board will forward the recommendations to Fay, Spofford & Thorndike to be incorporated into the diagram for presentation at the Special Town Meeting.

The motion was made by Eliot to thank the public safety officials for their assistance and participation in the process. ***The motion was seconded and passed unanimously.***

STATION AVENUE COMMITTEES

The Board discussed combining the Station Avenue Redevelopment Committee and Station Avenue Economic Viability Committees as one group. The Committees' work will continue after the Special Town Meeting until the project is finished.

Member Wilson stated that he believes the developer should be responsible for the market studies, not the Town. Member Hess expressed concern that housing units may be more marketable in the short-term. He asked how the Town can encourage more commercial and retail development.

ACADEMY HILL LOT RELEASES

The Board voted unanimously to release Lots 24-57, inclusive, and Lot A in the Academy Hill subdivision. ***The motion was seconded and passed unanimously.***

Meeting adjourned at 11:00 PM

Respectfully submitted,

Michelle Collette
Town Planner

