

**GROTON PLANNING BOARD
SEPTEMBER 11, 2008
MINUTES**

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

PUBLIC HEARING – MASSAPOAG HEIGHTS SPECIAL PERMIT

The Board held the continuation of the public hearing to consider the application submitted by Patriot Properties Real Estate Developers to subdivide land off Island Pond Road. Attorney Ray Lyons and Surveyor Stan Dillis represented the applicant at the hearing.

Attorney Lyons submitted a new Basic Number of Lots (conventional) plan because the Board determined that the previous plan did not meet zoning requirements. The new plan shows two conventional lots each with a minimum of 80,000 SF and 225 ft of frontage. Attorney Lyons said two duplexes could be constructed by right without a special permit. However, the special permit plan preserves 85% of the lot as open space including a trail connecting land owned by the Groton Conservation Trust with land owned by the YMCA.

Attorney Lyons acknowledged that there had been a wash out on the portion of the site resulting in erosion and sedimentation. The applicant will submit a remediation plan and application to the Earth Removal Stormwater Advisory Committee.

Chairman Perkins asked if the plan is a “residential compound” plan. Attorney Lyons said, “yes.” He said if the Zoning By-law is amended as he proposed, the applicant would like to go forward with the special permit plan.

Member Capes asked if the present plan shows two duplexes on two lots for a total of four units. Attorney Lyons said, “yes.”

Chairman Perkins read the letter from abutters Joanne White and Michael Zalewski (to the west of the site) and Michael McCarthy (to the east of the site).

Member Giger asked if alternate plans were being presented. Attorney Lyons said, “no.”

Member Wilson said if there are only two lots, how can the applicant use Flexible Development to create four units. Attorney Lyons said he cannot go forward with the four unit plan unless the by-law is amended. However, he can construct two duplexes on two conventional lots.

Member Wilson asked if there are any easements on the property. Surveyor Stan Dillis said there is a grading easement on the lot that was established for the shared driveway with White/Zalewski approved by the Planning Board in 2002. There is no easement on the McCarthy land because all the proposed work will be done on land owned by the applicant.

September 11, 2008

Page 2 of 7

Member Wilson asked what the slope of the proposed road would be. Mr. Dillis said it is eight percent (8%). The existing shared driveway has an 8% grade.

Member Barringer said he wanted to confirm that two lots are shown on the plan and two duplexes would be constructed for a total of four units. Attorney Lyons said, "yes," two buildings with a total of four units could be constructed under current zoning. If the Zoning By-law is amended, the applicant will apply for a special permit to construct four single-family units.

Abutter Sean Gaines said he came to the public hearings when the Board approved the hammerhead lots and shared driveways in 2002. He said a total of three houses have been built to date, but the fourth lot is still vacant. He said the previous plan showed a limit of disturbance on the plan submitted by the developer. He said the area has been deforested resulting in severe erosion and damage to McCarthy's property. The existing trail is no longer passable as a result. Mr. Gaines said he is looking for restitution for the damage done to the land. The applicant claimed that there was theft of sand and gravel from the site sometime in July. Mr. Gaines expressed concern about the impact on the wetlands and riverfront area. He asked the surveyor to double check the measurements in this area.

Chairman Perkins asked if the work on the hammerhead lot plan was approved by the Conservation Commission. Mr. Dillis said the work is more than 100 ft away from the wetlands. Chairman Perkins said the Earth Removal Stormwater Advisory Committee will walk the site and deal with stormwater issues.

Mr. Gaines said he thought there was an agreement when the previous special permit was granted for the hammerhead lot; now that agreement is being changed. Attorney Lyons said the Planning Board granted the special permit in 2002, but the landowner does not have to utilize it.

Town Planner Michelle Collette said the consent of the abutters who use the shared driveway is required because this is a change to the special permit that affects their property. Attorney Lyons said the subdivision road will provide superior access; therefore his client has the right to change it. Member Giger said the subdivision road and four units will result in increased traffic.

Attorney Lyons stated that the special permit plan will protect 10 of the 12 acres (85%) as open space and will provide a connecting trail.

Chairman Perkins said the parcel must have 400 ft of frontage to qualify under the Residential Compound provisions (see §381-8.1 of the Subdivision Regulations). Attorney Lyons said the applicant requested a waiver of the 400 ft requirement.

Member Hess stated that the conventional plan prevents things that are in the public interest, so the special permit plan is worthy of consideration.

September 11, 2008

Page 3 of 7

Mr. Gaines said he questioned the value of the public trail since the trail is already there. Mr. McCarthy allows people to use the trail on his land.

Chairman Perkins said the applicant can build four units by right with two duplexes on two lots. The special permit plan will provide open space. Member Barringer added that there is public benefit to having deeded access for the public to use the trail rather than use of the trail by informal consent of the private landowner.

Charles Todd said access to the YMCA land in Dunstable is not established and not open to the public. Attorney Lyons said the trail will provide public access from Route 40 via the conservation land (the Red Line) owned by the Groton Conservation Trust to Bryanwood Lane, a public way. Attorney Lyons said the YMCA may want to develop its land some time in the future so it is important to protect the adjacent open space.

Abutter Paula Lantz said the previous owners of the hammerhead lot tried to sell the lot with a house to be constructed for \$859,000, but the sale did not take place. She showed the Board the MLS sheet on the property. Mrs. Lantz said when the hammerhead lot was approved, the Fire Chief said the road must be able to handle two fire trucks passing. She asked about fire protection and the proposed road serving four units. Chairman Perkins said the standards in the Subdivision Regulations provide adequate access for fire trucks.

Mrs. Lantz said sand and gravel was removed from the site on July 3. The trucks left the site and went toward Tyngsborough. Heavy equipment on the site was burglarized some time after that. Mrs. Lantz said she did not want to see an increase in traffic in the area.

The Board voted unanimously to continue the public hearing on November 6, 2008 at 7:30 PM.

PUBLIC HEARING – CRYSTAL SPRINGS ESTATES SPECIAL PERMIT

The Board held the continuation of the public hearing to consider the application submitted by High Oaks Realty Trust to subdivide land off Old Dunstable Road. Applicant Robert Kiley, landowner Robert Gamlin and surveyor Stan Dillis were present at the hearing.

Chairman Perkins said the Board received a report dated August 20, 2008 from Nitsch Engineering and a response dated September 9, 2008 from Ducharme and Dillis, Civil Design Group. She read the letter dated September 9, 2008 from abutter Brian Stevenson regarding his easement on the property.

Chairman Perkins asked Mr. Stevenson if the easement is shown on the plan. Mr. Stevenson said, "no."

Member Giger read a disclosure statement about his purchasing fire wood from Mr. Stevenson.

September 11, 2008

Page 4 of 7

Chairman Perkins said the Board received a letter dated September 11, 2008 from Attorney Robert Collins regarding the easement and the status of Bridge Street. Mr. Dillis said Attorney Collins' letter cites case law showing that the applicant has the legal right to improve Bridge Street to provide adequate access to the lots shown on the plan. Attorney Collins' letter also states that Mr. Stevenson's easement must be protected by law and it will be left where it is. The applicant will show a 20-25 ft wide easement on the definitive plan.

Mr. Stevenson said he has two easements – one to the brook and one to Crystal Springs. Mr. Dillis said the easement to the spring is on land owned by the Groton Conservation Trust. Both easements will be shown on the plan.

Mr. Dillis responded to the points in the Nitsch Engineering report. He said the applicant requested a waiver of the requirement to show all specimen trees on the site. The limits of clearing will be shown and the remaining land will be undeveloped. It would be a hardship to show every tree on the site because there are so many specimen trees. He suggested that the Board reach a consensus on what size tree should be shown on the plan.

Mr. Gamlin added that he planted most of the trees as Christmas trees decades ago.. Town Planner Michelle Collette suggested that Mr. Gamlin mark the specimen trees to be shown on the definitive plan since he knows the site and special trees better than anyone. The Board agreed.

Mr. Dillis said the sewage disposal system testing will also be done at the definitive plan stage. Chairman Perkins said the soil testing for the stormwater management system should be done at the same time. Mr. Dillis agreed.

Mr. Dillis noted that setting aside an area for a park is in the Subdivision Regulations, but the applicant is requesting a waiver because a significant amount of open space will be protected with the special permit plan. The applicant is also requesting waivers for installing water mains and related infrastructure for future expansion based upon the distance from the public water supply system. He said the he will work with the Fire Chief on the design of a cistern. The required Environmental Notification Form (ENF) and Natural Heritage and Endangered Species Program applications will be submitted to the Commonwealth at the definitive plan stage.

Member Giger asked about the open swale drainage system and asked if catch basins would be desirable. Mr. Dillis said this is a Low Impact Development (LID) drainage system so the stormwater is directed to open swales.

Member Burke asked the applicant to submit a statement on the fiscal impact of the proposed development. Chairman Perkins added that the Planning Board must include fiscal impact in its findings as part of the special permit decision.

September 11, 2008

Page 5 of 7

Chairman Perkins asked about the waivers requested by the applicant. Mr. Dillis said the applicant is requesting a waiver of the requirement to set aside land for a park because open space will be protected.

Member Wilson agreed that 12 acres of protected open space is more valuable than a park in this setting.

Member Hess said the Board should look at any opportunity to create public space such as parks and recreational areas.

Town Planner Michelle Collette and Member Burke noted that setting aside land for a park is required in the Subdivision Control Law and Subdivision Regulations. However, the Town must be prepared to purchase the land, construct and maintain the park. The applicant is not required to donate the land.

Applicant Robert Kiley said parks are very site specific. Children can learn and play in the natural environment. A cluster plan with smaller lots creates a sense of community.

Mr. Dillis said the other waiver requests include use of the LID drainage system, installation of the dry water main, installation of curbing and construction of sidewalks.

Member Giger said he does not have a problem with using LID, but he does not want to waive curbs and sidewalks. Mr. Dillis said berms will not work with an LID drainage system.

Member Barringer asked about the grade of the proposed subdivision road. Mr. Dillis said it is 7% maximum. Member Barringer asked about cut and fill. Mr. Dillis said it would be seven (7) feet or less. Member Barringer asked if the road is designed to be accepted as a public way. Mr. Dillis said, "yes."

Member Wilson asked if the houses could be clustered closer together to preserve more open space. Mr. Dillis said they would consider it.

Member Burke said a cross section of roadway must be submitted with the definitive plan. He suggested constructing a path parallel to the road rather than a sidewalk. He also suggested clustering street trees in a more natural form.

Member Hess said if the special permit for flexible development is in exchange for public benefit, the Board has a real opportunity to create a neighborhood with character and a sense of place.

Member Capes asked if Mr. Stevenson's easement would be moved or left where it is. Mr. Dillis said it would be left where it is located today.

September 11, 2008

Page 6 of 7

Chairman Perkins noted that the 150 ft circle cannot intersect the easement. Mr. Dillis said the circles would be moved. Chairman Perkins asked Mr. Dillis to reconfigure the lots so the easement does not go over private driveways and through backyards. Mr. Dillis said they will look at creating a tighter cluster.

Member Giger asked how the easement would be marked. Mr. Dillis said it would be shown on the plan and marked on the ground.

Mr. Stevenson reiterated his request that his easement be shown on the plan. Chairman Perkins said the applicant has agreed to do so.

Mr. Riper asked about the new plan and the use of Bridge Street. Chairman Perkins said the special permit plan is based upon the number of lots shown on the yield plan which shows lots on Bridge Street. The special permit plan does not include lots on Bridge Street.

Mr. Riper said the residents of Bridge Street submitted extensive documentation on the status of Bridge Street a year ago when the previous application was considered.

Town Planner Michelle Collette suggested that the Board may want to include the same finding on Bridge Street which states:

The Planning Board makes the following specific finding related to Bridge Street:

1. Bridge Street is an "E" road as defined under the Groton Zoning By-law, Section 218-22A, and is sufficient to service the needs of access and utilities for the three lots shown on the plan, with the improvements specified in the conditions below.

The Board voted unanimously to continue the public hearing on September 25, 2008 at 7:30 PM.

TOWN MEETING ARTICLES

Wind Energy - The Board discussed Town Meeting warrant articles including Wind Energy Conversion Facilities. The proposed amendment will have two categories – small scale devices less than 65 ft in height and large scale devices greater than 65 ft in height. Small scale devices will be by-right, and large scale devices will require special permits to be granted by the Planning Board.

Some members of the Board thought the article should not be presented until the Annual Town Meeting in April 2009. Others thought it would be worthwhile holding the public hearing to hear comments and concerns. Member Barringer expressed concern that no public education has been done on the topic. The Board agreed to advertise the proposed amendment and hold the public hearing. After the public hearing, the Board will decide whether to go forward with the article or to indefinitely postpone at Town Meeting.

September 11, 2008

Page 7 of 7

Accessory Apartments - The Board will go forward with the proposed amendment on accessory apartments to allow such apartments in accessory structures.

Flexible Development – Attorney Ray Lyons met with the Board to discuss amending the Flexible Development provisions to allow greater density. Member Hess researched LEED and AIA standards. He said the Board could come up with its own checklist, but more attention and discussion is needed. The Board will continue its discussion of the proposed amendment on September 18, 2008.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette
Town Planner