

**GROTON PLANNING BOARD
SEPTEMBER 10, 2009
MINUTES**

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

PUBLIC HEARING – SPECIAL PERMIT RENEWAL, 536 MAIN STREET

At the request of the applicant, the Board voted to continue the public hearing to consider renewing the special permit for the commercial development at 536 Main Street to September 24, 2009 at 7:30 PM.

MONARCH PATH SIDEWALK

The Board met with developer Ebrahim Masalehdan to discuss the sidewalk at the Monarch Path subdivision. On July 30, 2009, the Planning Board voted to deny the request to terminate the sidewalk on Monarch Path as detailed in the letter dated July 20, 2009 from TF Moran.

Mr. Masalehdan said he would like to end the sidewalk at the stone wall located about 30 ft away from Gilson Road so he could landscape the entrance to the subdivision.

Member Perkins stated that ending the sidewalk in such a manner does not comply with the Americans with Disabilities Act (ADA) requirements. Mr. Masalehdan said the access ramp would be located around 15-18 ft away from the end of the sidewalk.

Member Barringer expressed concern about pedestrian safety. If the sidewalk ends before the intersection, people will have to walk in the road. He said he is opposed to the proposed change for safety reasons.

Member Hess asked about the proposed landscaping plan. Mr. Masalehdan said he is working with a landscape architect to develop the plan. Member Hess said the landscape plan could incorporate the sidewalk. He said pedestrian safety is critical to sustainability.

Member Perkins expressed concern that shrubs may block sight distance on Gilson Road.

Member Wilson said he agreed that the landscape plan should include the sidewalk. He said the sidewalk should be built to the intersection to connect with a sidewalk on Gilson Road in the future.

Member Giger said he shares Board members' concerns about public safety. A landscape plan for the area should be attractive and functional.

The Board's vote of July 30, 2009 was not amended.

CRYSTAL SPRING ESTATES – DEFINITIVE PLAN ENDORSEMENT

The motion was made by Giger, seconded by Barringer, to accept the covenant dated July 29, 2009 executed by Robert Gamlin for the Crystal Spring Estates subdivision. ***The motion passed unanimously.***

The motion was made by Perkins, seconded by Barringer, to endorse the plan entitled, "Crystal Spring Estates, Definitive Subdivision Flexible Development, Groton, Massachusetts," prepared by Ducharme & Dillis Civil Design Group, Inc., dated March 5, 2009, with revisions through June 12, 2009. ***The motion passed unanimously.***

INFORMAL DISCUSSION – CROTEAU PROPERTY, NORTH STREET

The Board met with Attorney Robert Collins and Surveyor Stan Dillis to discuss potential development of the Croteau property on North Street. Attorney Collins said there is an existing building with a non-conforming business on the 20-acre site. The applicant would like to submit a preliminary plan showing eight lots. He asked the Board if the business building could be converted to a duplex with two affordable units rather than being demolished.

Board members agreed that the reuse of the existing building for affordable housing is worth exploring. The Board said the affordable units must count on the Town's subsidized housing inventory. Mr. Collins said a deed restriction would be recorded so the units would be affordable in perpetuity, similar to the affordable units at the Deer Haven and Amandas Way subdivisions. He reiterated that the preliminary plan would show eight new lots and the lot with the existing building to be converted to a duplex with two affordable units.

CHESTNUT HILLS ROAD EXTENSION

Attorney Robert Collins presented a situation involving a non-conforming lot of record with frontage on Chestnut Hills Road, a public way, and Chestnut Hills Extension, a paper street. The DPW Director issued a driveway permit for a driveway as shown on the sketch submitted with the letter dated September 8, 2009 from Attorney Collins.

Attorney Collins said if the paper street is constructed in the future, the driveway would have to be relocated so it does not come out at the intersection. Lots 29 and 30 shown on the old subdivision plan have merged. There is an existing house on Lots 5 and 31.

Member Perkins asked if Chestnut Hills Road is a Town road. Town Planner Michelle Collette said, "yes," it is a Town road and an approved subdivision road.

Member Hess asked why the applicant could not construct the driveway on the paper street. Attorney Collins said other landowners have interest in the paper street.

Member Burke asked if Chestnut Hills Road Extension is a public way. Attorney Collins said, "no." However, the law says the paper street provides access to abutting properties. There are deeded rights in the chain of title.

Town Planner Michelle Collette said the Board established a process called "Request for Determination of Access Adequacy" pursuant §218-22A Frontage. The Board requests that the Highway Surveyor, Police Chief, and Fire Chief comment on the physical condition of the road before the Board makes its determination on the adequacy of the road. Attorney Collins said he would submit an application for access adequacy for the Board's consideration.

McCARTHY, 65 ISLAND POND ROAD

The Board met with Michael McCarthy and Attorney Robert Ancil to discuss Mr. McCarthy's plans to remedy numerous violations resulting from the construction of a second house on his property located at 65 Island Pond Road. Building Commissioner Bentley Herget was present.

Attorney Ancil submitted a survey recorded at the Registry of Deeds in 2000 showing Lot 1 with 5.673 acres, Lot 2 with 16.2 acres, and Lot 3 with 12.0 acres. There are no structures on Lot 1, two houses on Lot 2, and a seasonal cabin on Lot 3. Attorney Ancil said the second home on Lot 2 was built without any permits whatsoever. Construction took place around two years ago. A sewage disposal system was constructed without a permit from the Board of Health. The house was constructed within 100 ft of Massapoag Pond without an Order of Conditions from the Conservation

Commission. Attorney Anctil said the original builder died and his construction supervisor completed the work on the second dwelling.

Attorney Anctil said he and his client met with Town Counsel and Town officials to discuss how to remedy the situation. The applicant plans to set up a procedure so he can apply for permits retroactively.

Building Commissioner Bentley Herget said he must make determinations on multiple code violations.

Member Perkins asked if the land could be subdivided so there is only one house on one lot. Attorney Anctil said his client is not looking to subdivide the property, but he would like to retain one house and sell the other.

Member Barringer asked about the parcel owned by Lantz. Attorney Anctil said it is a separate lot owned by Paula Lantz.

Member Perkins said the applicant must create two lots for the two houses on Lot 2. She asked if the applicant could create two hammerhead lots served by a shared driveway. Attorney Anctil said, "yes," and the driveway would also serve the house on the lot owned by Paula Lantz.

Member Barringer said the Planning Board must determine if there is sufficient frontage and adequate access to serve the proposed lots. He noted that two houses cannot be located on one lot under §218-22E:

- E. Density. No more than one dwelling with accessory buildings customarily incidental thereto shall be located upon any single lot in any district, except as provided in § 218-26F(2), Cluster development, § 218-27, Multifamily use, or § 218-30.2, Station Avenue Overlay District.

Member Burke asked about the total number of houses on the property. Attorney Anctil said there are no houses on Lot 1, two houses on Lot 2, and a 700 SF cottage on Lot 3.

Member Burke expressed concern about the construction of the house without any permits at all. He said everyone should play by the rules. It is an illegal structure that the Board is being asked to ratify.

Attorney Anctil acknowledged that is the case. However, he said his client is working with all the Town boards to bring the house into compliance. Fines and penalties have been discussed with Town Counsel.

Member Giger asked if there are possible solutions other than creating hammerhead lots. Attorney Anctil said perhaps a single-family condominium could be created with a special permit for Flexible Development. Such a plan would require waivers and variances.

Member Giger agreed that the hammerhead lot plan is more straightforward.

Member Burke noted that the Planning Board must balance benefits to the Town and impact on the Town. For example, many Flexible Development plans create open space in exchange for smaller lots and reduced frontage. Section 218-26 of the Zoning By-law describes the special permit process.

Attorney Anctil said he would wait until the inspections are done before submitting applications to the Planning Board.

MASTER PLAN CONTRACT

Chairman Capes, Town Manager Mark Haddad, Town Planner Michelle Collette met with Judi Barrett of Communities Opportunities Group to negotiate the fee for the Master Plan. COG agreed to reduce the price proposals from \$115,000 to \$100,000 by reducing the fee in areas where the Town has other studies and information such as Open Space and Historic and Cultural Resources.

The Board discussed commencement of the project in October if the Town meeting approves the funding. The Board would like to meet with COG in October to begin research and data gathering. The public participation process will commence in January.

LAND USE REORGANIZATION

The Board reviewed the Land Use Reorganization chart prepared by the Town Manager, with assistance from Planning Board members and other Town Departments. The motion was made by Barringer, seconded by Giger, to accept the proposed reorganization. ***The motion passed unanimously.***

ACADEMY HILL AFFORDABLE UNITS

The Board will request that Bruce Wheeler of Academy Hill Realty Trust meet with the Board to provide an update of the affordable units. The agreement with the Planning Board, dated January 8, 2008, stated that two affordable units must have occupancy permits no later than October 31, 2009.

MINUTES

THE Board voted to approve the minutes of April 23, 2009; April 30, 2009; May 7, 2009; May 21, 2009; May 28, 2009 (as amended) June 4, 2009; June 18, 2009; July 9, 2009; July 16, 2009 (as amended); July 30, 2009; August 13, 2009; and August 27, 2009 (as amended).

Meeting adjourned at 10:00 PM

Respectfully submitted,

Michelle Collette
Town Planner