

**PLANNING BOARD  
JULY 11, 2013  
MINUTES**

Chairman Giger called the meeting to order at 7:30 PM

Members present: Giger, Burke, Perkins, Svarczkopf and Wilson

Members absent: Barringer and Parent

**PUBLIC HEARING – SPECIAL PERMIT, DRESSSEL HAMMERHEAD LOT**

In accordance with the provisions of Chapter 40A, Sections 9 and 11, the Groton Planning Board held a public hearing on Thursday, July 11, 2013, at 7:30 PM in the Town Hall to consider the application submitted by Brian and Jennifer Dressel to renew special permit PB 2010-01 to utilize the provisions of Groton Zoning By-law Section 218-23.1 Hammerhead Lots to create one hammerhead lot shown as Lot X on the plan entitled, "Plan of Land in Groton, MA; Owner/Applicant: Orchard Realty Trust," prepared by R. Wilson & Associates, dated April 9, 2010. The proposed hammerhead lot is located on Assessors Lot 220, Parcel 10-1, on the easterly side of Culver Road.

Chairman Giger called the public hearing to order. Clerk Svarczkopf read the notice published in the June 21 and 28, 2013 issues of the *Groton Herald*. Applicants Brian and Jennifer Dressel and contractor Jeff D'Agostine of Transformations, Inc. were present.

Mr. D'Agostine explained that the Dressels purchased the lot on Culver Road from Tracy Eliades of the Orchard Realty Trust in 2013. However, the Special Permit decision to create the hammerhead lot had expired because it had not been recorded at the Registry of Deeds within 24 months. The previous Building Commissioner issued a building permit (foundation only). The foundation has been poured and the house has been framed.

Land Use Director/Town Planner Michelle Collette said she received a complaint in mid-June about erosion and siltation flowing onto Culver Road and into the catch basin over James Brook. The applicant's contractor took steps to correct the situation immediately. In the course of dealing with the erosion problems, Town Hall staff reviewed the building permit files. The Building Commissioner placed a stop work order on construction because the special permit had not been recorded within 24 months of issuance and the house was framed without a building permit. Ms. Collette said the special permit did not receive the benefit of the Permit Extension Act, MGL Chapter 240, Section 173 of the Acts of 2010, because the special permit decision had not been recorded within 24 months. The Earth Removal Stormwater Advisory Committee issued a Stormwater Permit on June 18, 2013. The Conservation Commission issued an Order of Conditions for the project on July 28, 2004 after settling litigation with Orchard Realty Trust. The Order of Conditions has been extended and is still valid.

The Board asked if the lot had the required five acres and 40 feet of frontage. Ms. Collette said, "yes," Lot X combines Parcel C with 3.10 acres (in Groton) and Parcel A with 2.04 acres (in Ayer) for a total of 5.14 acres and 54.77 ft of frontage on Culver Road as shown on the plan. The driveway to the lot is on an easement over Parcel D to avoid second crossing of James Brook. Orchard Realty Trust improved this section of Culver Road including the James Brook crossing in 2003.

Abutter Peter Cunningham spoke in favor of the project and urged the Board to act favorably on the request.

The Board voted unanimously to close the public hearing.

The motion was made by Wilson, seconded by Burke, to **GRANT** a special permit to Brian and Jennifer Dressel to utilize the provisions of Groton Zoning By-law Section 218-23.1 Hammerhead Lots to create one hammerhead lot shown as Lot X on the plan entitled, "Plan of Land in Groton & Ayer, MA; Owner/Applicant: Orchard Realty Trust, Kingsbury Realty Trust, Trustee – Tracy Eliades" prepared by R. Wilson & Associates, dated April 9, 2010, recoded at the South Middlesex Registry of Deeds as Plan 265 of 2010, on May 6, 2010, with the following findings and conditions:

**Findings**

1. **Social, economic and community needs:** The creation of the proposed hammerhead lot results in a minimal increase in density.
2. **Traffic flow and safety:** The applicant has demonstrated to the Planning Board's satisfaction that the proposed driveway will provide adequate access to the buildable portion of the lot.
3. **Adequacy of Utilities:** The proposed hammerhead lot will not have a negative impact on utilities.
4. **Neighborhood character:** There will be less impact on neighborhood character with creation of the five-acre hammerhead lot than from a conventional development.
5. **Impact on the environment:** The environmental impact on the land from the creation of the hammerhead lot will be mitigated by the location of the driveway on the easement thereby avoiding a second wetlands crossing.
6. **Fiscal impact on the Town:** There will be minor fiscal impact on the Town from the development of one hammerhead lot.

**Conditions:**

1. The applicant is responsible for obtaining any other required permits (including but not limited to) those required by the Board of Selectmen, Board of Health, Conservation Commission, Building Commissioner, Department of Public Works, Earth Removal Stormwater Advisory Committee and Zoning Board of Appeals.
2. The following conditions, required in Stormwater Permit 2013-02, are hereby incorporated into this Special Permit:
  - The construction entrance shall be stabilized for a minimum distance of 50 ft as shown on the "Construction Entrance" detail from the "Massachusetts Erosion and Sediment Control Guidelines for Urban and Suburban Areas." The crushed stone shall be replenished as needed to prevent tracking sediment on the public way.

- All work shall be done in compliance with the "Massachusetts Department of Environmental Protection - Stormwater Management, Volume One: Stormwater Policy Handbook, and Volume Two: Stormwater Technical Handbook," dated February 2008.
- It is the applicant's responsibility to prevent the products of erosion and sedimentation from reaching Culver Road and causing a safety hazard on the public way. There shall be no net increase in runoff or erosion to the public ways, municipal storm drain system, James Brook, or abutting properties.
- Catch basins shall be protected with silt sacks during construction to prevent the basins from becoming clogged with sand and silt. The applicant shall clean the siltation from the catch basin and public way under the direction of the DPW Director.
- The driveway apron shall be paved for a minimum distance of twenty (20) feet from Culver Road.

3. Section 218-32.1 Special Permits states:

"A special permit shall be recorded at the Registry of Deeds in accordance with MGL C. 40A, § 11. No subsequent necessary permits shall be issued by any board or official until evidence of such recording is submitted by the applicant."

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 Building Commissioner by the applicant.

4. This special permit shall lapse in 24 months (from the date the decision is filed with the Town Clerk and the 20-day appeal period expires), 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.
5. The recording of the special permit decision (PB 2013-03) and approved plan shall constitute commencement of substantial use.
6. This special permit runs with the land and applies to any successor in interest or successor in control.

The motion passed unanimously.

**WETLANDS BY-LAW REVIEW COMMITTEE**

The Board met with Selectmen Peter Cunningham and Robert Pine (both are members of the Wetlands By-law Review Committee) to discuss proposed changes to the local Wetlands By-law, Chapter 215 of the Code of the Town of Groton.

Mr. Pine said the revised language of §215-1 Purposes explains why it is so important to have a local by-law that is more restrictive than the Wetlands Protection Act, MGL Chapter 131, section 40. He said the wetlands system in Groton is extraordinary which is why we have so many endangered species.

The version adopted in 2001 contains §215-3 Exceptions which provide more flexibility to existing structures and previously disturbed land. This section will be updated in the proposed amendment because it has been over ten years since the date of adoption.

The Committee spent some time discussing §215-4C Coordination with Other Boards and whether or not to request comments from Town Departments. The Committee decided to propose language similar to several provisions in the Zoning By-law, e.g. Site Plan Review and Water Resource Protection Districts, requesting comments from other Boards. The Planning Board suggested that the Committee edit the wording on "Failure to respond within ten days" to give other Boards more time since they may not have a meeting scheduled within the ten day time frame.

The proposed new definition of "Structure" in §215-9 Definitions is consistent with the definition in the Zoning By-Law.

The Committee presented its proposed change to the definition of streams, both intermittent and perennial. Under the Rivers Protection Act, the buffer zone of perennial streams is 200 ft rather than 100 ft. The performance standards are also different. This is an important jurisdiction matter that requires clarification.

Mr. Pine said there is a separate proposal dated June 4, 2013 outlining "Extended Buffers." These changes will be proposed separately and are not included in the proposed amendment to the Wetlands Protection By-law.

The Board thanked Mr. Cunningham and Mr. Pine for the presentation of the very thoughtful amendments to the by-law.

#### **ACADEMY HILL BOX CULVERT**

The Board met with Bruce Wheeler and George Gallagher of Academy Hill, LLC, and design engineer Peter Ogren of Hayes Engineering to discuss the proposed remediation of the box culvert on Cherry Tree Lane in the Academy Hill subdivision.

Chairman Giger read the comments dated July 11, 2013 from the Conservation Commission. The Board also received a letter dated July 11, 2013 from its engineer, Tim McGivern of Nitsch Engineering.

Mr. Ogren said he will add the limitation of work and other changes to the plan and as recommended by Nitsch Engineering. He said they are concerned about supervision in the field and asked if the Town's engineer would supervise the construction. Chairman Giger explained that it is the applicant's responsibility to supervise the installation and construction in the field. The Board's engineer does peer review and field observations, but is not responsible for construction supervision.

Mr. Ogren submitted a proposed construction sequence to be reviewed by Nitsch Engineering. He said the applicant is looking for approval of the conceptual plan.

Chairman Giger asked about the time frame for installation. Mr. Ogren said the work will take approximately three weeks. There is a seven-day lead time prior to construction.

Chairman Giger asked if they had discussed the changes to the location of the water main with the West Groton Water Supply District. Mr. Ogren said, "not yet."

Chairman Giger asked who will supervise the work in the field. Mr. Ogren said they have not decided yet.

Member Svarczkopf said more specificity is required on the plan as recommended by Nitsch Engineering. Mr. Ogren said they would add information on the size of the riverstone and type of silty material.

Member Burke asked if design velocities were addressed. Mr. Ogren said there is no change in velocity because there is no change in the width of the culvert. Member Burke asked if Mr. Ogren had prepared calculations. Mr. Ogren said he would discuss what needs to be done with Nitsch Engineering.

Chairman Giger said the Board's peer review engineers must agree with the proposed plan before the Board can vote to approve it.

Member Svarczkopf said the plan must be clear so it can be implemented correctly in the field. Mr. Ogren said they must have good oversight. Mr. Wheeler said they would use Fryeberg & Sons to do the work.

Mr. Wheeler requested that the Board sign off on new building permits and reduce the bond at this time. Member Burke said the Board would consider reducing the Tripartite Agreement for Phase I & II, but not the surety bond for Phase III. The Board will ask Nitsch Engineering to update the cost-to-complete estimate.

The motion was made by Burke, seconded by Wilson, to send a memorandum to the Building Commissioner that the Board is not holding building permits in the Academy Hill subdivision at this time. The motion passed unanimously.

The Board must review and approve the culvert remediation plan prior to reducing the tripartite for Phase I and II.

The Board received an estimate of \$6870 from Structural Engineer Lynwood Prest of Groton Engineering to perform peer review of the box culvert plan. The Board provided Academy Hill, LLC with a copy of the estimate at the meeting.

The motion was made by Burke, seconded by Wilson, to accept the Groton Engineering estimate of \$6870 for peer review services and recommend that the Town Manager sign Contract #P13206 dated July 11, 2013. The motion passed unanimously.

### **WORKING GROUP UPDATES**

The Board discussed progress made by the various groups working on zoning amendments.

Member Burke said the Concept Plan Working Group is very concerned about the void in the current Schedule of Use Regulations for office, retail and restaurant use. He suggested advertising a public hearing on a proposed zoning amendment to add a footnote that would require a special permit from the Planning Board for new construction or additions greater than 2500 SF for these uses. He also suggested that the Planning Board be designated as the Special Permit Granting Authority for hotels, motels, or inn. Such projects require a Special Permit for Site Plan Review from the Planning Board under existing requirements.

The motion was made by Burke, seconded by Svarczkopf, to advertise a proposed amendment to the Schedule of Use Regulations as discussed. The motion passed unanimously.

Chairman Giger reminded the Board about reviewing the flow chart for the review for projects submitted to the Planning Board, Historic Districts Commission and Design Review Committee. He suggested that the three groups use the procedures for a project to see how the process works before finalizing the document. He requested that Board members submit any comments or revisions they may have.

Meeting adjourned at 10:30 PM

Respectfully submitted,

Michelle Collette  
Land Use Director/Town Planner