

**PLANNING BOARD  
OCTOBER 2, 2014  
MINUTES**

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

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

**INFORMAL DISCUSSION – MARTIN PROPERTY, JENKINS ROAD**

Attorney Robert Collins submitted a letter dated August 18, 2014 to the Board inquiring about subdividing property owned by Paula Martin and located on Jenkins Road. He said Ms. Martin would like to create another building lot on her 4.5 acre property for her daughters to build a house. The lot could be created under the provisions of Section 218-26 Flexible Development with a new subdivision road providing legal frontage. The subdivision road would not be constructed and access would be provided by a shared driveway. He said one lot would have two acres and the other lot would have 2.5 acres.

Member Wilson said he is sympathetic, but asked if the plan would create a paper street. Attorney Collins said it does not make sense to construct a new subdivision road for only one lot when access can be from a common driveway.

Member Burke said he would not want the provision used to develop land that is not otherwise developable and that a “proof plan” would be required with the application. He suggested that the applicant also consider creating two single-family condominiums on one lot with a Flexible Development plan.

Member Perkins asked about the open space requirements. Attorney Collins said they would record a conservation restriction on a portion of the land.

Town Planner Michelle Collette said Westbrook Lane, Candace Lane, and Lindsey Drive were all small subdivisions that used similar Flexible Development provisions.

**BOYNTON MEADOWS FIELD CHANGE**

The Board met with Bob France of Mount Laurel Development to discuss the email and sketch dated September 25, 2014 regarding the proposed fence and removal of five trees behind Building G at the Boynton Meadows development. Mr. France said they have tried to maintain as many trees as possible on the site, but five trees must be removed to install the fence at the property line. The trees are showing signs of wear and may die anyway. Mr. France said he flagged the trees to be removed.

Member Svarczkopf asked why the fence is important. Mr. France said they have had complaints from neighbors on Main Street about people cutting through their property. He said he would prefer to have the trees rather than the fence, but he is trying to work with his abutters.



Chairman Barringer called the public hearing to order. Clerk Vega read the notice posted with the Town Clerk on August 22, 2014 and published in the Groton Herald on August 29 and September 5, 2014. Representatives of the Groton Water Department, Groton Sewer Department, Groton Electric Light Department (GELD), and West Groton Water Supply District (WGWS) were present.

Chairman Barringer explained the difference between utilities transmission systems and distribution systems that serve customers. He said the proposed amendment requires a special permit from the Planning Board for transmission systems in all districts.

The Board received the following revision to the definition from Town Counsel:

3. Amend Section 218-4 Definitions by adding the following new definition:

Essential Public Services: Public and private utilities including but not limited to transformer stations, substations, switching stations, pumping stations, wastewater treatment facilities, telephone exchanges, electric transmission lines, and gas transmission lines. Local utility distribution facilities and their appurtenances such as street poles, overhead electric lines, telephone and cable distribution lines, water mains, gas mains, underground electric, telephone and cable distribution lines, sewer and storm water lines, conduits, catch basins, manholes and other such facilities commonly found in, on or over public ways for delivery of service to and from end users are exempt from the provisions of this Bylaw.

Chairman Barringer read the memorandum dated September 6, 2014 from the Groton Electric Light Department (GELD) and the memorandum dated October 2, 2014 from the West Groton Water Supply District (WGWS).

GELD Manager Kevin Kelly said he agreed with the proposed amendment to the definition of "essential public services" recommended by Town Counsel.

Chairman Barringer stated that the proposed revision to the definition exempts public and private distribution systems from the provisions of the by-law.

Water Superintendent Tom Orcutt said Massachusetts General Laws leaves management of the water utilities to the Water Department.

Sewer Commissioner Jim Gmeiner said he was upset when he read the proposed amendment in the newspaper because the Planning Board did not discuss it with the utilities before advertising the public hearing. He said the amendment is being proposed to address concerns about the proposed gas pipeline, but it will have no impact on the pipeline.

Chairman Barringer reiterated that the proposed definition exempts local utilities. Mr. Gmeiner said it does not exempt waste water treatment plants and pumping stations.

Member Burke said the goal of the proposed amendment is to differentiate wholesale (transmission) from retail (distribution) Planning Board/Special Permit review of a waste water treatment plant is a good thing.

Mr. Orcutt said the Water Department is exempt under state statute.

Member Svarczkopf said the Planning Board is asking for some level of review.

Member Burke said the cost of Planning Board review is not large in comparison to the cost of the project. Utilities may go to the Department of Public Utilities (DPU) for an exemption. Chairman Barringer read from the memorandum from Town Counsel including an excerpt from Chapter 40A, section 3, which details the option for utilities to apply to the DPU for zoning exemptions. Member Burke said the process with the DPU is very rigorous.

Member Giger said the proposed gas pipeline and pumping stations are part of the transmission system, not the distribution that serves end-users.

Mr. Kelly noted that the GELD has an existing sub-station on Lowell Road.

Mr. Gmeiner said the special permit criteria includes serving public needs. He asked whether the Planning Board would second guess the utilities on capacity issues. He said some of these concerns could have been ironed out earlier in the process if the Planning Board had discussed the proposal with the local utilities.

Mr. Orcutt said the Water Department built a new storage tank on Chestnut Hill and renovated the Baddacook pumping station on Lowell Road. The Planning Board reviewed both projects under Level I Site Plan Review, and the Conservation Commission issued an Order of Conditions for the Baddacook pumping station.

Member Giger noted that the Planning Board received an opinion from Town Counsel regarding Chapter 40A, section 3, citing case law. He asked if the Water Department had a legal opinion. Mr. Orcutt said the Water Department would have to seek outside legal counsel because Town Counsel was speaking on behalf of the Planning Board not the Water Department.

Chairman Barringer said the proposed amendment is adding another layer to the review process and increasing the complexity of doing business.

Mr. Gmeiner asked the Board what problem is being addressed by the proposed amendment.

Member Svarczkopf said the Board is trying to prevent future problems that deserve oversight. The special permit process is a way for the public to participate.

Mr. Kelly asked if local pumping stations could be added to the list of exemptions. Member Burke said pumping stations and the associated generators may have impact on abutters and should be reviewed under special permit provisions.

Mr. Gmeiner said there are two sewer pumping stations today – one on Nod Road and one at the intersection of Riverbend Drive and Wintergreen Lane in the Partridgeberry Woods subdivision.

The motion was made by Burke, seconded by Perkins, to substitute the original proposed amendment, filed with the Town Clerk on August 22, 2014, with the revised proposal amendment dated October 2, 2014, as recommended by Town Counsel. The motion passed with Burke, Perkins, Svarczkopf, Vega, and Wilson in favor; Barringer and Giger opposed.

The Board voted unanimously to close the public hearing.

**PUBLIC HEARING CONTINUATION – TARBELL SCHOOL REZONING**

The Board of Selectmen notified the Planning Board that the article proposing the rezoning of the Tarbell School property on Pepperell Road had been withdrawn.

The Board voted unanimously to close the public hearing.

**PUBLIC HEARING CONTINUATION – BUSINESS ZONING AMENDMENTS**

The Board held the continuation of the public hearing to consider amendments to add new categories of business districts, revise the Schedule of Use Regulations, and add new Definitions. The Board reviewed recommended edits to the language recommended by Town Counsel. The Board agreed to incorporate all the editorial changes.

The Board voted unanimously to close the public hearing.

**PLANNING BOARD REPORTS TO TOWN MEETING**

**Articles 19 & 20** – The motion was made by Svarczkopf, seconded by Wilson, to recommend adoption by Town Meeting of the proposed business district amendments as described in Article 19 and 20. The motion passed unanimously.

**Article 21** – The motion was made by Burke, seconded by Wilson, to recommend adoption by Town Meeting of the proposed amendment on Essential Public Services as described in Article 21. The motion passed with Burke, Perkins, Svarczkopf, Vega, and Wilson in favor; Barringer and Giger opposed.

**VERIZON PROPOSAL – COW POND BROOK ROAD TELECOMMUNICATION TOWER**

The Board received a memorandum from Town Counsel in response to a request from Attorney Carol McLane representing Verizon Wireless regarding adding a new carrier to the telecommunication tower on Cow Pond Brook Road.

The motion was made by Burke, seconded by Wilson, to support the Building Commissioner’s determination that an amendment of the existing Special Permit is required for the proposed addition of a new carrier and associated ground equipment to the existing telecommunication tower on Cow Pond Brook Road. The motion passed unanimously.

The Board will invite Attorney McLane to meet with the Board and discuss the matter.

Meeting adjourned at 9:15 PM

Respectfully submitted,

Michelle Collette  
Land Use Director/Town Planner