

**PLANNING BOARD
SEPTEMBER 22, 2016
MINUTES**

Russ Burke called the meeting to order at 7:32 PM at the Town Hall.
Members present: Barringer (via telephone), Burke, Giger, Perkins, and Wilson
Member absent: Svarczkopf and Vega

PUBLIC HEARING – ROCKY HILL ESTATES (ORIOLE DRIVE) DEFINITIVE SUBDIVISION & MODIFICATION OF THE SPECIAL PERMIT

Attorney Bob Collins represented the Applicant on this matter. He referred to his letter to the Planning Board dated September 22, 2016 and a letter from Jonathan Markey dated August 16, 2016 that provide responses to the Town Planner's staff report. He explained that the engineer is in the process of revising the plans to address Nitsch Engineering's review letter dated September 7, 2016. Attorney Collins explained that his letter includes a request to extend the Planning Board's time to render a decision on this project until November 4, 2016. To that end, he requested a continuation of the public hearing to October 27, 2016 and also requested an informal meeting with Nitsch Engineering, the planner, the design engineer, and himself to discuss outstanding issues in advance of the October 27th meeting.

Wilson made a motion to extend the Planning Board's time to act on the project until November 4, 2016. Giger seconded the motion. Burke took a roll call vote- Perkins- yes, Wilson- yes, Barringer- yes, Giger- yes, Burke- yes. The vote was unanimous.

Wilson made a motion to continue the public hearing to October 27, 2016 at 7 pm. Perkins seconded the motion. Burke took a roll call vote- Perkins- yes, Wilson- yes, Barringer- yes, Giger- yes, Burke- yes. The vote was unanimous.

DALE LANE ANR (JUSKALIAN/GILSON)

Attorney Bob Collins represented the Applicant on this matter. He explained that the purpose of the ANR is to create one buildable lot and three unbuildable parcels. Conservation restrictions, which will be held by the Conservation Commission, will be placed on Parcels B & X. Through this agreement, the parties were able to achieve the permanent protection of open space at no cost to the Town.

Wilson asked Collins if Lot 2 can be further subdivided. Collins responded that it cannot.

Wilson made a motion to endorse the ANR plan prepared for Edward Juskalian dated September 9, 2016, prepared by Ducharme & Dillis Civil Design Group, Inc. Giger seconded the motion. Burke took a roll call vote- Perkins- yes, Wilson- yes, Barringer- yes, Giger- yes, Burke- yes. The vote was unanimous.

PUBLIC HEARING – PROPOSED MODIFICATION TO SUBDIVISION REGULATIONS, SECTION 381-12C(1) – FIRE PROTECTION

Burke read the public hearing notice into the record. He provided a brief overview of the proposed change explaining that the Board regularly issues waivers to enable sprinklers to be installed in homes in lieu of cisterns. The proposed amendment formalizes this, allowing installation of sprinklers in lieu of cisterns.

Giger explained that sprinkler systems are more effective in suppressing household fires than cisterns. Sprinklers result in less water damage, cheaper insurance premiums and safer conditions for fire

fighters. If cisterns are installed, the Town inherits them and the responsibility to maintain them indefinitely.

Steele McCurdy, Groton's Fire Chief, explained that sprinkler systems are most effective whether a property is on or off public water. He explained that he incorporated the lessons learned in the Lost Lake area into the proposed language for cisterns.

Burke asked if residential sprinkler systems are cheaper for developers to install than cisterns. McCurdy explained that installation of sprinklers yield a significant savings for developers as compared to cisterns. Moreover, the regulations require cisterns to be installed and operational before a developer is able to get a building permit. This is not the case with residential sprinkler systems.

Giger said that the proposed amendment to the regulations gives the developer the right to decide whether he/she wants to install cisterns or residential sprinklers. The Fire Chief will approve the fire system design and work with the Building Inspector to ensure that the system is working properly.

Barringer said he wants to amend the draft language to read that all proposed residential dwellings shall be within 1,000 feet of a cistern or have a residential sprinkler system installed.

Wilson made a motion to close public hearing. Giger seconded the motion. Burke took a roll call vote- Perkins- yes, Wilson- yes, Barringer- yes, Giger- yes, Burke- yes. The vote was unanimous.

Wilson made a motion to modify the proposed wording as follows: "If a proposed dwelling is not situated within 1,000 feet of a cistern, it shall be equipped with a residential sprinkler system". Wilson made a motion to approve the changes to the subdivision regulations as amended. Giger seconded the motion. Burke took a roll call vote- Perkins- yes, Wilson- yes, Barringer- yes, Giger- yes, Burke- yes. The vote was unanimous.

CONCEPT PLAN DISCUSSION – JOINT MEETING WITH THE ECONOMIC DEVELOPMENT COMMITTEE

Burke provided a brief overview of Groton's Major Project Bylaw (Zoning Bylaws, Section 218-18(C)) explaining that recent case law points to the concept plan provision having no legal foundation. He briefly explained the findings of *Wright v. Bellingham*, 2007 WL 1884657 (Land Court, 2007) which invalidated a zoning bylaw amendment that provided Town Meeting with veto authority over the grant of a special permit resulting in 50 or more dwelling units or 100 or more bedrooms. The Court found that Town Meeting doesn't lend itself to the type of adjudicatory role mandated in the amendment and that the amendment lacked any standards to guide Town Meeting in evaluating a Concept Plan. Because Groton's Bylaw is so similar, he argued, the Bylaw has no legal standing and the Town is at substantial risk of appeal.

John Konetzny and Mike Rasmussen, members of the Economic Development Committee, asked if there are sufficient safeguards in place to make the concept plan requirement unnecessary. Will the current regulations protect Groton if a mid-century modern building is proposed for the Town Center? Giger responded that the Historic District Commission influences the design of buildings within the Historic District.

Referring to a 3-page narrative she prepared listing her rationale for eliminating the Major Project Bylaw and Concept Plan approval for Planned Multi-family/Residential Development Projects, Bonavita explained that concept plan approval is a growth management tool that is a significant barrier to economic development in Groton and is wholly unnecessary. It not only discourages businesses from setting up shop in Groton, but it also discourages businesses from growing their operations. Bonavita

explained that there are various safeguards currently in place to ensure quality development and sensitive design including pre-application meetings with both the Land Use Committee and Planning Board, design standards incorporated into Site Plan Review, and design guidelines for the Town Center Overlay District.

Wilson explained that the Harmonious Development Bylaw (Section 218-24(B)) provides another level of review and approval by the Planning Board, effectively discouraging inappropriate and incongruous architecture in business and industrial districts.

Fay Raynor, member of the Economic Development Committee, expressed her concerns with the prettiness factor- is the Town adequately protected? Burke responded that the Planning Board has considered creating town-wide design guidelines that are similar to those for the Town Center Overlay District. He reiterated that good design doesn't come from a pretty picture shown at Town Meeting- it evolves from cooperation, compromise and an iterative process.

Raynor stated her preference for town-wide design standards as a more convincing argument that adequate checks and balances are in place to warrant elimination of concept plan approval by Town Meeting.

Perkins reminded those present that design standards are already incorporated into the Site Plan Review Bylaw and zoning.

Burke stated that he is open to putting additional safeguards in place if folks think they are necessary.

Art Prest, member of the Economic Development Committee, said he agrees that the Major Project Bylaw is not business-friendly. He wondered about economic development opportunities that the Town has missed out on because applicants are leery of Town Meeting.

Bob Fleischer, 119 Nashua Road, asked which concept plans have failed at Town Meeting and why. Burke responded that the Mill Run Plaza project went through Town Meeting twice and failed to get the necessary votes. The Applicant became frustrated and countered with the current Chapter 40B development.

Perkins asked if the Major Project Bylaw prevents big box stores from locating in Groton. Burke responded that the current design standards require applicants to break up the façade and roof lines of buildings to prevent them from looking like long boxes. He stated that the Zoning Bylaws now distinguish between business districts- three separate business districts require different scales and configuration of uses.

Giger said that the concept plans that appear before Town Meeting tend to be very sketchy, which causes problems for the Planning Board later. Concept plans are not based upon research or engineering- they are simply pretty pictures. It is not known at the time of concept plan submittal/approval if a project can actually be built as depicted. Moreover, applicants with approved concept plans are often unwilling to deviate from the concept plan approved by Town Meeting even if deviation will result in superior design.

Raynor asked how to proceed from here. Should the Planning Board and Economic Development Committee take the legal approach to overturn the bylaw or discuss safeguards in place that render the bylaw unnecessary?

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Burke responded that additional design guidelines could be incorporated into the regulations. He emphasized the need to work together to carefully craft a strategy.

Barringer concurred saying that we should take the next 6 months to market this zoning change to the Town.

Giger pointed to the Pediatric West building (120 Boston Road) and the former fire station (14 & 20 Station Avenue) as good examples of what can be accomplished without Town Meeting's approval of concept plans. Neither of these projects were classified as Major Projects.

Burke suggested formation of a working group to devise a strategy for promoting the zoning change (i.e. put together public information pieces, write articles for the newspaper and hold public information sessions to educate both the local politicians and the public). Burke explained that he will reach out to Rasmussen to form the working group and develop the strategy for moving forward. Giger suggested reaching out to the Historic District Commission.

Barringer left the meeting at this point.

INDIAN HILL MUSIC CENTER PROPOSAL- TRAFFIC CONSULTANT

Burke explained that the Board's typical peer review engineer for traffic studies has a conflict therefore he cannot review the traffic study for Indian Hill Music. Burke obtained recommendations for three quality firms from the traffic engineers at BSC Group. He asked if the Planning Board wants Bonavita to reach out to these firms for quotes and if they will authorize Bonavita to select a firm with the Chair's guidance. After a brief discussion, the Board agreed with this approach and authorized Bonavita and Burke to select the traffic review engineer.

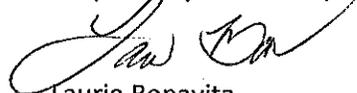
Giger asked Bonavita to request an update on the status of construction activities at the Indian Hill Music site authorized as part of Phase I.

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Giger asked Bonavita to change the name of the architect for 14 & 20 Station Avenue to Dan Quaille. Bonavita agreed to make that change. Wilson made a motion to approve the minutes of September 12, 2016 as amended. Giger seconded the motion. The vote was unanimous.

Wilson made a motion to adjourn. Giger seconded the motion. The vote was unanimous. The meeting adjourned at 9:12 pm.

Respectfully submitted,



Laurie Bonavita

Land Use Director/Town Planner