

TOWN OF GROTON PLANNING BOARD

October 12, 2017

Meeting Minutes

A meeting of the Planning Board was held on Thursday, October 12, 2017, at 7:05 p.m. in the second floor meeting room at Town Hall, 173 Main Street, Groton, MA 01450

Chairman Wilson declared the meeting to order at 7:00 p.m. and called the roll.

Members Present:

Mr. Scott Wilson, Chair
Mr. Timothy M. Svarczkopf, Vice Chair
Mr. George Barringer, Clerk
Mr. Russell Burke, Member
Mr. John Giger, Member
Ms. Carolyn Perkins, Member
Mr. Michael Vega, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Public Hearing

Mr. Barringer opened the public hearing and read aloud from the Public Hearing notice as summarized below:

In accordance with the provisions of M.G.L., Chapter 40A, §§ 5 and 11, and the Code of the Town of Groton, Chapter 218, the Groton Planning Board will hold a public hearing on **Thursday, October 12, 2017, at 7:00 PM** in the Town Hall (second floor meeting room), 173 Main Street, to consider the following Citizens' Petition filed by Stephen Palmer of 81 Boston Road:

ARTICLE 21: CITIZENS' PETITION – RE-ZONE PARCELS 112-60, 112-61, 112-62 FROM RESIDENTIAL - AGRICULTURAL “R-A” TO VILLAGE CENTER BUSINESS “VCB”

To see if the Town will vote to amend the Zoning Map established under Chapter 218 of the Code of the Town of Groton to re-zone three adjoining parcels of land from Residential-Agricultural (R-A) to Village Center Business (VCB), said parcels of land located at 279 Main Street consisting of approximately 1.25 acres, being shown on Assessors' Map 112, Parcels 60, 61, and 62, or to take any other action relative thereto.

Mr. Tada, referring to a zoning map displayed in the meeting room, stated that the section marked in yellow was the parcel that actually had the structure on it but the two other adjacent parcels indicated on the map included the parking lot. The subject parcels are located near a Village Center Business district to the north and a residential business district to the east, both on the other side of Main Street. The parcels are just outside of the Historic District.

Chairman Wilson said that the church property was not located in the historic district for reasons which were unknown to him. He also said that the green parcel east of the Residential Business district indicated the old burial ground.

Chairman Wilson said that the applicant, Stephen Palmer, approached the Selectmen and requested that the parcel be re-zoned from RA (Residential Agricultural) to the Village Center Business (VCB). He said they were hoping to set up a movie theater. He said that in the meantime it had come to his attention that another potential applicant has a purchase and sales agreement with the Catholic Church to buy all three parcels.

Mr. Burke asked if the Catholic Church owned the building, or if the congregation that was most recently there owned it. He said that Mr. Palmer never had an agreement to purchase the property; he was looking to purchase the property but never pulled the trigger to do the purchase and sales. He further said that as was discussed in previous meetings, to do a zoning change on a piece of property you did not have to be the owner or have a purchase and sales agreement; he noted all that needed to be done was to get ten registered voters, as Mr. Palmer had done, to initiate a zoning petition. Mr. Burke said that if Mr. Palmer wished to withdraw his application he would have to get all of the original ten signatories of the original petition to sign and he had not done that.

Chairman Wilson asked if Mr. Palmer had intended on doing so and Mr. Burke replied that they did not know.

Chairman Wilson said that an architect, Chris Lewis, was the signatory on the purchase and sales agreement and his intention, as he understood it, was to convert the chapel into four condominium units and then to carve out a single-family house lot from what was substantially most of the parking lot. He said that would retain the use that was the pattern in much of the area and precluded the whole concept of re-zoning.

Ms. Perkins asked if they had a purchase and sales agreement, and if there were proponents present to speak on the issue; noting that she felt there were people present who were not in favor of it. She asked if the person who had originally wanted this was out of the picture completely.

Chairman Wilson replied that Mr. Palmer was working his way out of the picture but that he had to obtain the ten signatures.

Mr. Burke stated that at the present time it was an active petition and if Mr. Palmer did not withdraw it then it would go before the Town Meeting but that the Board needed to make a recommendation to Town Meeting and that recommendation could be predicated on what uncertainty they knew or what

they did not know. He said it was a 1.5 acre site in the RA District and he was curious how the prospective buyer was going to put four units in the existing building.

Chairman Wilson replied that he felt that would be up to the Zoning Board of Appeals.

Mr. Tada stated that the applicant could do up to three without having to go through Town Meeting; two by right and the third would be an accessory living unit or apartment. He said he had a brief discussion with both the Housing Coordinator and the Zoning Board of Adjustment and that was the information that he received.

Mr. Burke stated that he did not see how he would carve out an additional lot to do a single-family house in addition to that.

Mr. Barringer replied that the parking lot was a separate lot.

Mr. Burke said that although it was a separate lot they were all non-conforming lots and in the view of zoning, while the assessor's had them as three lots, zoning had them combined and you could not divide a non-conforming lot to create an additional single lot. Mr. Vega stated that was not material and they could not speculate.

Remarks/Statements from the Public

Chairman Wilson read aloud a letter from Camilla Blackman as summarized as follows:

I would like to register my opposition to the re-zoning of parcels 112-60; 61 and 62 from RA to VCB (Village Center Business.) Clearly, this is a residential district and unless the town votes to extend our Village Center Business District further north down Main Street, it would seem totally out of place. Should the future buyer of this property use it for a multi-family residence, it would seem extremely appropriate considering the large parking area. There is a great need for more housing of this nature.

Ms. Judy Alexander, a public attendee, rose and addressed the Board and stated that Mr. Palmer had come before the Selectmen and he was told that he could not just withdraw the petition at that point; they told him that he would have to get the same ten people to sign and that if he could not get them all to sign that he could withdraw the petition at Town Meeting when it came onto the floor.

Mr. Michael Woods, 20 West Street, an abutter, addressed the Board stating that he echoed Ms. Blackman's thoughts. He said it was a residential area and he wanted to prevent it from becoming a business. A theater would mean cars coming and going would have to pull out onto West Street and would shine lights into their houses at later hours than typical for a church. He also said that Mr. Palmer had come forward without financial backing and wanted to get this first and then get financial backing.

Mr. Dave Whalen, an abutter, addressed the Board stating that he owned the house next door at 297 Main Street. He said that he was truly against spot zoning and did not think it was in the best interest of the Town and that if changes were going to be made then more studies needed to be done. Mr.

Whalen said that once it became commercial it would always be commercial and the uses could change in the future. He said he thought it should stay the way it is.

Ms. Ann Krajewski, 42 Fairview Avenue, asked if the Planning Board would be making a recommendation to Town Meeting.

Chairman Wilson affirmed the Board would make a recommendation to Town Meeting.

Ms. Krajewski asked if there were a purchase and sales agreement already on the property then would that be the recommendation that they would make to Town Meeting?

Chairman Wilson replied that the existence of a purchase and sale agreement was a private matter which had nothing to do with the purview of the Planning Board and further that they had no concrete evidence of there being such an agreement.

Ms. Krajewski stated that she felt a theater would be a nice addition to Groton but did not feel the proposed location was appropriate.

Chairman Wilson asked if there were any other members of the public who wished to speak. There were none.

Ms. Perkins made a motion to close the public meeting. Mr. Giger seconded the motion.

Discussion:

Mr. Giger said he could not support it because there were too many unknowns.

Mr. Burke read aloud from §218-18 of the Zoning By-Law's summarized as follows:

Re-zoning to Village Center Business (VCB), Neighborhood Business, General Business or Industrial

The Planning Board shall neither sponsor nor favorably recommend any zoning of land into a Business or Industrial District unless a concept plan (see sub-section B) for the area proposed for re-zoning had been submitted to the Planning Board for review at a public hearing on the re-zoning and is presented at the Town Meeting. In its report to Town Meeting the Planning Board shall report its determination regarding the consistency of the proposed zoning with the Business or Industrial District intention stated in §218-11 regarding the consistency of the concept plan with the objective stated in sub-section A.

Mr. Burke said they had most recently done away with part of the concept plan which did not have to do with re-zoning but what was in place was a provision that when the property was properly zoned for example, business and someone wanted to put a business use there but it exceeded the threshold of square footage you would have to go to Town Meeting with a concept plan which the Planning Board felt was illegal and redundant because the property had already been re-zoned. He said that any re-zoning map changes would still require that a concept plan be submitted. He further said that

technically, while the original proponent did not submit a concept plan, he did present a concept but that concept was no longer in play so the Board was operating without a concept plan.

Mr. Barringer stated that the concept plan, as was presented to the Planning Board, was not in a public hearing.

Mr. Burke stated that, from a procedural point of view, the Planning Board would have been in good standing if they said they would not be able to make a favorable recommendation because of the lack of the applicant complying with the provision of the zoning.

VOTE: 7 – 0 – MOTION CARRIED

Mr. Barringer made a motion not to recommend the re-zoning of parcels 112-60, 61 and 62 for the reasons put forth by Mr. Burke regarding §218-18 (sub-section B; summarized above) of the Zoning Bylaw.

Mr. Giger seconded the motion.

VOTE: 7 – 0 – MOTION CARRIED

Proposed Modifications, 1003 Boston Road, NESSP Temple

Mr. Giger stated that the three members of the Earth, Water and Stormwater Advisory Committee had visited the site the previous day and after everyone arrived on-site it was learned that the applicant no longer wanted to pursue in this particular direction.

Chairman Wilson stated that, to be clear, there was still a modification on the table even after they disposed of the drainage structure issue.

Mr. Scott Nelson stated that his boss, Nalin Mistry, decided that it was easier and more efficient to just go with the original plan. He said that drainage was off the table and the septic system had been approved by the Nashoba Board of Health and the Groton Board of Health. He further said that there was a slight redesign and relocation so there is more room for the future auditorium.

Mr. Burke asked Mr. Tada if the engineer had any problems with the septic system. Mr. Tada replied they did not.

Mr. Giger asked if everything had been confirmed with the Board of Health. Mr. Tada stated he had not although he felt that everything that was stated in the documentation was correct.

Mr. Burke stated that the Board needed an updated plan to reflect what was presently being asked for.

Mr. Giger referred to a letter from Nitsch Engineering, dated October 10th, which confirmed receipt of “one copy of a sewerage disposal works construction permit issued by Nashoba Associated Boards of Health, Environmental Health Division, for Shirdy Way. He said that was confirmation that it had been approved.

Updates, Master Plan Implementation Committee

Mr. Burke stated that he did not feel there were a lot of people knocking down the door. He asked if the Board thought it would be wise to ask the Moderator of the Town Meeting if they could make a brief announcement that they were looking for volunteers.

Updates, Planning for Recreational Marijuana

Mr. Burke stated that he, Mr. Tada and Mr. Giger had attended a session that the Massachusetts Municipal Law Association had put on for public officials to look at the status of recreational marijuana and what municipal officials needed to know. He said that first, if a community had voted favorably in 2016 on the statewide ballot referendum to approve recreational marijuana, then they were viewed as a community where it was permissible. In order for a community that voted in the affirmative to opt out or make provisions which were more restrictive than what the state law allowed it would require a town wide referendum vote and also a vote of the local legislative body; i.e., at the Town Meeting. Mr. Burke noted that unless Groton did such a referendum they are open for business in the eyes of the state law.

Chairman Wilson asked what the vote was. Mr. Burke replied that it was about 60% in favor.

Mr. Burke said that some of the changes were for marijuana establishments; they no longer had to be restricted to non-profits, which was the case with medical marijuana and there was no longer a requirement that they had to demonstrate need. He said that municipalities could put together reasonable safeguards that were not “unreasonably impracticable” or that conflicted with the law. He further said that meant you could not regulate the number or types of marijuana establishments other than what the law allowed and the number of marijuana establishments could be no less than 20% of liquor licenses or fewer than the number of licensed medical marijuana establishments in the community.

Chairman Wilson asked if liquor licenses referred to package stores. Mr. Burke replied it was only where liquor was consumed and there were three or four places in Groton where liquor was consumed and 20% of that would be less than the whole number one. He said they could not restrict any of the types of uses with the exception of retail, transportation, cultivation, manufacturing/processing, or testing. He further said that presently the default in the state legislation was to prohibit “on premise” consumption of marijuana and if a community wanted to allow on premise consumption, like a marijuana café, you would have to go to a referendum and could only be bi-annually at the state election.

Mr. Burke also said that the law states that medical marijuana establishments could be converted to recreational marijuana establishments and recommended that instead of having medical marijuana establishments there should just be marijuana establishments.

Mr. Giger stated that the draft regulations from the Cannabis Control Committee were not due until March 15th. Mr. Burke said that the moratorium which was adopted for recreational marijuana terminated on June 30th and unless something was done they would be exposed to having no regulations. He said he was comfortable that they knew enough to put a good regulatory framework in place depending upon what the town's desire was.

Ms. Perkins asked if they were thinking about something for the spring Town Meeting. Mr. Burke replied that was correct.

Mr. Giger said that Margaret Hurley, from the Attorney General's Office indicated that they would consider a moratorium going all the way out to December 31, 2018, so the town may want to amend the current moratorium law to extend it out until the end of December.

Mr. Burke recommended going with the two-tiered zoning; one for putting in place regulations but also an extension of the moratorium in the event the first one failed. If the desire was to regulate, rather than prohibit (but they did not get the two thirds vote on the proposed regulations at Town Meeting) then we would have a second zoning article that would be a continuation of the moratorium until December 31, 2018.

Chairman Wilson replied that he felt that made sense.

Mr. Burke noted that it still was not clear if the local 3% sales tax would apply to all types of marijuana establishments. He said it may have only applied to retail sales; if you were a cultivator and selling marijuana then the sales tax would not be applied to the wholesaler.

Mr. Burke referred to his handout that set forth some of the criteria for recreational marijuana zoning. Under the Zoning Regulatory Pathway he identified six types of establishments. He said that they could be allowed by special permit and suggested that the Board take each of the uses and then look at the different zoning districts. After assigning "No", "Yes", or "SP" for each use in the different zoning districts, they could figure out what would go best where. He then said they should develop performance standards.

Mr. Burke said that presently there were only two communities that had adopted marijuana zoning: Halifax and Williamstown.

Ms. Perkins asked if the location of the marijuana establishments would be restricted; such as not close to schools and playgrounds. Mr. Burke replied the only restriction mentioned in the law was that it could not be within 500 feet of a school.

Board Member Comments

Ms. Perkins pointed out that the Board would not be meeting again until after the Town Meeting and asked if there were some Articles that needed to be addressed. Mr. Tada replied there were five items:

1. Re-zoning petition which was the subject of tonight's public hearing. The Board voted to provide a negative recommendation. (Assigned: Barringer)
2. Street Acceptance for Chamberlains Mill. On August 31, 2017, the Planning Board approved and recommended to the Board of Selectmen that it be accepted as a town street. (Assigned: Giger)
3. The Complete Streets Warrant Article for funding the engineering work. (Assigned: Barringer)

Ms. Perkins made a motion for a favorable recommendation of the Complete Streets article. Mr. Vega seconded the motion.

VOTE: 7 – 0 – MOTION CARRIED

4. The Senior Center Building Committee's request for Planning Board support of their Warrant Article seeking funding for the architectural/engineering expenses. On September 14, 2017 the Board voted to recommend support for the article. (Assigned: Perkins)
5. Recruitment for the Master Plan Implementation Committee. (Wilson to follow-up with a PowerPoint slide to be displayed at Town Meeting) (Tada to provide Board with names of interested volunteers)

Mr. Burke made a motion to approve the special permit application for the Friends of Prescott regarding the use of the Prescott School for an office for the Groton Inn, as amended, to add the June 30, 2018, termination of the permit as filed with the Town Clerk on October 13, 2017. Mr. Giger seconded the motion.

VOTE: 6 – 0 – 1 MOTION CARRIED - (Abstention- Vega)

Approval of Meeting Minutes

Chairman Wilson asked if there were any questions or comments regarding the September 28, 2017, meeting.

Mr. Barringer made a motion to approve the minutes from the September 28, 2017, meeting. Mr. Burke seconded the motion.

VOTE: 6 – 0 – 1 MOTION CARRIED - (Abstention- Vega)

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- October 23 – 6:30 p.m. at the Middle School
- October 23 – Fall Town Meeting
- October 26, 2017 - **Cancelled**

Board Member Comments

There were none.

Adjournment

A motion to adjourn was made and seconded. The meeting was declared adjourned at 8:35 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary