

TOWN OF GROTON PLANNING BOARD

November 9, 2017

Meeting Minutes

A meeting of the Planning Board was held on Thursday, November 9, 2017, at 7:00 p.m. in the second floor meeting room at Town Hall, 173 Main Street, Groton, MA 01450

Members Present:

Mr. Scott Wilson, Chair
Mr. Russell Burke, Member
Mr. John Giger, Member
Ms. Carolyn Perkins, Member

Members Not Present:

Mr. Timothy M. Svarczkopf, Vice Chair
Mr. George Barringer, Clerk
Mr. Michael Vega, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Note: Groton Inn Site Plan, Mr. Josh Webber - **WITHDRAWN**

Public Hearing - (Exhibit Attached to End of Document)

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

In accordance with the provisions of §184-3 of the Code of the Town of Groton, the Planning Board and Tree Warden will hold a public hearing on **Thursday, November 9, 2017 at 7:00 PM** in the Town Hall (second floor meeting room) to consider the application submitted by Robert Kiley to remove four (4) trees and alter one hundred eighty-eight (188) feet of stone wall within the right-of-way of Old Dunstable Road, along the frontage of 284 Old Dunstable Road located on Assessors Map 243, Parcel 28.

Copies of the application and plan are on file in the Planning Board office and the Town Clerk's office in the Town Hall. The Town of Groton does not discriminate on the basis of disability. Further, a signed translation of this public hearing will be provided for the hearing impaired upon request by contacting the Planning Board at (978) 448-1105 at least one week prior to the hearing.

Robert Kiley and Corey Brock (applicants) were present, along with Tom Delaney (DPW Director/Tree Warden). Mr. Brock addressed the Board and reviewed the application which included a copy of the ANR plan and photographs of the lot.

Mr. Burke stated that he was concerned if the Board approved the request that there would be no site plan to show what was going on and where. He said that he wanted to see a site plan that provided the Board with the specific locations of the trees were that were being removed.

Mr. Kiley stated that he had not received any written objections with regard to the removal of the trees and if he did it would be kicked over to the Board of Selectmen.

Mr. Delaney stated that he had questions about the wall and asked if there was a shift in the driveway. He said that in order to get the sightline that Mr. Kiley wanted there would have to be a lot of excavating; he said it would be a very big cut.

Mr. Burke stated that he was not comfortable with the Board taking any action unless there was a more detailed site plan showing the trees and stone wall.

Mr. Brock asked what Mr. Burke would like to see. Mr. Burke replied he would like to see what was being proposed on a plan.

Mr. Brock said that at the present time the plan was to remove the trees and improve the line of sight. Mr. Burke replied he wanted to see a plan which clearly delineated the proposed changes to the area.

Mr. Brock asked if it were possible to get the approval for the tree removal and the stone wall section could be revisited at a later date because he would not know what he was dealing with in terms of how many stones were left until the tree removal was done. Mr. Burke replied it could be done that way as well.

Mr. Burke made a motion to approve the removal of trees upon submission of a plan that showed which trees were to be removed. Ms. Perkins seconded the motion.

VOTE: 4 – 0 – MOTION CARRIED

Mr. Burke made a motion to continue the public hearing, date specific to the November 30, 2017, meeting to address the issue of the wall. Ms. Perkins seconded the motion.

VOTE: 4 – 0 – MOTION CARRIED

Mr. Giger clarified that there were only two trees within the jurisdiction of the Board and they were the two trees within the right-of-way.

Preliminary Site Plan, Chris Lewis, 279 Main Street – (Exhibit Attached to End of Document)

Mr. Chris Lewis, referring to a PowerPoint presentation, introduced a conceptual plan to the Board regarding the former Sacred Heart Roman Catholic Church property located at 279 Main Street. He said that the lot was comprised of three separate parcels which totaled approximately 1 acre; lot 1 had the actual church on it, and lots 2 & 3 were the parking area. He said he was proposing to take the three lots and adjust them into two separate equal lots of .5 acre. He also said that he wanted to renovate the existing church into four condominiums with minimal site work, update the landscaping

and rework the parking to accommodate what was required by the code. Mr. Lewis stated that he would like to remove the existing paving and construct a single-family home on the other lot. He said the church had four separate exterior entrances and he proposed that those entrances be used as the entrances into the individual condominiums. He further said that units one, two and three were two-bedroom units with 2 ½ bathrooms totaling 1,300 square feet per unit. Mr. Lewis said that the proposed unit four was a little bit larger at 1,400 square feet and had three bedrooms and two bathrooms.

Mr. Lewis said he felt the path forward for the project as he presented it was under Chapter 218-27; Multi-Family. He said it could be granted by special permit by the Planning Board but that under sub-section C it would be required to go to a Town Meeting and receive a two-third vote by the public.

Ms. Perkins stated that Mr. Lewis was talking about dividing the lot and there had to be a minimum of 80,000 square feet and if he divided the lot he would not have that. She also said that there needed to be one bedroom for every 10,000 square feet and that would only give the applicant eight bedrooms, including the proposed single family. Ms. Perkins stated that there also needed to be 25% of open space which could not be someone's lawn. She said she was not sure the way the applicant was proposing it that it met with sub-section C. Ms. Perkins said that it was a non-conforming lot but that it had an existing building on it so the building could be used but it could not be added to.

Mr. Burke said the question was that it was a change in use on a non-conforming lot. He said the other issue was that the pre-requisite for a multi-family was that you needed to have a lot of 80,000 square feet to begin with and the applicant did not have that. He said the lot could not be divided into buildable lots because the applicant did not have the requisite area to begin with. Mr. Burke stated that there was a concept in zoning where there were non-conforming lots and a common, contiguous ownership that they were, in essence, combined. Mr. Burke said that the applicant lacked the requisite 80,000 square feet, the lot was non-conforming and the use was being changed; which would require a variance from the Board of Appeals and variances could only be granted when a hardship associated with the lot could be demonstrated by virtue of soil, topography, shape or area. He said he liked the concept and thought it was an innovative use. He further said that it was an old building that had a lot of historic character. Mr. Burke said that the applicant may apply to the Board of Appeals for either a variance or a Section 6 finding that a change in use within the existing footprint of the structure might be eligible for some baseline relief. He said he did not think it would be possible to carve out a separate lot to put a single-family house on.

Ms. Perkins asked if the applicant went the Board of Appeals under the first part of Chapter 218-27 for multi-family, the applicant would have to occupy one of the units on the property. Mr. Burke replied that would only be applicable under sub-section A or B.

Ms. Perkins stated that there were some design guidelines under sub-section C that would be part of the minimum required for the Planning Board to approve it.

Mr. Burke asked if those guidelines were waivable by the Planning Board. Ms. Perkins replied that she did not think so.

Chairman Wilson asked Mr. Lewis if he thought the project would be financially viable without the single-family house in the mix. Mr. Lewis replied that he did but that he was trying to maximize his approach to start with.

Chairman Wilson said that he agreed with everything Mr. Burke had said and would go further by saying that he really thought that what the applicant was proposing, if it were possible because he wasn't sure about the single-family house, that it would fit right into the architectural and social fabric of that part of town. He further said that he felt it was a shame that they did not have the regulations and the bylaw in place to make it happen. He said that the church was a historic building which abutted the Historic District.

Mr. Burke said the only other option would be a 40-B.

Ms. Perkins stated that under that sub-section it would allow for a single-family but the issue the applicant would run into was the requirement that there had to be 10,000 square feet for every bedroom and if there was already seven bedrooms then it could only be a single-family house with one bedroom unless the condominiums were modified a little bit.

Mr. Burke asked Mr. Lewis if he was familiar with Chapter 40-B. Mr. Lewis replied that he was familiar with it and he felt the challenge would be the number of units, he did not feel it was a big enough project to support the ancillary things that might be required by the 40-B process because 25% would have to be affordable housing. Mr. Burke said that the applicant would also have to file as a limited dividend entity and agree to have the gross profits be no more than 20%. He said the other option would be to go to the Board of Appeals and request a variance.

Ms. Perkins stated that the Master Plan emphasized the reuse of historic structures.

Mr. Giger said that he was very much in sync with all that he heard so far but he had a real concern about parking. He said there were seven bedrooms proposed in four units and six parking places did not seem to fit for him. He felt each unit needed two parking spaces and then something additional for guest space although parking on Main Street may have worked for that. He said that putting in two-car garages in the existing paved area for each one of the units would free up some parking space for guests, help get cars off of the street, and might increase the attractiveness of the units themselves.

Marijuana Moratorium – (Exhibit Attached to End of Document)

Chairman Wilson asked what the Selectmen saw as the issues regarding this.

Ms. Alison Manugian, Member, Board of Selectmen and also Economic Development Committee, replied that the general consensus of the Board of Selectmen seemed to be that recreational marijuana was coming and it would affect Groton illicitly. She said that if it was available in Littleton, Pepperell, Westford and Ayer then Groton would see impacts and if they were going to see impacts then they needed to understand whether there was some benefit to be had economically or otherwise by welcoming some flavor of marijuana establishments within the town. She further said that the Cannabis

Control Commission had a tremendous amount of work to do at the state level to come up with new regulations.

Ms. Manugian said that her goal as an individual was to compile enough information and present it to the voters and committees so that the Town can make an informed decision about what it chooses to allow, or not allow.

Chairman Wilson asked how the medical marijuana dispensaries and recreational marijuana shops got melded together or if they did. Mr. Burke replied that the new regulations were basically going to do away with separate distinct regulations for medical marijuana versus recreational marijuana. He said the new reality was that there would just be regulations for marijuana establishments. He further said that existing medical marijuana establishments licensed as of July 1st were eligible to be converted to marijuana establishments.

Mr. Burke said that the new law stated that a community who voted in the affirmative in 2016 on the referendum could regulate marijuana establishments and they could not limit the number to any less than 20% of what the number of retail alcohol establishments (not consumed on the premises) and they could not prohibit any of the types of marijuana establishments (i.e. cultivation, distribution, testing and manufacturing & production). Mr. Burke stated that the only way a community could prohibit marijuana establishments is to hold a ballot referendum with a majority of the voters choosing to prohibit marijuana. He also stated that the other default in the law is that on-premise consumption of marijuana is prohibited.

Mr. Burke noted that he had given the Board a preliminary draft of what a zoning regulation for marijuana establishments could look like. He said the intent was that it would entirely replace the medical marijuana provisions provided in the zoning by-law. He said he had attempted to blend the regulations that were allowed by Chapter 94G and also bring in many of the provisions that were in place governing the medical marijuana.

Mr. Burke commented that on page 2; sub-paragraph D, 3 dealt with the buffers. He said at the time he had written it the only language in 94G that related to any type of buffers was not in the section of the law that talked about zoning but it was under licensing and it said that the Cannabis Control Commission, in granting the license, would not approve an establishment that was within 500 feet of a school. He said it raised a question in his mind as to whether or not that was the only type of sensitive use where a buffer could be established. Mr. Burke stated that he had put calls in to Margaret Hurley of the Attorney General's Office for clarification but that she had not gotten back to him. He said he did have a conversation with Jeffrey Bagg of the Central MA Regional Planning Commission. Mr. Bagg had spoken with Margaret Hurley about what types of buffers were allowable in addition to schools. Mr. Burke said it was his understanding that Ms. Hurley was not averse to approving additional buffers but her big concern was that communities couldn't be "cute" and try to make the buffers such that everything was buffered out.

Chairman Wilson thought it might be excessive to require a buffer around all parks.

Ms. Manugian said there could also be an issue with buffering around cultivation facilities, especially on smaller parcels.

Mr. Giger pointed out the ambiguity in the Ch. 94G designation of “other types of marijuana-related business”. He also noted the potential that multiple establishments could be co-located in one place.

Ms. Perkins said it seemed arbitrary to set the minimum number of marijuana establishments at 20% of existing liquor stores.

Mr. Burke stated that there was a moratorium currently in place until June 30, 2018. He said the spring Town Meeting would be in April or the beginning of May and hypothetically they could adopt zoning regulations before the moratorium expired. However, the Attorney General had either 90 or 120 days to approve the zoning that was adopted by the town. He said that may leave them exposed beyond June 30, 2018, until such time as the Attorney General approved the zoning changes.

Mr. Burke stated that if the Board were to propose some zoning regulations come the springtime, which was something he felt they should avail themselves to work towards, he would recommend that they have an accompanying by-law that would extend the moratorium. He said there were two wrinkles with that, one being that they would first position the extension of the moratorium prior to any discussion of another article regulating and two, the extension on the moratorium would essentially be the same moratorium but would have language that would change it to December 31, 2018, which was what the Attorney General’s representative said would probably be the maximum that they would have a “sense of humor” with for communities.

Mr. Giger suggested that if the Cannabis Control Commission failed to get its regulations out according to the schedule outlined in the law, then the Attorney General’s office might be more amenable to extending the moratorium into 2019. But he did not think it wise to anticipate such a delay. He noted the draft regulations were due on March 15th and the finals were due by July 1st.

Mr. Burke suggested that they propose the extension of the moratorium first and that they add language that said “December 31st” or “to such time as the town adopts regulations governing marijuana establishments and approval of said regulations by the Attorney General, whichever occurred sooner.”

Ms. Manugian stated that one of the difficult pieces was how to educate folks because it was so complicated and it was important for people to understand what they were being asked to vote on. She said that the marijuana working group had approved a five question survey that would go out in December in the electric bills as well as being available on-line for folks who had questions. She said the group was also going to publicize a series of open forums to be held in January/February.

Mr. Giger said that the people that were putting this together for the town needed to come up with a public information communications plan and provide opportunities to explain it to the voters.

Mr. Burke stated that one of the concerns that would be discussed at the Town Meeting was going to be what was in it for the town financially.

Mr. Giger stated that he felt if they were going to do anything that encroached into any of the neighborhoods, including neighborhood businesses, that an overlay district might be a better option as opposed to changing an entire category of zoning. He said the other option was to create more zoning categories.

Mr. Burke stated that there were many issues to be discussed in the future.

Ms. Manugian asked the Board what their thoughts were in terms of the need within Groton for consideration of a more wholesale update of the zoning regulations in terms of lot sizes.

Mr. Burke replied that there was much discussion in the Master Plan in terms of trying to focus on more compact development in the village areas.

Ms. Manugian asked if that was meant to overcome the two-acre zoning. Mr. Burke replied it was not; rather it was to try to reduce the scale of certain developments to fit into some of the older neighborhoods around Groton Center.

Master Plan Implementation Committee

Mr. Tada provided the Board with a list of names of people who had come forward and expressed an interest in serving on the Master Plan Implementation Committee.

Mr. Burke asked if the Board could invite all of the people on the list to attend their next meeting.

Ms. Perkins stated that she would like to volunteer to serve on the committee.

Approval of Meeting Minutes

Mr. Giger asked if the Groton Inn had provided a formal landscape plan revision yet. Mr. Tada replied they had not but he would follow-up.

Mr. Burke made a motion to approve the meeting minutes from the October 12, 2017, meeting. Mr. Giger seconded the motion.

VOTE: 4 – 0 – MOTION CARRIED

Mr. Burke made a motion to approve the meeting minutes from the October 23, 2017, meeting. Mr. Giger seconded the motion.

VOTE: 4 – 0 – MOTION CARRIED

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- November 30, 2017
- December 14, 2017

Adjournment

Mr. Burke made a motion to adjourn. Ms. Perkins seconded the motion. The meeting was declared adjourned at 8:55 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary