

TOWN OF GROTON PLANNING BOARD

December 14, 2017

Meeting Minutes

A meeting of the Planning Board was held on Thursday, December 14, 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
Ms. Carolyn Perkins
Mr. John Giger, Member
Mr. Russell Burke, Member (Arrived after roll call at approximately 7:07 p.m.)
Mr. George Barringer, Clerk (Participated via Telephone)
Mr. Timothy M. Svarczkopf, Vice Chair

Members Not Present:

Mr. Michael Vega, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Mr. Tada indicated that Mr. Barringer was participating remotely via telephone and under the terms of the Open Meeting Law, any and all votes taken during his remote participation would require a roll call vote.

Discussion: Potential Rezoning – Mr. Robert Collins, 186 Main Street

Attorney Robert Collins, representing the applicants, Donna & David Ward, owners of 186 Main Street, said that the property was located on the corner of Hollis and Main Streets and was built in approximately 1880. He said that the applicants would be restoring the house and office with the same high standard they had employed at 142 Main Street, which they also own.

Attorney Collins said it had occurred to him that even though the applicants could legally maintain a law office in the house as a Home Occupation, it would make sense if it were zoned appropriately. He said one option was to zone it in the Village Center Business District but he did not think that was the best idea for the site. He said another option would be to zone it as a Residential Business which had been on the books from the beginning. Attorney Collins stated that he felt a good solution was to zone the property as part of the Center Overlay District because that would give the Planning Board the opportunity to make certain that whatever occurred would be consistent with what the vision for the center was as well as what had been recently expressed in the Master Plan.

Attorney Collins stated that he felt the plus side with going with the Center Overlay District was that it involved a special permit which gave the municipality the greatest amount of control to make certain that something that did not belong there in the future would not end up there.

Attorney Collins said that the intention was to restore the house to the same appearance that it had over the decades as a residence but because it would involve non-residential aspects of use, even as a Home Occupation, he would have to come back for a site plan review.

Mr. Burke said that one of the things articulated regarding the vision for the Master Plan was that they had done a special study of the downtown area and there was a strong sentiment about restricting further commercial development on the northeast side of Main Street. He asked if the intent was that the property would be both a residence and an office. Attorney Collins replied that was correct; noting that it would have to be the applicant's residence to qualify for a Home Occupation permit. Mr. Burke said the key sticking point could be the parking requirements.

Mr. Burke stated that he was an advocate of adaptive use of properties as well as preserving them.

Attorney Collins said that the property was on the cusp of not being suitable for rehabilitation.

Mr. Burke said that the one thing that would probably require the most attention and care would be the amount of parking that their business generated and how to incorporate it onto the property. Attorney Collins replied that the intent would be for the parking to be in the back and the front of the property and side façade's would be landscaped as they presently were.

Mr. Svarczkopf said that preserving what was critical on Main Street for most people meant the historic structure and he felt the applicant was considerate of that desire but he did not know if they would always have that consideration in the future. He said that he felt the next time a historic building went into disrepair they should make sure it is not just demolished.

Attorney Collins pointed out that the property was located in the Historic District.

Attorney Collins stated that he would bring in a concept plan which would show what was proposed to be done to the building and the site.

Ms. Perkins said her only comment is to be careful about consistency with zoning in the Town center.

Mr. Giger asked if the applicant planned on adding height to the building, and what the area of the lot is. Attorney Collins replied that they did not plan to increase the building height and almost all of the work would be done inside of the building with the exception of removing some incongruous additions to the original structure such as a side porch and a couple of protrusions in the back. He noted that the applicants had hired Dan Quayle as the architect. The lot are is just shy of one acre.

Chairman Wilson asked if there were any questions from members of the public.

Anna Elliot addressed the Board and asked if the property were to be put into the Overlay District, what the density of the lot would be. Attorney Collins replied that there would be no additional density.

Mr. Burke said that density was usually measured in terms of dwellings and currently it was a single dwelling and if another dwelling was added then theoretically the density would increase.

Ms. Elliot stated that she anticipated that there would be apartments in a building of that size. Attorney Collins replied that was not the applicant's intention.

Mr. Svarczkopf said that he would be very concerned if the change in use resulted in increased density.

ANR Plan Clarification – Mr. Andrew McElroy, GELD Garages, Station Avenue, Parcel 113-55

Mr. Andrew McElroy addressed the Board and stated there was an Approval Not Required (ANR) plan endorsed by the Planning Board in 2013, and subsequently recorded at the Registry of Deeds, which divided the Groton Electric Light Department (GELD) parcel on Station Avenue into separate lots. The notes on the recorded plan indicate that the two existing buildings (the former GELD garages) were to be removed. He said his family's intention was to purchase the lot containing those two buildings, which would help provide parking for their Station House Restaurant (opening in 2018). They would also renovate the buildings for commercial use and enhance the landscaping.

Mr. McElroy said that they had spoken with the Town Manager about possibly putting in a road which would ease traffic issues and that those types of things were included in GELD's request for bids to purchase the property. He said they had responded to the request, the GELD Commissioners approved it to move forward, the Board of Selectmen approved it to move forward and then it went to the Fall Town Meeting which voted to authorize GELD to enter into a purchase and sales agreement with the McElroy family. However, the issue with the 2013 ANR plan notation still remained. He said the Commonwealth of Massachusetts published an ANR Handbook for such plans and it said one method for mending a previously approved sub-division plan was prescribed in Massachusetts General Law, Chapter 41, §81W, which provided in part that "a Planning Board, on its own, or on the petition of any person interested, shall have the power to amend its approval of a plan in a subdivision." Mr. McElroy stated that it further explained that "the process for amending a subdivision plan pursuant to §81W was the same process as the Planning Board had to follow when approving the original subdivision plan."

Mr. Burke said that when the Planning Board endorsed the ANR plan it confirmed that the creation of the new lots did not amount to a subdivision as defined in MGL Ch. 41, §81L. Therefore the provisions of §81W did not apply. Mr. Burke said that the crux of the matter was the notation on the plan that spoke to the future disposition of the two buildings.

Mr. McElroy commented that the notation on the plan said "all existing buildings are to be removed", but there were still two former garages there (the cinder block building and the Morton building) and the question was how they should proceed to amend the plan or get a waiver to allow the buildings to remain.

Mr. Burke replied that there were a couple of options, one would be to submit another approval not required without the note or with the note modified saying that the noted buildings were not to be removed and the Planning Board would then endorse it. He said that it was somewhat unusual because typically when they did an approval not required plan it was done because there was some adjustment to the lot lines. He further said that it could be done under an §81X plan which a surveyor could put together and file with the Registry of Deeds; noting that the plan would certify that no lot lines would be changed. Mr. Burke commented that the down side from the applicant's point of view would be that the previous plan, which indicated that the buildings must be removed, would still exist. He said theoretically he did not feel it mattered what the note said because the endorsement by the Planning Board had not been predicated by it and it was more of an informational note as opposed to a conditional note; pointing out that absent of the note, the Planning Board would have made the same decision. Mr. Burke said the other option was that the applicant could ask the Planning Board to vote right now and it would be recorded in the minutes that the endorsement of the plan was unaffected by whether the buildings remained or not.

Mr. Giger said his opinion was that the cleanest way to rectify the issue was to have a new ANR plan drawn up and filed with the Registry of Deeds which would supersede the existing plan. Mr. McElroy replied that he agreed, as it would correct a potential material defect in the title.

Mr. Svarczkopf asked Mr. McElroy what they wanted to do with the property. Mr. McElroy replied that they wanted to keep the existing buildings but wanted to make the property look better which might include a brick façade, plantings and cleaning up the overall appearance. Kevin Kelly, GELD General Manager, added that all of the materials presently stored on the property would be moved to the Lowell Road sub-station site as soon as they completed a new storage facility.

Mr. Burke agreed that the applicant should re-submit an ANR plan. Chairman Wilson agreed and it was also the general consensus of the Board.

NOTE: Mr. Barringer excused himself from the meeting at approximately 7:42 P.M.

Discussion – Master Plan Implementation Committee

Chairman Wilson stated that there were five people present who volunteered to serve on the Master Plan Implementation Committee.

Matt Chrobak addressed the Board and said that he and his wife, Meg, had recently moved to Groton over the summer.

Meg Chrobak addressed the Board and stated she was definitely excited to help out.

Judy Anderson, addressed the Board and said that she had been a resident of the Town of Groton for a long time and wanted to serve on the committee.

Carolyn Perkins also said that she had volunteered to serve on the committee.

Anna Eliot, former Board of Selectmen and Planning Board member, was also looking forward to serving on the committee.

Mr. Tada stated that there were two others, Carrie D'Amour of Hickory Lane, and Jonathan Greeno, Principal Assessor for the Town of Groton, who were also interested in serving on the committee but were unable to attend tonight's meeting.

After some discussion the volunteers decided to meet on Thursday, January 4, 2018, at 5:00 p.m.

Ms. Eliot asked what the Planning Board expected from the committee. Chairman Wilson replied that the Board was asking the committee to evaluate the objectives and the work that had been done and come up with some type of evaluation regarding how it was done and what remained to be done and then bring their recommendations to the Planning Board.

Mr. Giger suggested that the Planning Board and the Master Plan Implementation Committee have a joint meeting at the January 11, 2018, Planning Board meeting. Mr. Burke suggested that they leave it up to the committee as to when they were ready to provide their recommendations to the Board.

Chairman Wilson thanked all of the volunteers for their time and willingness to serve on the committee.

Discussion – Regulation of Marijuana

Mr. Burke stated that the Board's packet included the latest revision to the draft marijuana zoning and that also the last page consisted of the proposed amendment to the moratorium. He said the first paragraph was what the article would say but the balance of it showed the existing moratorium language and on the back page it showed the addition of "December 31st" as well as adding the words "or until such time as the town adopts and the Attorney General approves zoning by-law amendments that regulate recreational marijuana establishments, whichever is earlier."

Mr. Burke said that the draft marijuana establishment zoning took a lot of the language from the existing medical marijuana requirements and the definitions at the very beginning were taken from the Massachusetts General Law 94:G, which was the new enabling legislation for marijuana establishments. He further said that previously, medical marijuana was allowed in the Industrial District and it was still allowed across the board. He said that a special permit would be required from the Planning Board to allow it in the General Business District, places like Shaw's and the new Four Corners development.

Mr. Burke said that the Town Manager had indicated that they could go to Town Counsel to review it but he felt the Planning Board should provide a sense that it was a good working start before it went to Town Counsel.

Mr. Burke stated that there was additional language added to deal with the question of processing and cultivation. He said with regard to smell, because it was so subjective, they used language that read "odor for marijuana cannot be detected by a person with a normal sense of smell at the exterior of the marijuana establishment or any adjoining use of property." Mr. Burke further said that he was sure it would be further refined but he thought it was a good start to have the Town Counsel look at it and based on that review, they could get it ready for a public hearing. He said that he strongly recommended that of the two articles; the extension of the moratorium and the new zoning for marijuana establishments, that the Board should submit the moratorium extension first and let the Town Meeting vote on that and then move on to the regulation.

Mr. Giger commented that he thought it was a great start but he was concerned with allowing, even with Planning Board approval, the marijuana testing facilities in the General Business District. He said he did not know how big the facilities would be and what, if any, odor generating or other kinds of activities would be associated with it. He said he felt that until they had a better understanding of that which he said would probably be a subsequent revision to the by-law; that marijuana testing facilities should be left in the Industrial District.

Mr. Giger stated that the Cannabis Control Commission had just established a new license called a "Mixed Use License" which would address the proposal of establishments where people would gather and be able to smoke marijuana. Mr. Burke replied that 94-G, the enabling legislation, stated that "no on-site consumption of marijuana can be done in a municipality unless the municipality votes in a referendum that has to be held concurrent with the state bi-annual election." He said that would occur every two years and he did not think the Cannabis Control Commission could change the law by their regulations.

Ms. Anderson asked if the regulation of odor would apply to odor from all types of establishments.

Mr. Burke said there was also a Cannabis Advisory Board which made recommendations to the Cannabis Control Commission and they had been pushing on-site consumption because the way the

law was written there was no place other than in one's home where marijuana could be consumed. He said the concern was that it would be more available to children in the home and the other thought was it was better to allow it where it could be controlled.

Mr. Burke stated the consensus was that the marijuana testing facility would be in the General Business District. He also said that the town's by-law's had specific definitions and he was going to add those at the beginning of the proposed regulations.

Mr. Giger asked if the Board should include language regarding a bond or other mechanism to cover the Town if a marijuana facility's license was pulled and it went out-of-business, the equipment was abandoned and the security was not maintained. Mr. Giger suggested that there be language added that stated that the Planning Board reserved the right to require some form of surety. Mr. Burke suggested that they ask Mr. Doneski, Town Counsel, what he thought about it.

Mr. Burke commented that he was keeping the Board of Selectmen up-to-date.

Mr. Burke asked Mr. Tada to pencil in a public hearing for the first meeting in February of 2018, and noted that as far as the Warrant went there would be placeholders for the two Articles.

Approval of Meeting Minutes

Mr. Svarczkopf stated that he had asked, with regard to 128 Main Street, about the mechanical pad on the Lawrence Academy side of the parking lot and that he had not seen it on the original drawing and he would like that to be added to the minutes.

Mr. Burke made a motion to approve the meeting minutes from the November 9, 2017, meeting, as amended. Mr. Svarczkopf seconded the motion.

VOTE: 4 – 0 – 1 MOTION CARRIED (Ms. Perkins Abstained)

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- January 11 & 25, 2018
- February 8 & 22, 2018

Adjournment

Mr. Burke made a motion to adjourn. Mr. Giger seconded the motion. The meeting was declared adjourned at 8:50 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary