

TOWN OF GROTON PLANNING BOARD

January 25, 2018

Meeting Minutes

A meeting of the Planning Board was held on Thursday, January 25, 2018, 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. Timothy M. Svarczkopf, Vice Chair
Mr. George Barringer, Clerk
Mr. Russell Burke, Member
Mr. John Giger, Member

Members Not Present:

Ms. Carolyn Perkins
Mr. Michael Vega, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Chairman Wilson announced that Mr. Russ Harris had advised the Board that he would be recording the audio of the meeting.

Discussion - Request for Minor Modification, Groton Inn, 128 Main Street

Mr. Dan Wolfe, David E. Ross Associates, addressed the Board and stated that he was present to request a minor modification to the site plan. He said that during the initial approval process of the Inn as well as the restaurant, there was a driveway and a parking lot in front of the proposed restaurant. He further said that beyond that there used to be some overflow parking spaces on the grass area as well as another parking lot to the north. Mr. Wolfe said that they wanted to change the overflow parking area into a finished paved space that delineated additional spaces, as well as linking the two parking spaces, which would create a more circular pattern through the site. He noted that there were 137 spaces on the original approval and they wanted to increase that number to 159 spaces. Mr. Wolfe said that the parking regulations in the Town of Groton specified a minimum and maximum number of spaces for each individual use and what was required as a minimum was the 137 that was already approved. He said the maximum was 192 and 159 was right in the middle of the range of parking that was adequate for the site. Mr. Wolfe said they ran the model of the drainage system again and found that the peak rates of run-off increased slightly but were still less than the pre-construction conditions and they were still operating within what was already approved. He said the drainage system did not need to be modified at all in terms of the size of the forebay or the basin and they changed the drainage pattern somewhat to add one catch basin.

Chairman Wilson said he understood the logic of the circulation and it was a great improvement but felt it could have been accomplished with just a simple roadway and given that was the main view to Gibbet

Hill it seemed a shame to turn it into a parking lot. He asked what made them realize that they needed that much more parking.

Mr. Barringer said the Board had put in a crosswalk on the driveway closest to the Inn and blocked out two of the parking spaces on either side of it to ensure that there was always some view from the ground and the plaza between the hotel wings and out to the hill in their original decision.

Mr. John Amaral, 128 Main Street, LLC, addressed the Board and said it was a consideration that they had talked about at length with their operating partners and the need for the parking and the circulation was critical to the operation of both the Inn and the restaurant. He further said that the number one issue in the downtown area was the lack of parking. Mr. Amaral said that the modification would provide sufficient parking for their guests. He said they met the requirements of the by-law and it was operationally necessary.

Mr. Barringer said that he understood the intent but asked why they could not make it a simple roadway between the two parking lots and put the overflow in the back of the property. Mr. Amaral replied that the overflow parking in that area was not conducive to guest parking and they needed more parking for the restaurant. He said it was imperative to make sure the investment was going to be successful for them as well as the town. He further said that they had always maintained that people were welcome to enjoy the view shed without having to spend money at the restaurant or the Inn; noting that there were sidewalks that continued to the grass area and there would be chairs that would not be limited to just guests. He said the property could have also been turned into a private use, which would have meant that nobody could have gone back there.

Mr. Giger asked if the applicant was planning to connect the sidewalk coming out from the atrium across the parking lot. Mr. Amaral replied it would not go directly to the parking lot.

Chairman Wilson asked what the seating capacity of the restaurant was compared to Gibbet Hill. Mr. Amaral replied that they were at 156 seats and he was not sure what the seating was at Gibbet Hill but he thought it was more than 156.

Chairman Wilson asked if the applicant wanted to allocate about 50 – 60 spaces for the restaurant. Mr. Wolfe replied that was correct.

Mr. Burke said that the bump out in the front parking lot near the HVAC pad was still shown on the revised plan. Mr. Amaral said they decided to leaving that in place.

Mr. Burke said the plan before the Board had additional parking spaces that were supported by an addendum to the storm water management report that Ross Associates had prepared, stamped and submitted. He said there was also the question of the HVAC pad that “fell from the sky.” Mr. Amaral replied that pad was field measured and was shown on the plan. He said they went before the Historic District Commission and although they approved it, they indicated that they did not want to see any lattice but wanted solid wood all the way to the top and Mr. Tada had a copy of their approval. Mr. Tada confirmed that the Board had a copy of the approval in their packets.

Mr. Burke commented, regarding blocking the view of the hill, he agreed that in a perfect world it would be nice if the parking spaces were not there but it was not a perfect world and he understood the

applicant's need to provide as much parking for the convenience of their customers. He said the Planning Board's point of view was that it would be nice to maintain the views but there was nothing in the requirements that gave them the authority to use that as a reason not to approve the request. He also said that it impacted the applicant more than the general public.

Chairman Wilson said he wished there was a way to mitigate the visual impact. He said the applicant might want to find another location for the snow storage area because it would be difficult to landscape it nicely.

Chairman Wilson asked if there were any members of the public who had questions or comments.

Mr. Russ Harris, a resident of Groton, addressed the Board and stated that it appeared to him that there was a need for additional parking at the Inn.

Chairman Wilson asked if there were any further comments from members of the Board.

Mr. Svarczkopf commented that the Planning Board had spent a lot of time hashing out the details of the plan and the Board was very adamant that the significant view shed be protected. He said the people at the time, which was a few years ago, agreed with that. He also said there was a lot of public input at that point and a lot of visibility to the plan. Mr. Svarczkopf said the HVAC pad was not on the original drawing. He said the request for a modification came in so late and there was currently little interest. He commented that it did not seem like a very good way to go about planning. Mr. Svarczkopf said he felt if the Board was to allow the applicant the additional spaces at the last minute that it went against the idea of collaboration and public input. Mr. Svarczkopf also commented that although there would be some benefit to the town, it was a commercial interest and people would be making money on it.

Mr. Amaral replied that they only had two changes to the plan and it was a 22-month build process, which made it impossible to anticipate every single thing right from the beginning. He said they adhered to all of the rules of the Planning Board as well as the by-laws. He further said that they had gone out of their way to embrace the importance of the property and the development.

Chairman Wilson said that in general the Board was very happy with the plan.

Mr. Burke made a motion to treat the request as a minor modification to the site plan and not require a re-opening of the public hearing process. Mr. Barringer seconded the motion.

Discussion:

Mr. Giger said that it was his understanding that the two new parking areas were originally viewed as overflow parking. He said he felt that was an important component of the Board's choice to determine it to be a minor change.

Mr. Barringer stated that the applicant was still within the maximum number of parking spaces allowed and not requesting anything above that maximum number.

VOTE: 5 – 0 - MOTION CARRIED

Mr. Burke made a motion to accept and approve the proposed modifications which consisted of the additional parking area as shown on the plan dated January 19, 2018; the revised storm water management report prepared by David E, Ross Associates, dated January 19, 2018; and the second HVAC pad with the stipulation that it be screened with a fenced barrier as specified in the decision of the Historic District Commission, dated December 21, 2017. Mr. Barringer seconded the motion.

VOTE: 5 – 0 - MOTION CARRIED

Discussion - Potential Rezoning, Waters House, 11 Lowell Road

Attorney Robert W. Anctil, representing the applicant, Groton Lowell Road, LLC, addressed the Board and said that he was seeking the Planning Board's support to re-zone the Waters House at Lawrence Academy. He said that Groton Lowell Road, LLC, was under agreement to buy the Waters House from Lawrence Academy and in conjunction with that were seeking a re-zoning of the parcel.

Mr. Burke asked what the current zoning of the Waters House was. Attorney Anctil replied it was residential.

Mr. Svarczkopf asked what the applicant was currently asking for. Attorney Anctil replied he was asking for it to be re-zoned to the Town's Center Overlay District.

Mr. Giger commented that the underlying zoning would not change with its addition to the Overlay District but it was the super imposition of a new activity on top of it. Mr. Svarczkopf said it would allow a density that was very different from what was presently there.

Mr. Svarczkopf asked what the square footage of the property was. Attorney Anctil replied it was 2.1 acres.

Attorney Anctil stated that the property was in great need of repair. He further stated that the intended use of the property had not been fully fleshed out but they did intend to keep the historic structures that were on the property. Attorney Anctil said the goal was to see if they could move forward with the zoning change as it did provide for some opportunity for parking and there was connectivity between the Groton Inn and the property.

Chairman Wilson asked what the condition of the barn was. Attorney Anctil replied it was currently being used as the maintenance and grounds building for Lawrence Academy.

Mr. Burke asked if the property was located in the Historic District. Attorney Anctil replied that it was.

Mr. Svarczkopf asked what would be the benefit to the town if it were included in the Overlay District. Attorney Anctil replied that the town would gain some control over a property that was in need of repair.

Chairman Wilson asked what the ultimate objective and intended use was. Attorney Anctil replied that they had just entered into the agreement and they initially wanted to continue to utilize it as a residential use. He said at the point the idea was not to tie it into the Inn but there was a need for apartments and desirable retail in the town. He further said that it could not be torn down because it was in the Historic District. John Amaral stated that he had spoken with his partners at the Inn and the thought was in

three to five years if the Inn was doing very well then perhaps the building could be restored and used as an annex with luxury suites.

Mr. Burke commented that he assumed the applicant would be looking at putting some additions to the existing structures and if so, it would all have to be done under the auspices of the Historic District Commission. Mr. Burke also said it would require zoning approval at the Town Meeting (two-thirds vote) to re-zone the property to the Town's Center Overlay District. He said the people would want to know what the resulting development would be prior to the vote.

Mr. Giger stated that he felt people would be inclined to want to preserve the appearance of the property.

Attorney Anctil said that he could come back to the Board with some type of a concept plan.

Mr. Barringer stated that he felt the applicant's best chance of success was to bind the conditions and the possible uses without restricting their business opportunities. He said it would be nice to know that they were not going to try to put a 95-story building on the property. Fear of the unknown could be the biggest obstacle.

Chairman Wilson said that he hoped to see the applicant back again soon with a more firmed up proposal.

Discussion - Master Plan Implementation Committee

Chairman Wilson stated that the committee had met on Wednesday and he felt it was a very productive meeting.

Mr. Burke said the when they last spoke the committee was putting together its work program and how it was going to be tackled and asked if any progress had been made in that direction. Chairman Wilson replied that he felt some major progress had been made.

Ms. Judy Anderson, member of the MPIC, addressed the Board and stated that they decided to look at each of the different categories and the recommendations that had been made and then figure out what kind of questions they would ask about each of the areas as well as who they would need to contact regarding those questions. She said they wanted to organize all their questions first so they don't have to approach stakeholders multiple times to ask questions.

Ms. Anderson said that although the MPIC had met twice, not all of the committee members were in attendance at each meeting.

Chairman Wilson said if they looked at each core interest in the Master Plan, noting that there were eight, and looked at all of the recommendations and parameters then there would be some overlap of town committees, staff, and other organizations. He asked if Ms. Anderson was suggesting that the questions should be organized so the MPIC could approach the people regarding multiple core interests rather than having to come back multiple times. Ms. Anderson replied that was correct.

Discussion - Regulation of Marijuana

Mr. Burke stated they there were two public forums over the past week that attracted about 15 interested residents in total. He said the Planning Board's formal public hearing was scheduled for February 8, 2018. Mr. Burke said the forums did not get into the details of the proposed zoning, that it was basically looking at what the state act provided in terms of what they could and could not do and what the processes and procedures were. He said the town had voted 56% in favor of legalizing marijuana in 2016. He further said that subsequently a community survey was sent out which asked if residents supported allowing marijuana establishments in Groton and 56% replied they were in support. He pointed out that the process to further restrict or prohibit marijuana outright required a referendum on a specific zoning by-law that said the town prohibited marijuana or only allowed a certain type and then it would have to be voted on at the Town Meeting, pointing out that a zoning by-law required a two-thirds vote.

Mr. Burke suggested that the Board proceed with the temporary moratorium and the proposed regulation. He said if people wished to move forward with a prohibition or restriction they could still do that by filing a proposed zoning regulation. He mentioned the "look back" provision in M.G.L. Ch. 40 that starts the zoning clock on the date of the first public hearing.

Mr. Giger stated that it was his understanding that there were at least two items in the draft that were going to be modified and no changes had been made. Mr. Burke asked what those changes were.

Mr. Giger replied on page two, sub-paragraph B2, said, "nothing in this section shall be construed to supersede state and federal laws governing the sale and distribution of narcotic drugs." Mr. Barringer replied that he looked it up and it was not a narcotic according to the Drug Enforcement Administration. Mr. Giger said he also looked it up and it said it was a narcotic. Mr. Barringer stated that he would share the link that he looked at with the Board.

Mr. Giger said in sub-paragraph C-3, regarding the 500-foot buffers around sensitive areas, he thought there was some discussion regarding instead of naming the specific things, it would identify what the specific things were "for instance" so they did not wind up locking themselves into only those things. Mr. Burke replied that they had to identify what was specific. Chairman Wilson noted if they said "including, but not limited to" then it would imply that other kinds of locations were prohibited but they were not saying which ones and therefore, they would figure it out on a case-by-case basis. Mr. Burke replied that would be unreasonable and impracticable in the view of the Attorney General. Mr. Giger said that Mr. Burke was making judgements and although he respected them, he asked what would be done if something new came into town that nobody thought of. Chairman Wilson replied he felt they would respond to those situations as they occurred. Mr. Giger said that then the by-law would have to be amended. Chairman Wilson replied that he did not imagine that would occur very often. Mr. Giger stated that he did not think they were leaving enough room to deal with the unexpected or the things they could not see.

Mr. Svarczkopf stated that he felt part of it seemed extremely restrictive, including the library, parks, playgrounds, and churches. He said to say that they needed to be more restrictive suggested that a marijuana establishment was something that was dangerous or scary and he did not feel that way and would resist being more restrictive. Mr. Burke replied that if they were to do that it would be unreasonable and impracticable because the definition of impracticable was that it involved an unreasonable risk to a potential applicant of either time or money. He said if they had the ability to name other sensitive uses that they had not enumerated then it could put someone at risk of going forward and then all of a sudden finding out it has been prohibited and it also raised a question about it being capricious and arbitrary.

Chairman Wilson commented that he thought there was a huge PR value in sticking to the language of the medical marijuana regulations because it made it easier for everyone to understand and they did not have to reinvent the wheel.

Mr. Burke, answered Mr. Giger's question and said that he added the language that they currently had in the medical marijuana buffers. Mr. Giger replied that recreational marijuana was not medical marijuana. Chairman Wilson said it was all the same now in the eyes of Massachusetts law. Mr. Giger said you would still have to get a prescription if what the doctor wanted you to have exceeded the maximum amount of content. He said he wanted the Board to have the flexibility to deal with the unforeseen things without having to go through a six-month waiting period for a Town Meeting to make an amendment. Mr. Burke said if that happened, they could advertise a public hearing.

Chairman Wilson asked if there were any other Board members who had any other edits or concerns regarding the language in the draft.

Mr. Burke said that on page 4, item #6; said that there was a typo and he suggested that the last word "in" be deleted and a period put in its place. Mr. Giger replied that it could not be changed for the hearing and there were things that had to be picked up in the review that was done post hearing.

Mr. Svarczkopf asked what the meaning of B2 was regarding superseding federal law. Chairman Wilson replied that it meant the Planning Board could not write anything that contradicted the state law. Mr. Svarczkopf asked if they had to say that. Mr. Burke said that it was a statement to cover them but it was not absolutely necessary and if the Board desired they could take it out.

Annual Report Draft

Mr. Burke asked if they should mention Indian Hill. Mr. Tada replied that he reviewed the chronology and the decision was rendered in December of 2016. Mr. Giger said there was one decision rendered that allowed Phase I and then there was a second one that allowed Phase II. Mr. Tada replied he would verify the date.

Mr. Burke stated that they had one re-zoning petition and asked what it was. Chairman Wilson replied it was the chapel on Main Street. Mr. Tada noted that the petition was withdrawn at the Town Meeting.

Chairman Wilson commented that he would like to make a grammatical correction to a sentence in the last paragraph; "The Board appreciates the town departments" to "The Board is grateful for the support and cooperation of the town departments." He said he thought the report looked great overall.

Mr. Tada suggested that in future reports they might include the number of public meetings that were held during the year.

MRPC Technical Assistance

Mr. Burke said if they had a project that required their services, they would have to put in an application for them to do it.

Mr. Tada stated that the information he received listed the types of projects and activities that were eligible and he would forward it to the Board.

Approval of Meeting Minutes – 01/11/2018

Mr. Barringer made a motion to approve the minutes from the January 11, 2018, meeting. Mr. Burke seconded the motion.

VOTE: 5 – 0 - MOTION CARRIED

NRWA Wild and Scenic River Study Committee – Draft Action Plan

Mr. Tada stated that comments on the plan were due to the NRWA by the end of January. He further said that members could send their comments to him and he would make sure that Al Futterman received them.

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- February 8
- February 22
- March 8
- March 22

Adjournment

Mr. Barringer made a motion to adjourn. Mr. Svarczkopf seconded the motion. The meeting was declared adjourned at 8:48 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary