

TOWN OF GROTON PLANNING BOARD

September 13, 2018 Meeting Minutes

A meeting of the Planning Board was held on Thursday, September 13, 2018, at 7:00 p.m. in the first floor meeting room at Town Hall, 173 Main Street, Groton, MA 01450.

Members Present:

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

Members not Present:

Ms. Annika Nilsson Ripps, Member
Mr. Gus Widmayer, Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Report on Select Board's Proposed Marijuana Zoning Amendments – (Discussion)

Ms. Perkins stated that any kind of zoning amendment had to be positively recommended by the Planning Board or the Attorney General would not pass it. She said she was aware that there were some people in town who had some very strong feelings about marijuana and said she felt there were discussions that should be brought to Town Meeting as individuals, if those were their concerns. She further said that overall, the Select Board was trying to act on the result of the vote. Ms. Perkins said she would support the amendments and recommend them but she would not add a lot of content beyond that.

Mr. Burke stated that he was of the opinion that the Planning Board had proceeded without making a value judgement on the benefits or potential adverse effects of marijuana but rather had proposed zoning that was ultimately adopted at Town Meeting which provided a regulatory structure for the Town. He further said what was coming before the Town voters was not a question of regulatory structure but a value judgement of the type of use. Mr. Burke said that he had a neutral position and felt it was up to the individuals to make their own decision. He further said that there was case law which stated that unless a Planning Board made a recommendation, one way or another, or unless 21 days had passed since the date of the public hearing, the Attorney General had, in the past, not allowed zoning that was approved by Town Meeting because of the provision that the Planning Board had to make a report with recommendations. Mr. Burke said that because the public hearing was held more than 21 days before the date of the Town Meeting, he felt the Planning Board could simply take no action and that would not endanger the validity of Town Meeting vote on any of the proposed zoning articles. He further said that he would vote against any recommendation for approval as well as any motion not to approve.

Mr. Wilson indicated that he completely agreed with Mr. Burke's comments and felt it was important that the Planning Board take a neutral stance, as they had right from the beginning. He said he felt Mr. Burke had done an excellent job of leading that charge.

Mr. Svarczkopf commented that he too felt they should remain neutral. He said he did not like the fact that it was on the ballot and it gave a false impression that there may have been some control over it, which was not available. He said if the Select Board wanted to do something at Town Meeting then they should do it and he did not have a strong desire to put his signature on it or go against it.

Mr. Barringer read aloud a statement from Ms. Annika Nilsson Ripps, Board Member, who was absent from the meeting.

"It is my belief that the Planning Board should act in an advisory capacity and not pass judgement on any type of business (making a moral or valued judgement) but in an effort to inform the public and Select Board on the matter of the proposed zoning for businesses related to legalized marijuana. It is our duty to report how these proposals work within our current zoning plans, as well as to how they might reflect or compete with other guiding or governing documents and decisions in the town. It is in this manner, as objective reporters, that I would propose that we communicate to Town Meeting. With that said, it is important not only to reflect the agreement of this proposal but with the latest vote, but to report on how these proposed zoning changes reflect other documents and decisions.

Groton's history and values, heavily rooted in small agriculture and business, are demonstrated in our "Right to Farm" standing, our Master Plan and previous votes taken. It is important as a reporting body that we provide a complete analysis of these proposals and not provide a report that is narrowed by scope and time, which could be argued is biased by its' selective reporting.

Furthermore, it is important that we communicate to the public what these proposed zoning changes do not do. In this case, the zoning proposals do not limit the access of marijuana to town residents. Delivery of marijuana to private residents will still be permissible. The only real resolve these proposed changes to be limiting the type of business and town revenue that could come from them.

It is my view, that in this capacity of Planning Board members, it would be inappropriate to imbue our reporting without personal beliefs, either for or against, the marijuana industry, but instead offer the public a full and honest report empowering them to make an informed decision."

Mr. Barringer said that he also believed the Planning Board should hold a neutral stance in that the first set of marijuana zoning regulations met the intent of the law and the requirement from the state. He said the second set of amendments that were proposed by the Select Board also provided for marijuana businesses in town, although of a different sort. He further said that either one would meet the criteria of having a set of zoning regulations in place that addressed the provisions of the state marijuana law.

Mr. Barringer asked if there were anyone who had questions or comments.

Mr. Svarczkopf said if he were forced to make a decision, he would not support the change because he felt the process followed by the Select Board was flawed and it placed a value judgement. Mr. Wilson commented that he agreed with Mr. Svarczkopf in sentiment but felt it was cleaner as a procedural matter to remain neutral.

Mr. Barringer asked the Board if they had any objection to getting another opinion on reporting requirement. Ms. Perkins replied she agreed that they needed further clarification.

Mr. Svarczkopf commented that the question was if they had to come up with a binary response or could they take no action. Mr. Barringer replied they would present the question to Town Counsel.

Ms. Perkins commented that she felt the question was if the Planning Board had no recommendation, and the Town voted on it, would the Attorney General then disqualify the vote. Mr. Burke noted that he was suggesting that the Board take no action and make no recommendation.

Ms. Perkins made a motion to send the questions to Town Counsel for clarification. Mr. Burke seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

Mr. Barringer noted that the Planning Board would revisit the subject at the next meeting on September 27, 2018.

Public Hearing – Proposed Zoning Amendment – (Name Change – Select Board)

Mr. Burke read aloud from the public hearing notice as summarized below:

In accordance with the provisions of Massachusetts General Law Chapter 40A §5 & 11 of the Code of the Town of Groton, the Groton Planning Board will hold a public hearing on **Thursday, September 13, 2018, at 7:30 p.m.** in the Town Hall (first floor meeting room) 173 Main Street, to consider the following zoning amendments proposed by the Select Board of the Town of Groton. To amend in Chapter 218 to change Selectmen to Select Board. Wherever the term “Selectmen” is showed in the zoning, Chapter 218, shall be changed to the words “Select Board.”

Mr. Barringer asked if there were any members of the public who had questions or comments. There was none.

Mr. Svarczkopf made a motion to close the public hearing. Ms. Perkins seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

Mr. Svarczkopf made a motion that the Planning Board recommend approval of the change as written. Mr. Burke seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

Street Acceptance – Amelia Way – (Discussion)

Mr. Stephen Kelly, from Grand Coast Capital, addressed the Board and stated that Nitsch Engineering was the Town's consultant for the project and had just issued a draft report as of September 13, 2018. Mr. Kelly said he had been working with a previous version of the report.

Mr. Svarczkopf asked if the discussion could be postponed pending an approval from Tom Delaney, Director of Public Works.

Mr. Kelly commented that there was also the issue of the partial release of the bond. He said he understood there might have been an infiltration issue along some of the drainage pipe which would affect the acceptance of the street. He said his concern was that they had approximately \$93,000 in a bond and the engineering firm (Nitsch) had said there was probably \$12,000 of work remaining. He asked if they could get some of that bond back. Mr. Burke replied that request would fit in nicely if he returned in two weeks with updated information. He further replied that Mr. Kelly could make a formal request for a reduction in the bond.

Mr. Tada noted that he had a request for a reduction in the bond but it was not in a formal letter. He said he had multiple e-mails in which Stephen (Mr. Kelly) had asked about a bond reduction but he did not have one printed out.

Mr. Burke said his concern was overlaying Mr. Delaney's latest concerns with respect to the report. Mr. Tada replied that Mr. Delaney's latest e-mail did not make it into the report because it had just been received that afternoon, noting that Mr. Delaney's site visit was performed late that afternoon.

Mr. Kelly commented that the other request he had was for a conditional acceptance of the road and asked when the next opportunity would be for the road to be accepted. Mr. Burke replied it would be at the spring Town Meeting but he would not rule out doing it this October.

Mr. Barringer commented if Mr. Delaney was satisfied that the road could be maintained throughout the winter on the town's budget, then the applicant could receive some sort of acceptance.

Mr. Tada mentioned that the Select Board were required to hold a public hearing on the street acceptance and that was scheduled for Monday, September 17, 2018, but without a recommendation from the Planning Board, they would open the hearing and then continue it for approval. Mr. Burke said that the Select Board could meet just prior to the Town Meeting to approve it.

Mr. Tada stated that the largest cost was the manhole infiltration and Nitsch Engineering had asked Granite Coast Capital to send a camera down to the pipes to make sure it was intact. He said the result showed that there was water going into the pipes in a manner that it should not. Mr. Kelly replied they were trying to remedy the situation as quickly as they could in order to obtain a partial road acceptance, subject to anything that the Planning Board may see fit.

Mr. Kelly said he wanted guidance from the Board as to what his next steps were. Mr. Barringer replied that he should attend the Select Board's meeting on Monday, explain the situation and get a

continuation. He said he should then go back to the Planning Board meeting on September 27th with a correlated report, meaning that Nitsch Engineering and Mr. Delaney should correlate their information and provide him with a number. Ms. Perkins clarified that some of that work had to happen on their end. He also said that Mr. Kelly should make a formal request in writing for a bond reduction.

Ms. Perkins made a motion to send a letter to the Select Board stating what the Planning Board's concerns were in terms of a street acceptance, that they had an expectation that it be resolved by the September 27, 2018, meeting and they would recommend a street acceptance which would enable the Select Board to vote on it prior to Town Meeting. Mr. Burke seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

ANR Plan and Street Acceptance – (Farmer's Right-of-Way Sidewalk)

Attorney Bob Collins, addressed the Board and said there were a few instances where the sidewalks, because of trees, extended outside of the existing right-of-way. He said there were also a couple of locations where handicapped access ramps that connected the crosswalks, were a little bit outside of the right-of-way. He said that necessitated a plan so the Groton School could gift the nine parcels, which ranged in size from 10 square feet to approximately 394 square feet, to the Town. He further said that the plan in front of the Board was to create the nine parcels.

Attorney Collins said the Groton School had already signed the deed and he was meeting with the Select Board on Monday so they could vote to amend the layout of Farmer's Row to incorporate the nine parcels.

Mr. Burke made a motion to endorse the ANR Plan for the land in Groton, MA, dated September 5, 2018, prepared for the Groton School by Samiotes Consultants, Inc. Mr. Wilson seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

Mr. Barringer asked why it was a street acceptance. Attorney Collins replied it really was not but it was being incorporated into the layout of the street. He said the Town Meeting would both accept the parcels into the layout and also accept the gift of the land.

Mr. Burke made a motion to recommend the acceptance of the revised right-of-way for Farmer's Row and Peabody Street as shown on the aforementioned plan to the Select Board. Mr. Wilson seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

Comments to Select Board Re: Commercial Growth Presentation – (Discussion)

Mr. Barringer noted that two of their citizens had come forward and given the Board a presentation regarding commercial growth aspects in the Town of Groton. He said the Select Board had asked the Planning Board for their comments on the presentation.

Mr. Burke commented that he felt they used some unusual analytical data. He further commented that the conclusions they came to were already pretty much spelled out in the Master Plan.

Mr. Barringer said the authors of the presentation wished to present it at Town Meeting.

Mr. Wilson asked what their purpose was. Mr. Svarczkopf replied that he felt their purpose was to influence the discussion and direction of development in Groton.

Mr. Burke noted that one of the things that he found interesting was that one of the Articles coming before Town Meeting was an extension of the sewer on Boston Road that went to the property of one of the proponents which he said, was not fully disclosed and therefore, was somewhat disingenuous of them trying to pontificate on development in Groton. He said he felt they should have a discussion with the Sewer Commission regarding it because there was not a plan or policy with respect to sewer service areas in town and it did have a great impact in terms of where development could occur.

Mr. Svarczkopf stated that he disagreed with Mr. Burke's comments, that the Sewer Commission had their own rights and responsibilities and they, as the Planning Board, did not have an unlimited scope and their rights and responsibilities should be focused on the zoning to set a structure in which people could use land. He said he did not like the suggestion that the Planning Board would go to the Sewer Commission and tell them that they wanted to control where people could put certain uses and control whether they could have services or not.

Mr. Wilson commented that he felt they were inter-related. Mr. Burke stated that he agreed and felt they should focus their commercial development in the village areas. He said he felt that capital planning was something that should be done holistically. He further said that he was not suggesting that they exert any authority over the Sewer Commission but it would be of interest to both Boards to know what they were each thinking so that they were working in a coordinated fashion.

Mr. Barringer said the question was that the Select Board wanted to know whether or not to permit them to present at Town Meeting.

Mr. Burke stated that they were basically going to say that they had done a lot of studying and had determined that the town was not going to see any significant form of revenue or tax relief from commercial development and instead, they should focus on quality of life types of things.

Mr. Svarczkopf suggested that perhaps Town Meeting was not the right venue to be used to make the presentation. He said he felt that not making a recommendation was the appropriate path.

Ms. Perkins stated that she agreed with Mr. Svarczkopf's comments. She further said that she felt presentations which were done at Town Meeting should be relative to the Articles and not just out of the blue.

Mr. Burke indicated that he also agreed and would encourage the presenters to become involved with the next Master Planning process.

Mr. Wilson suggested that the Board take no action and refer the presenters to Mr. Jason Kauppi who was the Town Moderator.

Mr. Barringer said the consensus of the Board was to take no action.

Extending or Renewing Special Permits – (Discussion)

Mr. Barringer stated that Mr. Tada had informed him that the Zoning Bylaw allows for an applicant to have two years to begin their project, which had been consistent with the state Zoning Act. However, the state law was recently amended to allow a three-year effective period for special permits. The Board might consider amending the Zoning Bylaw to mirror the state law.

Mr. Burke said it would be a Zoning Article on the spring Town Meeting if it were changed.

Mr. Barringer stated the consensus of the Board was to consider it for the spring Town Meeting.

Committee Updates

- **Master Plan Implementation Committee**

Ms. Perkins said the MPIC had sent out some requests asking people to respond to them regarding where they were in certain areas. She said they received approximately ten responses but they needed the Planning Board to respond.

- **Complete Streets Committee**

Mr. Barringer said the Complete Streets Committee had not met for six weeks. He said the work was proceeding on Main Street crosswalks down to Lowell Road. He further said that everything had to be invoiced, signed and completed by the end of September or they would lose the money and they also learned they could not submit the next request until the state compensated them for the first phase, noting that they were lined up and ready to go with the application for phase two.

General Business

Mr. Barringer commented that he thought it was time for the Board to start talking about any zoning amendments they wanted to make for spring.

Mr. Burke said he might take a look at amending the zoning regarding the single-family subdivision with respect to making a flexible, clustered development by right and requiring a special permit for a conventional subdivision.

Mr. Barringer noted that the Shirdi Sai Temple would have its grand opening between October 9th through October 21st.

Ms. Perkins commented that they had a temporary occupancy permit. Mr. Burke stated that the Town was holding surety bond.

Planning Board Meeting Schedule

2nd & 4th Thursday of the Month:

- September 27th
- October 1st – Fall Town Meeting
- October 11th
- October 25th

Adjournment

Mr. Wilson made a motion to adjourn. Ms. Perkins seconded the motion.

VOTE: 5 – 0

MOTION CARRIED

The meeting was declared adjourned at 8:25 p.m.

Respectfully submitted,

Trish Gedziun
Recording Secretary