

**TOWN OF GROTON PLANNING BOARD**  
**Virtual Meeting**  
**Thursday, July 23, 2020**  
**Meeting Minutes**

A virtual meeting of the Planning Board was held on Thursday, July 23, 2020, at 7:00 p.m.

The meeting was broadcasted via Zoom and was available to view on the Groton Channel pursuant to the Governor's Executive Order Concerning the Open Meeting Law.

Members Present:

Mr. Russell Burke, Chair  
Ms. Annika Nilsson Ripps, Clerk  
Mr. George Barringer, Board Member  
Mr. David Bonnett, Board Member  
Ms. Lorayne Black, Board Member

Members not Present:

Mr. Scott Wilson, Vice Chair  
Mr. Timothy M. Svarczkopf, Board Member

Also Present:

Mr. Takashi Tada, Land Use Director/Town Planner

Mr. Burke noted that the second item listed on the agenda as noted below would not be discussed at the meeting as the applicant was not able to complete the transmission of the plans needed to review in order to have a meaningful discussion.

Preliminary Subdivision Plan – Hayes Woods  
Maple Avenue & Pepperell Road (Assessor's Parcels: 104 – 30 & 212 – 13)

Mr. Tada commented the item would be taken up at the next Planning Board meeting which was to be determined at that point.

**Public Hearing**

**Modification of Definitive Subdivision Plan for Reedy Meadow Estates  
Red Pepper Lane & Olivia Way**

Mr. Burke opened the public hearing and Mr. Tada read the Public Hearing Notice into the record as summarized below:

To consider a modification of the Reedy Meadow Estates Definitive Subdivision Plan. The Planning Board seeks to modify the definitive plan to include the approved supplemental stormwater management features shown on the plan entitled: "Rating Plan in Groton, MA, Reedy Meadow Estates, Olivia Way prepared by Land Engineering and Environmental

Services, dated March 15, 2019; last revised on April 9, 2019. A copy of the Reedy Meadow Estates Definitive Plan and the supplemental Stormwater Management Plan are on file in the Planning Board office in the Town Hall and also posted on the Planning Board's section of the town's webpage.

Mr. Burke stated that due to flooding that had occurred on Olivia Way, modifications to the stormwater management plan had been made. Further, Mr. Burke stated the Town was very active in the mitigation planning, as certain land that was to be utilized for the stormwater mitigation had previously been designated as protected open space owned by the Conservation Commission and as such, in order to utilize the property, they had to go both to the State Legislature for approval to remove the property from open space as well as go to the Town Meeting to get approval to agree to a land swap in exchange for open space that was going to be utilized for the stormwater mitigation. He said other land was made available by the developer, Peter Cricones, to be placed into open space to compensate for the loss.

Mr. Tada shared the Stormwater Mitigation Plan had been approved by the Town and agreed to by the developer, Mr. Cricones, and his engineer, Doug Lees, and it had also been reviewed by Nitsch Engineering on behalf of the Town as well as an additional third-party reviewer, CEI Engineering.

Mr. Tada said the proposed stormwater retention basin was located on a portion of the land that was deeded to the Conservation Commission as one of the protected open space parcels for this special permit subdivision development.

Mr. Burke pointed out that the Earth Removal Stormwater Advisory Committee and the Planning Board had approved the drainage mitigation plan. He said the question before the Planning Board was to modify the definitive plan approval to include the work as part of the approved definitive plan.

Mr. Burke asked if there were any members of the Planning Board who had questions or comments.

Mr. Bonnett said one of his concerns was regarding the maintenance of the infiltration systems and asked who was responsible for performing the maintenance and where the money would come from. Mr. Burke replied it was a single lot under a homeowner's condominium association and they would be responsible for the maintenance as well as the cost.

Mr. Bonnett mentioned there was a large corrugated plastic pipe that was on the ground and he did not feel it was appropriate for it to remain above ground. Mr. Burke replied the pipe was part of the temporary remedial efforts that were put in place to address the immediate flooding issues that were occurring. Mr. Tada replied it could also have been a turtle barrier which was also a large diameter black corrugated pipe that rested on the surface.

Mr. Burke asked if there were any members of the public who wished to speak in favor or opposition.

Attorney Brian Levey, Principal, Beveridge & Diamond PC said he represented Mr. Cricones, who was the Trustee of the Reedy Meadow Estates Trust. He said Mr. Cricones had asked him to request that the Planning Board not modify the subdivision for several reasons as listed below:

1. Over the past year and a half since the flooding took place on Olivia Way, Mr. Cricones had worked with the town to solve the problem.
2. He said his client provided the for the stormwater mitigation plan.
3. Mr. Cricones also provided the other land which made the conservation land swap possible.

Attorney Levey stated his client had been cooperative with the Town and he felt there were some problems with the legality of trying to modify the subdivision. He said he did not feel the public hearing was noticed as required under Chapter 41 §81W. He added that his client did not receive a notice of the public hearing via mail; nor did the abutters.

Attorney Levey said a modification was not possible because §81W required the consent of the landowner and all of the mortgagees. Mr. Burke replied that no landowner would be affected relative to §81W with respect to the ability to sell properties and lots or to mortgage lots, as a result of the modification.

Attorney Levey stated that the land that was proposed to be added to the subdivision was owned by the Town and added that the Town's land could not be added to the Trust's subdivision. He pointed out there was only an easement for drainage and not a fee ownership.

In conclusion, Attorney Levey said he felt it was not necessary for the Planning Board to take the action and that the entire situation was being handled by the Earth Removal Stormwater Advisory Committee. He said there was a comprehensive modification to the stormwater permit to handle the situation. Attorney Levey said his client would just like to fix the problem.

Mr. Tada commented that he did submit two weeks' worth of public hearing legal notices to be published in the local newspaper which occurred on July 3<sup>rd</sup> and July 10<sup>th</sup> and notices were sent to the abutters. He added, however, that notices were not sent to mortgage holders.

Mr. Tada stated that Mr. Cricones should have received a notice as he was on the certified abutter's list that was provided by the Assessor's Office; however, he said the notices were not sent via certified mail so they were unable to track receipt.

Mr. John Sopka, a resident, asked about the capacity of the additional overflow area relative to the 100-year storm and spring thaw maximums. Mr. Tada replied there was a stormwater

report that went along with the plans and would assume the information was within that report.

Mr. Bonnett commented that the 100-year storm was for seven inches, but that did not take the winter thaw into consideration. He also commented that the volume of available storage was 12,900 cubic feet with an invert of 203.7 feet as the overflow. He said the evaluation also looked at a 10-year storm.

Attorney Levey asked if the Planning Board would at least consider deferring the vote and send the question to Town Counsel; as to whether or not the Board could act on the matter. Further, Attorney Levey stated he felt the Board was about to make a mistake in terms of the plain language of the statute by not allowing for modification without the consent of the lot owners and the mortgagees, and that an easement could not be added to a subdivision.

Mr. Burke replied the Planning Board would take his comments under advisement. He asked how the Board members felt.

Ms. Nilsson Ripps made a motion to close the public hearing. Mr. Barringer seconded the motion.

**Discussion:**

Mr. Barringer commented that since there had been some discussion by the representative of the developer that perhaps a review of the discussion with Town Counsel might not be out of the question.

*A Roll Call was taken, which resulted as follows:*

Yea:	Mr. Barringer, Ms. Nilsson Ripps, Ms. Black, Mr. Bonnett, and Mr. Burke	5
Nay:		0

**VOTE: 5 – 0 – 0**  
**MOTION CARRIED**

Mr. Barringer made a motion to defer action and seek an opinion from Town Counsel relating to the Planning Board’s authority to amend and modify a subdivision and vote on the item at the next Planning Board meeting. Mr. Bonnett seconded the motion.

*A Roll Call was taken, which resulted as follows:*

Yea:	Mr. Barringer, Mr. Bonnett, Ms. Nilsson Ripps, Ms. Black, and Mr. Burke	5
Nay:		0

**VOTE: 5 – 0 – 0**  
**MOTION CARRIED**

**Consider Annual Reorganization and Appointments**

Mr. Burke commented that there were five members present with two members not present.

Mr. Barringer commented that he felt Mr. Svarczkopf had some thought about reorganization and felt the Board should defer the item again.

**Reschedule Public Hearing for Proposed Zoning Amendments**

Mr. Burke pointed out the Site Plan Review Clarification and the Accessory Dwelling Units (attached & detached) were postponed from the Spring Town Meeting due to the COVID-19 pandemic.

Mr. Tada explained that the Fall Town Meeting date had been set for Saturday, October 3<sup>rd</sup> and the Planning Board would have to hold new public hearings to address the items in September. The public hearings are only valid for six months.

**Committee Updates**

- Complete Streets Committee

Mr. Barringer commented that after summer vacations had concluded the Complete Streets Committee would meet in early August with the express purpose to ratify the estimates they received from the Town Engineer so they could submit a plan to the state and the Town Meeting for engineering funds.

- Community Preservation Committee

Mr. Burke commented that Mr. Svarczkopf had suggested setting up a fund for affordable housing via the Affordable Housing Trust .

**General Business**

- ZBA Updates

197 Main Street – Seeking special permits for the conversion of an existing dwelling into a three-family structure.

- Approval of Meeting Minutes

Approval of Meeting Minutes from June 25, 2020

Ms. Black made a motion to approve the minutes from the June 25, 2020, meeting as presented. Mr. Barringer seconded the motion.

*A Roll Call was taken, which resulted as follows:*

Yea:	Mr. Barringer, Mr. Bonnett, Ms. Nilsson Ripps, Ms. Black, and Mr. Burke	5
Nay:		0

**VOTE: 5 – 0 – 0**  
**MOTION CARRIED**

Approval of the Special Meeting Minutes from July 2, 2020

Mr. Barringer made a motion to approve the minutes from the July 2, 2020, special meeting as presented. Ms. Black seconded the motion.

*A Roll Call was taken, which resulted as follows:*

Yea:	Mr. Barringer, Mr. Bonnett, Ms. Nilsson Ripps, Ms. Black, and Mr. Burke	5
Nay:		0

**VOTE: 5 – 0 – 0**  
**MOTION CARRIED**

Approval of Meeting Minutes from July 9, 2020

Ms. Nilsson Ripps made a motion to approve the minutes from the July 9, 2020, meeting as presented. Mr. Barringer seconded the motion.

*A Roll Call was taken, which resulted as follows:*

Yea:	Mr. Barringer, Mr. Bonnett, Ms. Nilsson Ripps, Ms. Black, and Mr. Burke	5
Nay:		0

**VOTE: 5 – 0 – 0**

**MOTION CARRIED**

**Planning Board Meeting Schedule**

- August 20, 2020
- September (To be Determined)
- October 3, 2020 – Fall Town Meeting

**Adjournment**

Ms. Nilsson Ripps made a motion to adjourn. Mr. Barringer seconded the motion.

*A Roll Call was taken, which resulted as follows:*

Yea: Mr. Bonnett, Ms. Nilsson Ripps, Ms. Black, Mr. Barringer, and Mr. Burke	5
Nay:	0

**VOTE: 5 – 0 – 0**

**MOTION CARRIED**

The meeting was adjourned at 8:18 p.m.

Respectfully Submitted,

Trish Gedziun  
Recording Secretary

*Approved 9/24/2020*