

## **Minutes from Meeting of July 16, 2003 – Groton Gardens, Oak Ridge**

Members Present: Shaun Sullivan, Stuart Schulman, Chase Duffy, Mark Mulligan, David Gandle

The Chairman reconvened the Groton Residential Gardens hearing, noting that new plans are needed.

Atty. Deschenes, rep. for the applicant, summarized the proposed changes. The Kelly's Lounge site is being incorporated into the proposal and he submitted new plans, which contain 60 units. He said that there will be the same building design, but stressed that there will be no access on Anthony Drive. He noted that final drawings will need to be forwarded out to BOARDS. He said that the applicant will send the plans to the consultants, and noted that he is still waiting for a revised site letter from the state.

Discussion ensued regarding the Mill St. location. Of note: if Mill St. is realigned, the egress will stay the same.

Chairman noted letters to be read into the record, which he proceeded to read into the record.

- 1) Sewer: there has been no sewer consultation. The plan is asking for 13,200 gallons per day for 60 two-bedroom units. Of note: there is no capacity available and a moratorium is in place until fall 2003.
- 2) Con. Com: there is an environmental concern re: wetlands, etc. The Con. Com. wants the necessary regulations to be required for both projects, ie Mill Run and Groton Gardens.
- 3) Selectmen: They met on July 8 and reiterated the poor density of the project. Also of note is the bad intersection, which the BOS would like to be reconfigured, as previously proposed. The BOS would also like two-bedroom units as opposed to three except for one or two with preference for Groton residents, as well as more handicapped access. The realignment of Mill St. should happen. There also needs to be no sewage, Con. Com. or Water Dept. issues. The Board noted that there are many 40b proposals and not many affordable units.
- 4) PB memo is an old memo that has already been read into the record.

Atty. Deschenes said that the time is now critical surrounding the peer review and asked for the engineering review to be done between now and then.

Atty. Bobrowski said that the Board needs to reserve the right to do a financial review.

The Chairman felt that some issues have been addressed.

An abutter wanted notification re engineering issues.

Discussion ensued regarding how to make information available to the town. A suggestion was made that notification be posted on the website.

Ms. Perkins, PB, asked whether the applicant has met with the Sewer Dept.

The applicant had not met with the sewer commission, and thus there was no resolution.

Discussion ensued regarding wetlands and sewer issues.

Atty. Deschenes said that wetlands had been found to the north of the site and noted his intention to file with the Con. Com., should begin shortly.

Discussion also ensued regarding catch basin issues.

Mr. Gandle asked about how to handle the sewer issue.

Atty. Deschenes said that there has been no resolution, and thus he can't answer.

The hearing was continued to 9/4/03 at 8:00 pm.

The chairman reconvened the Oak Ridge Estates hearing and apologized regarding the abutters list problems to the applicant and abutters.

The Board then authorized for peer reviewers, including JNEI, Atty. Bobrowski and proforma reviewer, to be announced and funded by the applicant.

Atty. Deschenes introduced Matthew Field and Robert Tierney as his clients. Oak Ridge Manor is a 40b project through Mass Housing Starts program, which is located on the Groton-Littleton line in an R/A zone of Groton. 26.35 acres are in Groton and Littleton has 2.3 acres, with nine acres (plus or minus) of wetlands on site. The plan showed the location of 50 and 100-foot buffers. The project driveway from Rte 119 will be private, and curb cuts from state will be required. There is a small portion of wetland area that the driveway will need to cross. The grading change will be under the 5000 sq. ft. limit but will need some authorization of approximately 952 feet. The grading will be replicated by a 2 to 1 ratio. There are several areas that could be used for the replication area on site. The plan has tried to keep all building work and roads outside of the buffer area. He noted that some drainage areas will be inside of the 100-foot buffer zone. He said that there are no floodplain issues. The project will be comprised of 44 total units, clustered in groups of four 11-unit buildings. Each unit is 1600 sq. ft, and has two bedrooms, a one-car garage and two off-street parking spots. The buildings will be of a Colonial type design and will meet state building codes and all applicable regulations except for the asked for exemptions. The utilities will consist of town water and a private septic system; the site has three separate areas that could accommodate septic systems. The engineers are in the process of designing the plans that will be filed with the BOH. The system needs to meet all Title 5 requirements. Cable, etc. will be provided to the units.

Waiver list: 1) The 1<sup>st</sup> waiver is really to just allow the construction of 11 different buildings within an R/A district, which will allow a project of this density to happen.

- 2) Special use in a conservatory district will allow a project of this density in a conservatory district.
- 3) This waiver will allow multi-building access via a single driveway.
- 4) The appearance by-law waiver will allow 11 buildings with the same architecture: there will be no variations of architecture.
- 5) There will be no site plan review.
- 6) A waiver of the multifamily use sp. perm. is being requested.
- 7) A waiver of limited build-out is being requested.
- 8) A waiver of wetland by-law that prohibits the construction of a roadway within a 50-ft. buffer zone is being requested, but the area will be replicated.
- 9) A waiver of all building fees, connection fees, etc. which is standard, is being requested.

Atty. Deschenes suggested that this is a small list by 40b standards. He noted that 1.6 units per acre is a low density for 40b and said that his clients are trying not to overburden the site and to minimize the impact on town services. The roadway is private and covered under the condominium fees and association. He said that 2 bedroom units don't generate a lot of school age children and thus have little impact on the schools, with potentially less than ten school age children in residence. He said that his clients had discussed developing the project under the 55 and over by-law but problem is can't have a cut or fill of over five feet and there needs to be a more than 5 foot cut to develop this site. He said that a variance could be obtained but this would be very susceptible to appeal and probably overturned and then a 40b would have to be postponed for more than one year. He noted his clients' willingness to negotiate the project as a 55 plus under 40b guidelines and this would mitigate the school age children issues.

Atty. Bobrowski suggested the need to look into who qualifies as 55 + who can move into the affordable units. He said that there may not be many first-time buyers for affordable over 55 units.

Atty. Deschenes said that the variance route is too risky. He said that his clients feel there is a market there for elders downsizing. He said that the affordable component is that 25 % need to be offered to those earning 80% of the area medium income. The formula used to determine eligibility after all living expenses are figured; \$150,000 – 160,000 are what the affordable units would sell for, with market rate units selling for over \$300,000. He said that the 11 affordable units would be

sold pursuant to a lottery after working with the board to determine preferences. He noted that his clients are limited to a 20% return on profit with any overage being returned to the town after an audit conducted by an independent CPA.

Mr. Gandle asked whether the 2<sup>nd</sup> floor space could be converted to living space.

Atty. Deschenes said that the septic is designed for 2 bedrooms and noted that the assessors make a physical inspection.

Mrs. Duffy asked how wide is the private drive.

Atty. Deschenes said that 28 feet wide is not the width of a public road. The drive is private so that it doesn't add to town expense.

Discussion ensued regarding whether the town could override ZBA to make the road public. Atty. Bobrowski said that the town cannot change the permit, but could ask for easements and reimbursements if service is not provided.

Mrs. Perkins asked how many units would be handicapped (2) and whether the storm water drainage for the driveway would be over the wetlands buffer.

Doug said that one acre could be added as a drainage reservoir for storm water runoff and the existing dwelling will be removed. He said that they will know by Friday and then the plan can be submitted for peer review.

Mrs. Collette said storm water runoff should cause no erosion control issues around snow removal, earth removal by-law, etc. and she suggested that permits from the Earth Removal Advisory Committee and the Board of Selectmen be obtained.

Atty. Deschenes said that his clients will do so if necessary.

Mrs. McEvoy asked whether Mattbob controlled all of the site?

Atty. Deschenes said that they did, including the existing house.

Atty. Bobrowski said that 40b laws have been in place since 1969, and noted that 28,000 units have been built under this. He said that there is no need to get any other permits: its one stop shopping. Except for Title V, wetlands and the building code, all other permits are issued by the ZBA. He said that the ZBA is in the driver seat regarding a Sp. Perm. or a Variance, but noted that this is not the case with 40b. He said that the need for affordable housing outweighs local concerns, and that the developer has the right to appeal a denial or an approval with conditions. He said that 12 to 18% is a reasonable rate of return. He said that abutters have the right to appeal also with the

superior court or land court. He noted that neighbors bring crucial information to the board regarding neighborhood character, etc. He stressed that the ZBA will also hire good technical help for engineering issues.

Leslie Lathrop asked about the safety of future residents.

Atty. Bobrowski noted that that is a design issue, including the grade of the roadway, etc.

George Wheeler asked about the septic flow with 2.5 bathrooms flowing to abutters and potential problems. He asked whether this was covered by the engineering study. He noted that there are some very shallow wells in the area.

Atty. Bobrowski said that he should submit in writing any questions.

Chris Corwin, Con. Com. noted that there is a certified vernal pool in the upper part of site, which would create violations of Con. Com. regulations. She also suggested a wildlife study.

The Chairman read the Con. Com. memo into the record.

Dann Chamberlin noted three concerns as an abutter. The access was found to be inadequate for about 5 houses in the past and he wondered how 44 units could then be okay, and he noted vernal pool and traffic issues. He noted disappointment that the applicant ignored the BOS suggestion that 44 units is too dense. He said that there is a problem with the exterior appearance, noting that an 11-unit cookie cutter development is not in harmony with town architecture. He said that it would not be expensive to provide a little variety and avoid the Levittown look. He noted that the buildable acreage is 3 units per acre using wetlands in the figure.

Mr. Degen noted that the PB never denied anything on this parcel. He said that there was only informal discussion regarding site line issues.

The Chairman noted his hope that the PB will provide input. He then read the PB memo into the record, as well as the McEvoy memo.

Leslie Lathrop noted concern regarding access. She said that she called the original owner who was committed to building five houses and was told that there was no way this number could be built safely. She also asked about school bus stops.

Mr. McEvoy said that the Fire Chief is concerned about response time.

Mr. Degen asked whether application issues that were previously lacking had been handled. He stressed that the entire parcel needs to be in control of the applicant.

Atty. Deschenes said that there are deeds giving his clients control.

Mr. Degen said that a proforma should be in possession of the ZBA so that it can be validated. He said that the Board needs to see how the deeds have been conveyed.

Atty. Bobrowski agreed that a proforma is important and needs to be reviewed, but that it should be reviewed at the end of project. Learned the hard way so that don't have to add extra units per proforma expert. Acquisition price should be closely analyzed. Learn from experience.

Andre Viera asked about how the developer can be the realtor of the project.

Atty. Bobrowski said that marketing fees could be questioned but the overall budget is \$10,000,000 and moving something from \$500,000 to \$350,000 is not a big deal in the entire process.

Mr. Clemens, PB and Con. Com. asked about a mepa review.

Atty. Bobrowski said that it does not occur automatically with less than 50 units.

An abutter asked about water issues.

The Chairman read the Water Dept. memo into record.

Atty. Deschenes said that there is another letter from the water dept.

Atty. Bobrowski said that boards need to be reminded to re-submit comments.

Mr. Mulligan noted that what is missing is evidence of ownership and suggested that these issues are all tied up in the corporation.

Atty. Bobrowski said that the applicant needs to show evidence of site control.

Atty. Deschenses said that one deed is under Mattbob and one deed is to Matt and one to Bob. He said that the sales agreement has been crafted to tie into the corporation.

Mr. Mulligan expressed concern regarding the site plan as being too preliminary. Discussion ensued regarding whether a plan will be presented on friday.

Atty. Deschenes said that the preliminary plans already presented have more detail than required by town or state law. He said that the final report will deal with all narratives. He noted that the State jurisdictional requirements are good.

An abutter said that there is some confusion regarding some of the land listed.

Atty. Deschnes said that he will get the plan and submit it.

Mr. Degen noted that this project is not close to the town center and said that it seems to be cutting and pasting in the application. He said that the typos hould be corrected so there is no confusion. The Mass housing site approval notes issues that could have a potential to effect funding.

Atty. Bobrowski said that the traffic is being studied, as well as water issues, potential contamination on Gilson Rd., etc.

Mr. Sullivan asked about the possibility that the vernal pool could be a potential major problem.

Atty. Deschenes noted concern regarding the amount of nitpicking. He said that he doesn't feel that the letter states any major problems.

Atty. Bobrowski noted that the Mass Housing letter is boiler-plate except for 3,4 and 5.

Kristen McEvoy asked about variances being requested. She said that she feels that she understands more as a non-Planning Board member and felt that there should be more clarification regarding what variances are being asked for.

Discussion ensued regarding when to reschedule.

The Chairman suggested an informal meeting with the PB.

Mr. Degen noted the Planning Board's willingness to schedule a special meeting for this application.

Meeting continued to 9/4/03 @ 8:03 pm.

Meeting adjourned at 10: 45 pm.