

**Minutes Meeting of February 2, 2004** – Washington Green, Groton Gardens, Oak Ridge

Members Present: Stuart Schulman, Bob Cadle (WG), David Gandle, Mark Mulligan, Chase Duffy, Shaun Sullivan (GG/OR)

The Chairman reconvened the Washington Green and noted that there is an Abend Letter and a Geld letter to be read into the record.

Atty. Lyons introduced the team, including landscape architects, etc.

Douglas Prentiss, JNEI traffic engineer, walked the Board through the process of a traffic peer review. He said that he used the 11/25 Abend letter as the basis for the peer review. He said that there is some background in the first few pages and noted that the last pages are a summary of bullets. He reviewed some points of his memo and noted that there has been supplemental information given and all comments have been addressed to their satisfaction.

JNEI submitted a memo dated 2/2/04 stating that all points have been addressed.

Atty. Lyon said that he wants to finish the process tonight, noting that they have met seven times with the Board.

The Chairman stated that without a pro forma the process cannot be finished.

Mr. Gandle stressed the need for the pro forma and market study.

Atty. Lyons said that the pro forma has been approved by the State.

Discussion ensued regarding the pro forma, etc.

Russ Tanner said that they went through the normal procedure through Mass Housing. He said that has a copy of guts of application for pro forma and noted that it is not the job of the Board to analysis the pro forma.

The Chairman stressed that he was not happy that no pro forma was available and then being told that the Board does not need to review it. He said that he wants to be able to send it to a financial consultant.

There was much discussion regarding the status of the pro forma.

Atty. Lyons said that they need specifics to get the final pro forma ready and thus needed details. He said that they have added expensive items and said that he will get information to the Board. He said that there are other issues to deal with such as play areas, etc. He presented a revised plan

based on comments made by the Board. He noted that there is a different mix of unit types and said that the project still contains 11 affordable units. He said that the grade was lowered so there is more vertical distance between units and the substation. He said that there is a privacy fence and retaining wall, etc. and introduced the architect.

Mark Wilcox, Architect, noted that there is a mixed number of units and said that the two unit building faces Lowell Rd. and contains a unit that could be adapted for handicapped accessible use, ie wider doors, etc.

Sandy Brock, JNEI, asked whether other buildings could be adapted.

Mr. Wilcox said that the other units have under garages and are town houses, which makes adaptability more difficult. He said that the building height is 35 feet, pursuant to the building code.

Mr. Gandle asked whether the buildings are three stories including the garage.

Mr. Wilcox said that a garage is considered storage space and under garages reduce the paving area and get cars off the road.

Mr. Gandle noted concerned regarding the height of the buildings and blockage of natural light in relation to the steep topography.

Mr. Wilcox said that he wants to discuss the three and four unit buildings. He said that the only finished area is by the stairway and noted that there are no basements. He said that there will be a ceiling pull down to get to attic space and said that there is a large utility room behind the garage. He then walked through a typical unit.

Mr. Gandle asked whether this design has been used in other projects.

Mr. Wilcox said that these units have been adapted to this site but noted similar success elsewhere. He said that there is about 1200 square feet of living space.

Mr. Gandle asked for the name of a development that is similar.

Mr. Wilcox said that there is a project in Tewksbury named Indian green and noted that he will get names of similar projects.

Mr. Cadle said that he wants to be able to see other projects.

Mr. Wilcox said that the units will have vinyl siding, a false brick chimney and double-glazed windows, etc. and a full shed dormer for a cape-like look.

Mr. Lyons said that the two dwelling building is saltbox style so that the roof faces the substation.

Mr. Wilcox described the two-unit building by Lowell Rd., which will contain a full bath and bedroom on the first floor of the handicapped unit and be 1220 square feet.

Atty. Lyons said that the two-dwelling structure will look like any other house on Lowell Rd.

Mr. Wilcox then gave a 4 unit building walk through. He said that there is a 35 feet average grade to roof and noted that the floor plan is the same as in the 3 unit buildings.

Atty. Lyons said that the market rate units should sell in the middle \$200,000 range. He said that this should be good for municipal employees because of the rate and help from the state.

Mr. Wilcox noted that construction is wood frame, asphalt roof, vinyl siding and decorative columns in front, etc. He said that he thinks the buildings are pleasing.

Mr. Gandle asked about the heating system.

Mr. Wilcox said that it is forced hot air oil heat, one furnace per unit.

Atty. Lyons introduced David Jay, landscape architect.

Mr. Jay noted that he wants the entryway from Lowell Rd. to be attractive. He said that there would be a bus shelter. He said that there will be mixed evergreens, etc. and noted that he wants the best screening and will work with the direct abutter. He said that there would be screened plantings between the buildings and a heavy buffer between the sound wall and units. He said that the play area will have fencing around it and there will be a path between buildings. He said that he wanted the cul-de-sac as a real centerpiece and noted that all wires are underground.

Ms. Brock said that islands are a good place to pile snow. She said that it could not be piled there if a detention basin is there.

Mr. Mulligan asked whether plantings would be around individual buildings.

Atty. Lyons said that there would be some plantings that are primarily the responsibility of the homeowner's assoc.

Mr. Dresser said that they want uniform maintenance.

Atty. Lyons noted that there will be 20 feet between buildings and suggested that the Board look at the faculty housing at Lawrence academy that are about 25 feet apart.

Mrs. Duffy asked whether the LA housing is as tall.

Atty. Lyons said that they are capes and thus not as tall.

Discussion ensued regarding distances between the buildings.

The Chairman said that he wants to turn to GELD and submitted the Geld letter into the record.

Mrs. Chojnowski said that she would cover the points that were covered before. She stressed that this dense development so close to Geld is dangerous and noted that the whole board is here to express concern. She said that the memo cites actual cases where children have gotten injured. She said that at minimum the barrier should be of a masonry material and not wood because wood is scalable and subject to fire. She said that they also want the developer to pay for an intrusion alarm. She stressed that the most important issue is to provide indemnification to the Town and GELD, because the department is municipal and thus both the Town and GELD would be sued. She also noted that the applicant wished to donate a right of way parcel, which GELD does not want because of the additional liability. She also asked that the traffic points be addressed for the public.

Atty. Lyons said that his client was asked for additional information that was provided. He said that JNEI upheld that the traffic safety issues have been addressed.

Mrs. Chojnowski said that she wants individual traffic issues addressed.

The Chairman reiterated the need for a pro forma.

Atty. Lyons said that he thought a decision could be made tonight and asked for more comments from Mr. Gandle specifically.

Mrs. Duffy noted that this project is not a benefit to town in spite of the affordable units. She thought that the 100 or so people should be somewhere else away from the sub station because there is too much potential danger.

Atty. Lyons said that the project is only likely to produce 8 to 10 children.

Discussion ensued regarding the potential number of children.

Mr. Cadle noted his agreement with Mrs. Duffy and said that he has trouble with the shoe horning in of the project. He said that he wants to read the cases submitted by GELD and noted that he is in no way near to making a decision yet. He said that currently he is not in favor of the project, primarily due to the tight density and the topography not being conducive to making this work.

Mr. Gandle said that this is not a Groton type of project, particularly with the substation being so close, nor is this a good location relative to town.

The Chairman noted less concerned regarding density and said that affordable project in general will not be what Groton is accustomed to. He said that he wants it to be moved down the road away from the substation. He said that he likes the architecture but felt that the location is bad. He said that the safety issues, both real and perceived, need to be considered. He said that he does not want to set the town up to be sued. He said that he found the emf presentation interesting and noted that although it is not a lot of power, there have been some higher incidences of illness. He said that he is very concerned that a kid might get sick.

Atty. Lyons said that if the parcel were located one mile down the road, there would be expensive houses there.

Chris Corwin, Con. Comm., asked what work is being done in the buffer zone. She said that they would be before the Con. Comm. at some point.

Discussion ensued regarding what the Con. Comm. procedure will be.

Ms. Corwin asked whether they had a BOH approved septic system.

Atty. Lyons said not yet but said that the systems are conventional.

Ms. Corwin asked about Natural Heritage filing.

Atty. Lyons said that there are no endangered species on the list.

Mr. Chiroboga, abutter, asked where the septic systems are located. He said that there are many and some seem to be right on his boundary.

Atty. Lyons said that there are 12 systems, 43 units and 99 parking spaces.

Mr. Chiroboga said that it is in the middle of nowhere and felt that there are not many parking spaces. He asked about the playground area and screening. He said that he wants a 12-foot stockade fence and noted his unhappiness with the project. He said that he gets a very loud hum on his property and said that the loudness cannot be denied.

The Chairman said that there is one matter of substance: the four-member board. Of note: the applicant is opting for a four-member board.

Discussion ensued regarding when to schedule a hearing. One of the Washington green consultants

wanted the hearing sooner rather than later.

The hearing was continued to later tonight, when Atty. Bobrowski arrives.

The Chairman reconvened the Groton Garden hearing, noted that there are issues to discuss including traffic and the Mill St. realignment.

Atty. Deschenes, agent for the applicant, noted that the project has gone through many changes. He said that the final revised engineering plans are available and show 48 units and a 4000 square foot commercial building. He said that there is a greater buffer distance from the wetlands and noted that this plan cleans up sidewalk issues, school bus areas, etc. He said that revised drainage plans would soon be available.

Gary Hebert said that he did not review a study for this plan because none has been done yet. He noted that the intensity of use for the retail affects the relocation area.

Discussion ensued regarding the meaning of warrants for traffic light, etc, ie a warrant is a benchmark or guideline.

Mr. Hebert noted that the state uses signalization as a last resort.

Mr. Gandle asked why the relocation was designed as an offset of Mill St. vs. NEBS.

The traffic designer said that he wanted a sweeping curve and not a straightaway with a sharper curve.

Discussion ensued regarding the benefits of the Mill St. relocation.

Mr. Walker said that this entire plan has been seen and approved by the State for curb cuts.

Discussion ensued regarding what the 4000 sq. ft. retail building, etc. will support.

Mr. Walker said that there is a 125 foot separation between curb cuts.

Atty. Bobrowski asked about the MEPA process.

Mr. Walker said that he has a Section 61 finding from MEPA.

Mr. Hebert said that he has not seen the curb cuts for the retail portion of the project.

Mr. Walker said that when the town gives him the permits he would get curb cut permits from the State. He noted that he needs to install conduits.

Discussion ensued regarding the difference between the 60-unit project and 48 units and retail.

Mr. Hebert said that there is a big difference and will likely need further review.

Mr. Sullivan asked why the retail is not connected to Mill St.

The applicant's engineer said that having the egresses on Main St. makes it easier to spread out the project.

Discussion ensued regarding whether the secondary access should be gated or not.

Mr. Hebert asked what was planned if parking from the retail overflows into the residential project.

Mr. Walker said that substantial landscaping separates the two uses.

The Chairman read the Planning Board memo into the record, as well as memos from the Highway Supervisor and the BOS.

Discussion ensued regarding the Mill Street land owned by the Town.

Atty. Bobrowski said that this will be discussed in a work group that will discuss and determine feasibility and the land swaps which will be needed for the Mill Street relocation. He said that this all needs approval by voters at town meeting.

Mr. Walker said that Montachusett Planning is involved through the MEPA process and the 61a approval. He said that there are five curb cuts already approved that are just being relocated and enhanced with this plan.

Atty. Bobrowski asked whether a Mill St. relocation across from NEBS would affect the retail space.

Mr. Walker said that the street could be located across from NEBS without wiping out the retail capacity.

Of note: a gate could be put in for secondary access.

The BOS letter asked whether the applicant needed to go before the BOS before the ZBA and asked whether Site Plan Review was required for the retail portion of the operation.

Atty. Bobrowski said that there have been projects that combine retail and 40bs. He said that in a prior work session the Planning Board wanted to maintain control of the site plan review and he felt that that seems reasonable.

Mr. Walker said that he thought that Planning Board comments have already been gotten.

The Chairman said that he wants Planning Board site plan review.

The BOS memo also asked about typos on the plan.

The Chairman suggested that the BOS wants another look at this application.

The Memo from the Highway Dept. noted the need for town meeting approval and stressed that Mill Street should be realigned with NEBS.

Mr. Hebert said that some roads have a tighter turning radius than across from NEBS. He said that NEBS needs to be able to utilize signalization if it is put in. He noted that a sharp curve forces slower access, which is good.

Discussion ensued regarding the likelihood that a signal will be needed.

Mr. Hebert said that he would like a traffic count sent to him by the applicant. He said that there have not been many accidents but they do occur during peak hour. He said that if this meets accident warrant criteria than something needs to be done.

Atty. Deschenes said that if the access is across from NEBS than it won't meet the State design criteria.

Atty. Bobrowski said asked procedural question, ie what do we do now. He stressed that it is difficult to make a decision on a 40b with ifs.

The Chairman said that there seems to be a sewer issue needing addressing at town meeting.

Atty. Bobrowski said that the Board can make decision regarding the most difficult scenario and onus is on applicant to comply or appeal.

Mr. Walker said that a 61a puts the onus on the town that action needs to be taken or the intersection needs to be built.

Atty. Bobrowski said that we need to figure out how to get the town to agree so that town meeting passes the vote.

Atty. Deschenes said that his client does not have to relocate Mill St. and noted that he wants to do it as one big project and stressed that he needs to know sooner rather than later whether the town wants to pursue this avenue.



The Chairman read the Police Chief letter into record.

Bill Townsend, abutter, asked whether 1 to 2 accidents per year is a lot.

Mr. Hebert said about this is 1/2 the State average.

Mr. Townsend said that if the intersection is not unsafe than why redesign it.

The Chairman noted that due to growth and the structurally unsafe nature of the current intersection, redesign is necessary.

Carrie Kneeland asked whether the Chief knew about the NEBS/Mill St. match of the road.

Atty. Bobrowski said Mr. Hebert wants to know if a signal is/will be needed.

Mr. Hebert said that the proposed design is acceptable if no signal will be required. He said that if a signal is currently or will ever be required than realignment across from NEBS is better.

Discussion ensued regarding how long to plan for ie five years. Further discussion ensued regarding whether Rt. 119 will ever be widened.

The applicant's engineer said that relocating Mill St. adds benefit above and beyond the impact of the project overall.

Ms. Kneeland asked whether relocation across from NEBS could be presented for town meeting.

Mr. Walker said that this relocation is the only one that he will consider.

Mr. Sullivan asked Mr. Hebert whether he drove down Mill St. and noted that he thinks that more houses will continue to be built. He suggested a no entrance on the other side of the project.

Mr. Hebert said that that would be difficult to enforce and is not necessarily safer.

Mr. Walker said that the BOS needs to decide if the proposal can go to town meeting in May.

Atty. Bobrowski said that there needs to be an interim meeting with the PB, BOS, Highway Department, Mr. Hebert, etc. to determine how the proposal will fare at town meeting.

Of note: this meeting will be set up tomorrow to determine town meeting logistics.

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

Ms. Brock asked about the location of the vernal pool.

Mr. Walker said that it is at the upper right hand corner of the site (northwest).

Ms. Brock said that the plan, drainage needed to be looked at all together.

The Chairman read the Kneeland letter into the record.

Ms. Kneeland noted that there is no screening around abutting properties.

Mr. Walker said that there is no disturbing of trees in the wetlands and noted that a fence will be added to the plan.

The Chairman asked whether the applicant wanted to proceed with a four-member board.

Atty. Deschenes said that they will go forward with a four member board.

Ms. Collette asked about the business component part of 40b and whether site plan review will be as an advisory or stand-alone jurisdiction. She further asked whether uses would be limited to those allowed in 218-13 or would it be exempt from the by-laws as part of 40b.

Atty. Bobrowski said that that needs to be discussed and worked out.

Mr. Walker said that he will abide by zoning.

An abutter asked whether this will be a public meeting.

Atty. Bobrowski said that that is up to the other boards and noted that if more than one member is present, it should be a public hearing.

An abutter suggested that it should be a public hearing.

The Board moved to continue the hearing to 3/15/04 at 8:00 pm.

The Chairman reconvened the Washington Green hearing.

Atty. Lyons presented the pro forma.

Atty. Bobrowski suggested Mike Jacobs to review the pro forma.

The Board moved to hire Mike Jacobs, seconded and passed unanimously.

The Board moved to continue Washington Green to 2/26/04 at 8:00 pm.

Of note: Washington Green will pay for someone to take notes for the Zoning Coordinator on 2/26/04.

The Chairman reconvened Oak Ridge.

Sandy Brock went over the engineering plan and noted that water is a big issue. She asked about the status with the Water Department. She noted that more parking spaces for visitor parking should be added.

Of note: there are 44 units and 88 spaces.

Atty. Deschenes said that they would add visitor parking.

Ms. Brock said that eight would be a good number.

Atty. Deschenes said that they would be delineating the exact boundaries of the vernal pool in March. He said that they have shown hydrant locations but will move them in accordance of wishes of the Fire Chief. He said that they would be adding the water line to the plan when next before the Board and after Ms. Brock makes comments. He noted that they would have addressed all engineering issues very soon.

Atty. Bobrowski asked whether the vernal pool is a deal breaker.

Atty. Deschenes said that Natural Heritage said that they should delineate the vernal pool. He stressed that they would not fill in any vernal pools and noted that they could submit information now but wanted to wait until spring for better weather.

Ms. Brock said that the vernal pool is a protected habitat and needs to be treated as such. She said that the pool is pockets within the wetlands.

The Chairman asked how the vernal pools are specifically delineated.

Atty. Deschenes said that their experts will delineate the pool and this would be reviewed by the Con. Comm. He said that the pool would then be defined within the wetlands.

Atty. Bobrowski asked whether a waiver would be needed from the Con. Comm.

Ms. Corwin said that there is a 100-foot no touch buffer.

Atty. Deschenes said that he would ask for a waiver if necessary.

Atty. Bobrowski said that the applicant needs a permit from the ZBA but also needs other permits from other entities. He said that if the ZBA grants a permit, it would be subject to other permits being obtained. He said that the ZBA can only deny if it clear that those other standards could not be met.

Mr. Sullivan asked whether a vernal pool could be replicated.

Ms. Corwin said that that is not done.

Ms. Brock said that that would take 20 to 30 years to prove and thus is not done.

Ms. McEvoy said that the wetland/vernal pool was certified in summer of 2002 and noted that this feels like a deal breaker to her.

Atty. Deschenes read from a letter from the State.

Ms. McEvoy felt that a vernal pool should be treated the same as wetlands.

Atty. Deschenes and Ms. Brock said that they are not the same.

Atty. Bobrowski asked for a response time if studies are done in March.

Discussion ensued regarding how to delineate wetlands vs. vernal pools.

Mr. Clemens felt that the entire wetlands is a vernal pool, per Natural Heritage.

Ms. Brock said that there are vernal pools within wetlands but vernal pool boundaries are not certified. She said that it would be rare for an entire 10 acre wetland to also be a vernal pool. She said that the applicant should be there with the Con. Comm. to get agreement on boundaries.

Mr. Rodenhizer, abutter, noted that in reading the elevation grades, he felt that 12 feet are going to be loped off of the top of the hill.

Ms. Brock said that part of the hill will be kept and a steep slope will be created, and one building will be set into a ten-foot riprap wall. She said that the plan makes it look like a cut site, and if the applicant is taking out that type of fill there would be hundreds of trucks going on and off of the site with gravel. She said that the gravel removal needs to be quantified and the Board needs to know what is happening to the material.

Atty. Bobrowski asked for a similar riprap site that the board could look at to get an idea of what this wall would look like.

Ms. Brock said that she could do that. She said that riprap usage is frequent but typically on slopes that are not this visible.

Discussion ensued regarding how steep slope cuts, etc. affect the site.

Mr. Rodenhizer asked what part is not being chopped down.

Of note: the dark green on the plan.

Ms. McEvoy suggested that there might be a lot a blasting.

Ms. Brock agreed that there may be the need to do a fair amount of blasting and noted that this would affect the pro forma.

Ms. McEvoy said that there are four test pits along the cart path. She noted concerned regarding drainage calculations and asked whether all runoff would go to the vernal pool.

Ms. Brock said that the water is going to the pool now and noted that the ratio should not be changed. She said that they need to protect the quality of the runoff. She said that there might need to be alternative ways to deice, as conditioned by the Con. Comm., etc.

Mr. Viares asked about pesticide use.

Ms. Brock said that homeowners cannot use them, and noted that fertilizers are more complicated.

Ms. McEvoy said that she was told that the Con. Com. used one-inch calculations and asked how that changes the design of the retention basin.

Ms. Brock said that it will double in size.

Atty. Bobrowski asked whether there is room on the site.

Ms. Brock said that it will be closer to buildings but is possible.

Discussion ensued regarding soil testing.

Ms. Brock said that if there is too much ledge the septic systems won't work and no Title permits will be issued.

Discussion ensued regarding whether soil tests have been done and when they will be available for public record.

An abutter said that the project is too big for this piece of land. He said that he has lived there for a long time and is upset with the project. He said that he wants to ensure his health and safety.

Ms. Brock said that the project is feasible on a technical basis.

Mr. Clemens asked whether ledge blasting could effect vernal pools.

Ms. Brock said that it would and noted that it will be difficult to determine the level of effect.

Ms. Lathrop said that when blasting was done by near her property, she had to put in a new well.

Mr. Hebert said that the north site line distance is a concern. He said that it is okay in winter but not good when fully vegetated. He also noted that drivers typically drive a lot over the speed limit and stressed that branching vegetation is a real concern on adjacent property that belongs to an abutter.

Kim Hassabarty, Oak Ridge traffic engineer, said that the SSD is designed to cover a wide range of drivers including elders. Of note: the readings were 360 vs. 425 feet. He said that 360 ft. is good for 45 mph and 425 ft. is good for 50 mph. He said that the issue is the speed of drivers and questioned whether they should have to design an entire project for 50 mph drivers.

The Board felt that the project needed to be designed as such.

Mr. Hassabarty said that the town needs to deal with enforcement issue, rather than his client.

Discussion ensued regarding the number of accidents and the reality of enforcement.

Mr. Hebert asked whether trimming wetlands would be an issue.

Atty. Deschenes said that for safety it would not be, but for killing a project, it would be.

Mr. Hebert said that the applicant cannot bank on reducing speeds there and stressed the needs to demonstrate that an adequate site line could be provided.

Atty. Deschenes said that he will ask but noted that the project will build using the criteria met for the speed limit and 10 miles above.

Mr. Viaga asked about the school bus turn around.

Mr. Rodenhizer said that Groton currently uses Agway as a turn around.

Atty. Bobrowski said that the Board could restrict to the residence of children in the event of a family emergency to not exceed more than four months.

Mr. Viaga said that there should be a school bus stop.

Discussion ensued regarding school bus issues.

Atty. Deschenes said that he wants to touch on where we are in the process and what is expected. He said that they should have all engineering issues resolved at next meeting and noted that they will pursue traffic issues as suggested by Mr. Hebert. He said that the septic engineers are working on a septic design and said that there will be a pro forma review.

Atty. Bobrowski asked whether the project is in shape to have a pro forma sent out.

Atty. Deschenes said that he wants to move forward using Mike Jacobs to review it.

Atty. Bobrowski suggested that he mail a copy of the pro forma to Mr. Jacobs.

The Board moved to hire Mr. Jacobs to review the pro forma.

Atty. Deschenes said that he would get vernal pool information before any request to close the public hearing.

Mrs. Duffy asked about architectural style.

Atty. Deschenes noted that that is in the original application.

Mr. Viara said that it is too early to look at the pro forma. He noted that the one he saw had no contingencies for water, blasting, etc.

Atty. Bobrowski said that the review is to determine that the big-ticket items are on the up and up.

Ms. McEvoy noted that DEP asked the applicant to fill out a 401 application.

Atty. Deschenes said that this was unnecessary because the project is not going to be a subdivision.

Ms. Brock said that applicant would need fill out the application regardless of the type of project.

Ms. McEvoy asked whether a variance from DEP might be needed b/c of vernal pool.

Ms. Brock said that it is difficult to deal with because a vernal pool cannot be recreated.

Mr. Rodenhizer asked who pays for the water line.

Atty. Deschenes said that his client does.

Atty. Bobrowski asked whether the Con. Comm. has a regular consultant.

Ms. Corwin said that it depends on the area of expertise needed.

The Chairman noted that the applicant needs to okay a four-member board.

Atty. Deschenes agreed to a four-member board.

The Board moved to continue the hearing to 3/15/04 at 7:55 pm.

The Meeting adjourned at 11:30 pm