



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

February 3, 2010

Present

Robert Cadle, Chairman
Cynthia Maxwell, Member
Mark Mulligan, Member
Bruce Easom, Associate Member (in audience)
Chase Duffy, Associate Member
Jay Prager, Member

Not Present

Alison Manugian, Member
Harris McWade, Associate Member
Megan Mahoney, Associate Member

A quorum was attained. The meeting was called to order at 7:30 pm.

Preliminary Agenda

- McCarthy special permit/variance
- Approve Minutes/Bills
- New business

Meeting Minutes

Chairman Cadle convened the McCarthy hearing by reading the Legal Notice.

Atty. Anttil, agent for McCarthy, noted that he is a little behind procedurally. He said the project has two homes, the second of which has had substantial renovations with no permits for construction. He said he has met with numerous officials in town, including the town manager, the PB, the Cons. Comm., etc., and is submitting a plan to the PB as if no homes are on the property. He said he needs to get a PB permit for the shared driveway before getting a permit from the ZBA. He then described the different parcels being conveyed, some of which are going to the town and some to the Lantzes, who share driveway with them. He said they have to have two dry circles of 150 feet each for hammerhead lots, noting that the driveway could be moved to fit the circles but substantial earth removal would be required. He noted that the existing drive has been used by these two homes for years. He said they need endorsement from the PB, and have met with them once. He said a site walk is scheduled for the 13th and the hearing continued to 3/3/10. He said his client will give the town an easement to use the driveway for public safety to get to the

pond, noting that Patriot Properties is working with the Cons. Comm. such that they will be giving land to the town for this access also. He said the variance is justified because there is no additional damage to the environment and they don't have to go over the hill, noting that it makes sense to do it that way. He said he is here because his client is in agreement with the town and had to schedule permit hearings before the end of 2009. He said he hopes to get an extension and anticipates getting the permit from the PB. He said he is also asking for a seasonal conversion and does not have BOH approval, so he is asking for an extension for that as well.

Mrs. Duffy said she didn't know where Island Pond Road is.

Discussion ensued about the location of the property. Atty. Anctil said that it is very remote, by Tyngsboro.

Mr. Prager asked whether the problem with the driveway has always been there.

Atty. Anctil said yes, noting that the driveway also serves the Lantzes. He said the Lantzes will be conveyed land to have frontage as opposed to just easement rights, noting that they are dividing the parcel into two lots: Lot A will have 4.44 upland and 5.2 total acres and Lot B will have 13.59 acres. He said nothing is changing regarding access or the number of existing dwellings, noting that his client will provide the Town with meaningful lake access and frontage for the Lantzes. He said they will have to return to the Cons. Comm. after meetings with the BOH and PB. He said two septic systems were put in without permits also.

Discussion ensued regarding when the continuation request will be for. Atty. Anctil suggested 4/1/10 for the driveway variance, noting that he won't be ready for the seasonal conversion then so the application could/should be withdrawn and resubmitted after BOH approval.

Atty. Anctil noted that there is currently one parcel with two structures: one structure was renovated with a building permit and one without. He said there are issues on Lot B regarding decks and dock permits. Atty. Anctil said he will submit an application for a building permit for these decks and docks but doesn't know if any will be granted.

Discussion ensued regarding whether the upland 150-foot circles are in the wetland protection area at all. Atty. Anctil said they were not.

Atty. Anctil said that the Town could ask for the second structure to be torn down on Lot A, but he said he doesn't think that will happen. He said that instead, they are going through the planning process as if the structures don't exist. He said that the driveway could be reconfigured without going to the ZBA but it would need significant earth removal. He said Lot A is currently unoccupied and Lot B has an occupancy permit.

Discussion ensued regarding how a septic could be built with no plans and no permits.

Atty. Anctil said his client has the ability to make the BOH happy because there is adequate land, etc. to totally reconstruct the septic systems.

Chairman Cadle asked what evidence the board has been presented that shows that there would be a large disturbance if the driveway were moved.

Atty. Anctil said that the Board could see the topography as shown on the plan, noting that they would have to cut down a lot of trees. He said the current driveway has been used as such for the past 50 years, noting that his client has the ability to comply but to do so would create a financial and environmental hardship.

Eric Lantz, direct abutter and sharer of the driveway, agrees with Atty. Anctil. He said to create an additional driveway would be a significant environmental impact, necessitating the creation of an alleyway through a hill. He said this is unnecessary because a driveway already exists.

Mr. Prager suggested a site walk.

Mr. Easom, speaking as an individual and not as a Cons. Comm. member, did a site walk and agreed there are terrain issues. He noted that the driveway is on old rail bed.

Discussion ensued regarding the wetland boundaries.

Atty. Anctil noting that the town is getting \$50,000 as a fine and land conveyed.

Mr. Prager said he feels the variance request is pretty straight forward, and other than verifying the topography, is not a big issue.

Mrs. Duffy said she wants to be sure the driveway is safe for two emergency vehicles.

Atty. Anctil said the PB would make sure of this, noting that he is also meeting with the Fire Chief. He said the driveway is on the flattest area of the lot.

Discussion ensued regarding whether to grant a permit before PB approval. The Board opted to wait.

Patriot Property's owner said he was upset because Mr. McCarthy has blocked anything they wanted to do and then built his septic systems, etc. with no permits, which he thinks is hypocritical.

Chairman Cadle asked what the Cons. Comm. thinks.

Atty. Anctil said there has only been a very preliminary meeting with the Cons. Comm., noting that he doesn't know what their views are. He said he proposes to do no additional work except if the septic systems need rebuilding.

Mr. Easom said that he doesn't know how the Cons. Comm. will rule but noted that they have some discretion.

Discussion ensued regarding whether Atty. Anctil should withdraw the seasonal conversion portion of the application. The Board requested a withdrawal.

Mr. Prager moved to extend the date for holding a hearing and issuing a decision to May 30, 2010 and is tentatively scheduled for a continuation date of 4/7/10. Mrs. Duffy seconded and the motion was unanimous.

Mrs. Maxwell moved to allow Mr. McCarthy to withdraw without prejudice the seasonal conversion special permit portion of the application. Mr. Mulligan seconded and the motion passed unanimously.

Bills/Minutes

The monthly Verizon bill was signed. No minutes were approved.

New business

There was no new business.

Mr. Mulligan moved to adjourn at 8:45 pm, Mr. Prager seconded and the motion passed unanimously.

Minutes approved 4/7/10.