



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

June 17, 2015 – Moulton V, McGonaigle Tarbell SP

Present

Mark Mulligan, Chairman
Robert Cadle, Member
Cynthia Maxwell, Member
Bruce Easom, Member
Berta Erickson, Associate Member

Not Present

Megan Mahoney, Associate Member
Alison Manugian, Member
Jay Prager, Associate Member

A quorum was attained. The meeting was called to order at 7:00 pm.

Meeting Minutes

Moulton Variance

Chairman Mulligan convened the hearing by reading the legal notice.

One abutter was present and spoke in favor of the project.

A memo from the Planning Board was read into the record.

Mr. Brown said he wants relief from the setback requirement. He said the topography makes placement of the house and the proposed structure necessary to be near the road. He said he took pictures, noting that the structure will be more of a storage building than a garage and won't be used daily.

Discussion ensued regarding the placement of the driveway.

Mr. Brown said the building would be very low profile, with only a six-foot wall on the back. He said it is more like a fence than a structure. He said the setbacks are limited by existing trees, etc., that won't be removed. He said there is just enough space to pull in a car using the existing access road. He said that proximity to house is also important because of his client's handicap. He stressed that there is no other flat area to put the structure.

Dennis Ecklof, resident of Ames Road and an abutter, said the aesthetics are paramount to what Mr. Moulton does on the property, noting that he has faith that the park-like setting will be maintained by what ever is proposed.

Mrs. Collette, as ADA representative, spoke in favor of providing a garage/structure that is beneficial to a person with a handicap.

Member Erickson asked about pathways.

Mr. Moulton said he would be putting in pathways, noting that he also considered a site further up the hill but felt it would not be accessible in winter with his handicap.

Member Cadle asked how many cars would be stored there.

Mr. Moulton said three.

Member Maxwell asked whether all the PB memo items were addressed.

Chairman Mulligan went over each item, which was addressed by the applicant.

Member Cadle said ADA issues are not in the bylaw with respect to variances.

Mrs. Collette said ADA requirements are very much addressed by slope and the pathways and of the structure are being located as such to avoid steeper topography.

Member Easom asked how the 18-foot setback of the existing house was measured.

Mr. Brown said there is a scale on the certified plan.

Member Easom said that one of the provisions for setback is that a structure can't be closer than the average setbacks of neighboring structures.

Mrs. Collette said that typically comes into play in the villages, using the average of abutting properties.

Member Easom said that in looking at the parcel to the north, it appears that the structure is 35 to 40 feet from the road, noting that one abutter has a large setback.

Mrs. Collette said 218-22.H defines the varying degrees of setback allowed by right in village center districts.

Member Cadle said he was there today and it is beautiful. He said he feels that from the pictures, it seems the applicant could push back the structure to minimize the variance needed.

Mr. Brown said that area is needed for the turnaround so a vehicle can turn around and not back out onto the street.

Member Cadle asked for clarification as to what the different driveways were for.

Mr. Brown explained, noting that the garage is for collectible cars.

Member Easom said he is still concerned about a driveway permit because the driveway is on a curve on Ames Road. He asked whether the driveway is already in existence.

Mr. Brown said it is used constantly for property maintenance.

Mr. Moulton said he bought the property in 1991 and it was in use then and believes it has been used for some hundred years since the house was built in 1734. He said there is a level section that he can use to pull out and see whether anyone is coming. He said he has done it this way since he bought the property.

Member Easom said he wants to hear from Mr. Delaney, head of DPW.

Mr. Ecklof, abutter, said the intersection of Ames Road and Rt. 119 is the scene of many accidents because it is a blind access, noting that if the town is really concerned about safety, then that intersection should be addressed rather than a driveway on a country road.

Two questions for Tom Delany: 1) is the existing driveway a legal existing driveway and if it is, 2) is the driveway safe.

Mr. Brown asked whether the board is okay with the variance otherwise.

Most members felt that they were provided Tom Delaney okayed the driveway and no other issues arise.

Member Easom made a motion to continue to the 15th of July at 7:15.

McGonaigle/Tarbell Special Permits

Chairman Mulligan convened the hearing by reading the legal notice.

The Manugians were present, along with Michelle Collette, Town Planner.

The applicant presented a drawing and response to a letter dated June 10, 2015 submitted by abutters, which was read into the record by the Chairman.

Ms. Manugian pointed out that two more couples had also signed off on the letter.

Mr. McGonaigle said he had some additional waivers from PB review.

Mrs. Collette said they were not relevant but may be of interest to the ZBA.

Discussion ensued regarding number of units (3) and where the parking outside would occur.

Mr. McGonaigle said the driveway is off of St. James Street, with a proposed six-car garage and two deeded outside spaces per unit. He said the rise in topography in the back is 10 feet in size and 50 feet long. He then went over some of the details, such as the driveway being located such that lights won't shine into abutters' homes, the hip roof design of the garage, height details, etc. He said he wants to keep the existing parking in front for guest parking, noting that trash receptacles will be located in the corner and hidden by a fence. He said trees would be planted to conceal the parking area, noting that no trees will be removed and more trees will be added. He said there will be quite a bit of hill left for sledding, noting that he may move trees closer to the road to protect the sledding area.

Chairman Mulligan asked the applicant whether plan B was preferred.

The applicant said it was, noting that raising the floor to put garages underneath is not feasible due to many issues and because there is too much unknown. He said Plan C has all parking in the front of the building and is the least desirable. He said that underground parking has some advantage but reiterated there are too many unknowns. He said he tried to site the garage in a bunch of locations and there are issues with all but this location, noting that he is really trying to keep open space for the public. He said he feels this is an unusual tact for the development of this project, noting that he needs support from the town. He said he is trying to mitigate the impact on neighbors. He said he thought the town just wanted an easement for the playground equipment but now knows the field is the real concern. He said he thinks a little bit of compromise is necessary but stressed it can work to make everyone happy.

Member Erickson said a study was done years ago showing that keeping the play area open was very important, noting that she thinks this is a neat concept.

Member Cadle asked what he is asking the board to do.

Mr. McGonaigle said he wants permission for the re-use.

Mrs. Collette said he needs a special permit from the ZBA to allow for three dwellings, and because the setback is non-conforming, it is an alteration of a non-conforming structure.

Chairman Mulligan asked whether the non-use is moot because the property was rezoned.

Mrs. Collette said that up until the town meeting vote, the town was actively involved in securing a sale and the place has been actively used for storage of school supplies and the property was plowed and maintained by the Town.

Member Cadle said he was confused because it seems like three applications.

Mr. McGonaigle said Plan B is the ideal plan for approval, noting that C is a worse case scenario. He said questions about under building parking could not be answered today.

Member Easom said he wants to be shown the paving plan with Plan B.

Discussion ensued regarding the paved areas and possible dimensions of new vs. existing and what landscaping is proposed.

Abutter Manugian said that at this point, most of her concerns still remain. She said it is a difficult site and position, but noted that she doesn't see any neutral or positive impacts to those living behind the Tarbell School.

Member Erickson said it seems better than what exists.

Abutter Manugian said she has to disagree, because kids use the parcel daily and it is a big part of the neighborhood. She said the garage is not relevant to the functionality as a residential use and there are other plans that would be more compromising.

Chairman Mulligan asked whether the abutters were okay with Plans A and C.

Abutter Manugian said yes, noting that there were talks of a one story parking garage with decks on top, next to the existing building.

Mr. McGonaigle said he looked into it and the location of driveway would be on the septic system, which is not good with the BOH. He said he would be willing to build up the sledding hill.

Abutter Manugian said that the neighborhood has a mix of one and two garages. She suggested a three-car garage.

Mr. McGonaigle said the septic system takes up a lot of room, along with the 15-foot setback requirements and thus that is not workable. He said he looked into a four bay garage that would cut off 26 feet but felt this was not a great plan. He said he thinks there is ample room for kids to play, noting that there could be a developer that doesn't want any playground use.

Member Easom said he had a question about mitigation for a public piece of land going into private use. He said he thinks the ownership transfer makes mitigation unnecessary.

Abutter Manugian said she thinks trespassing vs. a historical public use makes it different.

Member Easom said he thinks this is between the town and the developer and not part of ZBA decision-making.

Discussion ensued regarding what was the requirement for purchase and mitigation of maintaining the playground.

Mr. McGonaigle said that a renovated, occupied building is better than an abandoned graffiti infested building. He said he feels this is an overall improvement to the neighborhood. He said the Town has been working for years to get rid of the property and here there is a builder willing to fix up the building and keep the play area open.

Mrs. Collette said that the Town/BOS said they would work to keep the play area open, noting that the applicant is willing to work to do this. She said the PB is very amenable to work with this process via the special permit process. She said she feels confident we can make this work.

Abutter Manugian said that if a two condo project was proposed, then he wouldn't need a six car garage and would not need to be before the ZBA.

Member Cadle asked about the sledding area.

Steve St. Pierre, abutter, said the flavor of discussion for re-use was that the majority use of the hill and play area was on the table as being preserved.

Member Easom asked whether the ZBA could approve each plan individually and then the applicant could go to the PB and BOS for negotiations. He said he feels that opens the avenue for some further negotiations.

Mrs. Collette said this would be a minor site plan review except for the garages, which kick it up to major site plan review. She suggested one option would be to continue the hearing until after site plan review.

Discussion ensued regarding how to approve to allow for forward movement.

Member Easom said he wants to approve on a specific plan presented.

Chairman Mulligan suggested waiting for PB site plan review approval.

Member Maxwell said she doesn't want to approve three plans.

Member Cadle said this is not converting an existing dwelling because it was a school and thus feels the section doesn't authorize the ZBA to permit.

Discussion ensued regarding how to proceed.

Abutter Manugian said that under the three plans, the six criteria for a special permit would apply very differently with Plan B than with the other two plans.

Member Cadle said it makes a big difference with the amount of pavement.

Mr. McGonaigle said he has to add up the figures but feels that A and B have similar pavement.

Discussion ensued regarding the ramifications of moving the garage and what would be visible to abutters. Mr. McGonaigle said he tried many different options.

Discussion ensued regarding what area is used for sledding, etc.

Mr. St. Pierre suggested a continuation because there is also a discussion regarding a four-car garage.

Member Easom said he hates to see applicants get wrapped around the axel by coming before town boards. He said it seems it would be easier to go to the PB with an approved ZBA permit, noting that he thinks it would be helpful for the applicant to have something that could fly.

Abutter Manugian said there are two plans that would fly and the applicant could present those two as viable.

Member Erickson said she thinks Mr. McGonaigle's attempt to accommodate is commendable, noting that she would love to see a compromise.

Abutter Manugian suggested two units as a compromise.

Mr. McGonaigle said he would not take on a two-unit project, noting that the building already has three entrances and three units make sense. He said the building is a tough sell and not a profitable project, but is interesting and will be a nice place to live. He said he will be living there and wants to be friends with the neighbors. He said he thought the town was talking about a small parcel for the play area but after talking to neighbors, he realized they mean the whole parcel should be a play area. He said that if there are no garages, the value of the units go down and he is then in trouble financially.

Chairman Mulligan said he is willing to give the applicant a vote of support but feels the process should continue after PB approval.

Mr. McGonaigle said that if there were no approval for three units, he would walk away.

Member Easom said that for the record, he would be happy to vote for Plans A, B and C.

Discussion ensued regarding how to proceed and what further negotiations would take place.

Mr. St. Pierre asked what the dialogue would be between boards if these plans are approved and the four-car garage plan comes up.

Chairman Mulligan said he would be willing to vote on the three- unit permit issue.

Member Maxwell said she agrees.

Abutter Manugian asked whether the applicant would need to return for additional permits for the garage if a permit for three units was granted.

Member Cadle asked whether Town Counsel should be consulted as to whether the board has the authority to grant a dwelling conversion permit.

Discussion ensued regarding how to proceed.

Mrs. Collette said adaptive conversions of existing structures are very important preservation tools, noting three other projects in West Groton. She noted alternative types of housing in town are much needed.

Abutter Manugian said that in §218-13 a multi family is through a special permit from the PB.

Mrs. Collette said it is ZBA purview for three family units.

Member Easom said he feels they could issue a permit for a triplex but not under §218-27.

Discussion ensued regarding the process.

Member Easom said he felt the only risk in issuing a special permit is the possibility of appeal.

Member Easom made a motion to grant a special permit for the construction of three dwelling units in the footprint of the existing building as shown on the plan L-11730 submitted with the application prepared by Ross Associates, dated 9/2011.

Findings:

- 1) Preservation, housing opportunities for those downsizing, reuse.
- 2) Traffic flow should be significantly less than that generated by a school.
- 3) Utilities- should be ample
- 4) Old building being renovated.

- 5) Environmental- decrease asphalt, new septic system.
- 6) Fiscal- positive

Condition: filed with registry of deeds. The motion was seconded and passed unanimously.

Findings re: only work in existing building, not including any accessory buildings and/or uses.

Member Easom made a motion to rescind the motion to grant. The motion to rescind was seconded and passed unanimously.

Member Easom made a motion to grant a special permit to allow the alteration of a non-conforming structure on a non-conforming lot, and a special permit for three dwelling units to be constructed in the existing building as shown on plan L-11730, dated 9/2011, prepared by Ross Associates, with the expectation that an additional special permit will be required for any work on any additional structure/s outside of the existing building. The motion was seconded and passed unanimously.

Other business

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Minutes and Bills

Member Mulligan made a motion to approve the 5/13/15 minutes as drafted. The motion was seconded and passed unanimously.

One Groton Herald bill was signed.

Member Maxwell made a motion to adjourn at 9:30 pm. The motion was seconded and all voted aye.

Approved 10/22/15