

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

Tel: (978) 448-1121

 Fax: (978) 448-1113

April 5, 2023 - 6:30 PM - Second Floor Meeting Room

**Members Present and Voting for Public Hearing**

Bruce Easom, Chairman

Jay Prager, Full Member

Dan McLaughlin, Clerk, Full Member

Thomas Peisel, Full Member

Jack Petropoulos, Full Member

**Other Members in Attendance**

**Others Present**

John Amaral, applicant

Leslie French, applicant

George Robb, applicant

Grey Roy, Dillis & Roy

Members of the public

**The meeting was called to order at 6:30 PM by Chairman Easom and stated that the meeting was being recorded for later broadcast. There will be video and audio for viewing.**

Chairman Easom brought a committee interest form submitted by Russ Harris to attention. Mr. Harris has expressed interest in becoming an associate member for the Zoning Board of Appeals.

Mr. Harris spoke on behalf of his interest in the ZBA and said that he found this opening from a post in the paper made by the Town Clerk, Dawn Dunbar. When he found this opening, he put his name in because he considers this Groton Farms application important and wanted to ensure there would be enough members so to not impede the process of the application and to ensure that the application gets a fair review. Member Petropolous asked Mr. Harris how he sees his role as editor of the Herald impacting, or not impacting, his ability to perform on this board. Mr. Harris doesn’t expect to be a voting member, since he will be an associate member, therefore he expects to be more of a “backup”. He is familiar with procedures and has lived in town for over forty years, so he has a fair understanding of how things are run. He believes, because of this, that he will fit right in. He may have some questions through the process, but otherwise he will be there to step in if needed. Member Prager mentioned that Mr. Harris would be deemed qualified to serve on the board, but asked if he was volunteering because he feels that this an urgent need, rather than doing this on a more permanent basis, even if he wouldn’t be voting. Mr. Harris answered this by saying that he would like to serve the town as much as he is capable of, so when he saw this opportunity, he figured if he could be helpful for this particular case then it would be beneficial for him to volunteer. He went on to explain that when there are other projects, he is interested in deliberating and working with the other board members with these cases as well. Russ Harris said he is very much interested in becoming a member on the Zoning Board of Appeals and he is not interested in becoming a member solely for this 40B application.

Member Petropolous commented that Mr. Harris is well known to him and has heard him analyze issues before and explained that he does it in a thoughtful manner and believes that is a great quality. Due to this, Mr. Petropolous thinks that Mr. Harris would make a great contribution to the board, knowing what he does and what he is capable of. Mr. Petropolous believes that Mr. Harris will serve the town well.

**The Chair will entertain a motion to direct the administrator to send a letter to the Select Board recommending that Russ Harris be appointed as an associate member to the Groton Zoning Board of Appeals. Member Prager motioned this and Member Petropolous seconded this. The motion was carried by unanimous vote.**

Chairman Easom mentioned that there would be a change in membership of the board to hear this particular case. Originally, Mr. Petropolous indicated that he would not be able to sit through the entire 180 days of the hearing. Subsequent to this however, Mr. McCoy indicated that he was going to step off the board at the end of his term at the end of June, which doesn’t extend all the way through to the end of what would be this anticipated 180-day application process. In light of this, this would create a Mullen rule dilemma where there would not be enough members (5) to vote on the comprehensive permit. Chairman Easom suggested that the members of this board that are hearing this case, would include the five members at this meeting tonight. Town Counsel was contacted about this situation and it was asked if this would be permitted under state law. Chairman Easom read into the record an email from Brian Falk, Town Counsel. This email explains, in sum, that Member Petropolous would be able to step up to be a voting member, as long as he has not missed another meeting. Since Member Petropoulos has not been absent from another meeting for the Groton Farms application, he would be able to be considered a voting member for this application. Mr. Falk recommends that this situation be brought up to the applicant, in which Applicant John Amaral personally did not have a problem with this change, but would have his lawyer, Rob Anctil address any legal matters. However, Mr. Amaral had a general question about there being five members and an alternate: given that one member each misses one meeting, could a member who isn’t able to attend, attend via technology like Zoom? Following this, what would happen if the Zoom meeting drops partway through, would this member still be considered attending the meeting or not? This brings up the issue of adding an alternate after this public hearing has been re-opened, they will now have missed two meetings if this public hearing is re-opened. Wouldn’t this mean that they are unable participate for the remainder of the application? Chairman Easom said that these questions should be directed to Town Counsel but his understanding is that if they are in danger of having a Mullen Rule problem because of technology drop out, this would also suggest that the meeting would need to be continued at this point, therefore the member who is attending via Zoom would not be missing any discussion. However, Chairman Easom would like to leave this up to Town Counsel to share his expertise on this matter. Rob Anctil recommended that the board vote on Member Petropolous to be a member since in the previous meeting he was considered recused.

**The Chair will entertain a motion to declare that the five sitting members on this board tonight will be the five members that vote on the Comprehensive Permit decision or the conditions under which the comprehensive permit would be issued for the Groton Farms application. Member McLaughlin made this motion and the motion carried unanimously.**

**The Chair will entertain a motion suggested by Rob Anctil that the Board confirm that Member Jack Petropolous was a voting member of the Groton Zoning Board of Appeals at the first regularly scheduled meeting for the Groton Farms comprehensive permit application on March 22. Member Prager made this motion and Member McLaughlin seconded it. This motion was carried unanimously.**

Member Prager brought up how the objective is to have five members and an alternate at all times, so that if something were to happen with a member, the alternate could fill in. As of today’s meeting, there will not have been an alternate that will have only missed one meeting. Following this, applicant John Amaral questioned the process of becoming an alternate. In particular, would the Select Board have to vote him in and would this be able to happen before this public hearing re-opened tonight? If this is not possible, should this public hearing be postponed, considering the limited number of members and leeway in flexibility in attendees? The largest concern is having enough members attending each public hearing to vote on this application. Chairman Easom said that it was not possible to vote an alternate in tonight and that the earliest would be the following Monday night.

Due to this topic of concern, conversation led to a lengthy discussion on whether this public hearing should be postponed until the next scheduled date. As this was a very unusual situation, Attorney Chris Alphen stepped out to call Brian Falk, Town Counsel.

Once Attorney Alphen stepped back in, he explained that Mr. Falk agreed that this was an unusual situation and could not give a definitive answer on how to proceed. However, Attorney Alphen spoke to the applicant and their attorney to determine what they would like to do. Applicant Mr. Amaral said that his team are prepared to continue this public hearing despite the gray area surrounding this discussion. The Board members, with the exception of Member Prager who voiced his opinion and concern with moving forward, all agreed that if the applicant was ready and willing to move forward, they would be as well. Mr. Amaral brought up that most of the members specifically used terms relating to “if the applicant was ready”, so due to this the applicant and his team decided at the time that it would be best to postpone this public hearing to the next previously agreed upon date of April 19th, 2023. After some deliberation between the applicant and the Board, the applicant agreed to extend the regularly scheduled 180 days to 180 days plus 14 days.

**Chairman Easom will entertain a motion to postpone the second hearing on the Groton Farms comprehensive permit application to the 19th of April 2023. Member Prager made this motion and Member McLaughlin seconded the motion. The vote carried unanimously.**

Attorney Robb asked if the Board was able to engage in Peer Review conversation given that the public hearing is now postponed. Chairman Easom and Attorney Alphen determined, with the help of the other Board members, that they were authorized to engage in peer review search and that they could decide, and act on this decision, without the need for the other members to vote on the peer review choice. Chairman Easom and Attorney Alphen will deliberate sometime after this meeting and come to a decision and inform those necessary.

**Meeting Minutes**

**500 MG LLC - 500 Main St, The Groton Farms #2-23**

***Postponed until April 19, 2023.***

**General Business**

**Approval of Minutes from March 8th, 2023**

Member Petropolous made a motion to approve the meeting minutes from the 8th of March 2023 as amended. Member Prager seconded this motion and it was carried unanimously.

**Member Prager made a motion to adjourn. Member Petropolous seconded the motion and carried unanimously via roll call vote.**

A motion to adjourn at 7:50 PM