

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

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November 15, 2023 - 6:30 PM - Second Floor Meeting Room

**Members Present and Voting for Public Hearing**

Bruce Easom, Chairman

Dan McLaughlin, Clerk, Full Member

Thomas Peisel, Full Member

Jack Petropoulos, Full Member

Veronica O’Donnell, Associate Member, *via Zoom*

**Other Members in Attendance**

Leonard Green, Associate Member

**Others Present**

Andrew McElroy

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 broad cast. There will be video and audio for viewing.**

**Chairman Easom read aloud the agenda for this meeting.**

Chairman Easom informed everyone that those who would be sitting on this application would be Bruce Easom, Thomas Peisel, Dan McLaughlin, Jack Petropoulos, and Veronica O’Donnell, who is in attendance via Zoom. Due to this, any votes taken at this meeting will be via roll call vote.

**Meeting Minutes**

**Off Station Avenue, #7-23**

**Chairman Easom opened the public hearing. This is the first hearing in the process for this comprehensive permit.**

**Member McLaughlin read aloud the public notice into the record**:

The Zoning Board of Appeals will hold a public hearing on Wednesday, November 15, 2023 at 6:30 pm at the Groton Town Hall, second floor meeting room, to convene the hearing for the application of Rail Trail Holding Company, LLC, 25 Station Avenue, Groton, MA 01450, for a petition for a variance of frontage, lot size, and setback requirements to allow a portion of 25 Station Ave to be conveyed to the Town of Groton for use as a public way as discussed with the Town Manager on Lot 113-56, Off Station Ave, Groton, MA, 01450. Please refer to Section 218-5.7- E (1) and any other applicable section of the Groton Zoning By-Law.

Andrew McElroy was present to present this variance application. Mr. McElroy explained that this location is the former GELD garage and is in front of the rail trail. He explained that the purpose of this variance is that they are trying to separate off a section of this parcel so that it can be conveyed to the town so that it can be used as a public way. The section that they are proposing to separate is about 19 feet wide and about 300-350 feet long. If they got approved to convey this to the town, this would be then turned into a public way and would be potentially paved, signage and lighting could be put up and various other public safety features that would benefit this location. Mr. McElroy went on to explain that this parcel is residential-agricultural and is a non-conforming lot and to separate a section off for a public way would make it more non-conforming because it would have a smaller lot size and less frontage and the setback would fifteen feet. Mr. McElroy has been in contact with the Town Manager and Tom Delaney about this matter and both have agreed that this would be beneficial to approve and said that this section would allow two-way traffic and the Town to essentially introduce a safer road and allow safer rail trail passage.

**Chairman Easom opened the floor to the Board:**

Leonard Green asked if the purpose of this variance application was to convey it to the town, just for verification. Mr. McElroy said that an initial matter was to be able to provide this piece so that it can eventually be conveyed to the town. Mr. Green then mentioned that the Zoning Board of Appeals doesn’t have the authority to accept the piece and that it is the Town that has to. Mr. McElroy said that from his understanding, the Zoning Board of Appeals can grant a variance and there should not be a need for a Town vote. Mr. Green asked if there would be any problem to putting a condition in the decision that says that this variance is dependent on the Town accepting the land because if the town does not accept the land, there is a disproportionate lot remaining. Mr. McElroy did not oppose this suggestion.

Member McLaughlin asked if the applicant could describe the hardship as it relates to the shape, topography and soil conditions. Mr. McElroy said that given the shape of the lot, there is really no other way that you could introduce a public way that would connect Station Avenue with Broadmeadow Road. Without this variance, there is no other way to fit in a public way. He went on to explain that from discussions with the Town Manager and Mr. Delaney, 19 feet will suffice to allow two-way access for this public way and that it will allow access to emergency vehicles as well. Mr. McLaughlin explained that normally in this position, a petitioner will come before the Board because they are unable to do the proposed work anywhere else on the property and still meet the setbacks and observed that this case was not the same and that it does not appear to have a hardship in relation to these matters. It was asked if the Town could purchase this property to accomplish the same thing and it was answered that this was a possibility but it would require this to be brought to Town Meeting. Mr. McLaughlin then asked if an easement would be a better solution and Mr. McElroy said that an easement could work but it still would not be owned by the Town and he wasn’t sure how the Town could install a public way if there was an easement. With an easement, there would still be liability on the owner of the property. What Mr. McElroy is proposing is for no other way to be made in this manner to provide road access.

Member Petropoulos also agreed that this variance application does not necessarily meet the regulations that the Zoning Board of Appeals is supposed to base their decision on but is hopeful that they can work something out in order to make this happen. Mr. Petropoulos mentioned that there might be a hardship but it was more likely to be on the Town than on the applicant and if anything, their hardship would be the liability that they are seeking to be relieved of. This variance would potentially be good for the public and safety but this is not exactly a sole purpose to approve a variance. Mr. Petropoulos believes that further legal advice is needed to move forward with a decision.

The other Board members agreed with Mr. McLaughlin and Mr. Petropoulos concerns.

Chairman Easom brought up that this parcel may be in the Town Center Overlay District, which provides certain relief for lot size and asked if this could come back to the Planning Board or Zoning Board of Appeals to be considered under an overlay district. Takashi Tada, Town Planner, said that the Town Center Overlay District would potentially allow for the Planning Board to grant a permit for some kind of use beyond what the agricultural zoning allows for but did not believe the separation of land form the existing parcel would be something that would be properly handled under the Town Center Overlay District. Mr. Tada was not sure if these provisions would apply in this case. Chairman Easom proceeded to read the bylaw regarding the Center Overlay District and Mr. Tada explained that since there was no development being proposed, this would not be applied.

**Chairman Easom opened the floor to the public:**

Judy Anderson came before the Board and said that she was under the impression that this was originally added to the former GELD property in a swap for land at the end because GELD needed it for their new building. Member Petropoulos said that he was aware that there was a swap but was not sure if this was the overlay of that but was also not sure if this mattered in the end anyway for this variance application.

Member Petropoulos asked, to clarify, that they were doing this to make a legally transferrable lot. Mr. McElroy agreed with this assessment and explained the liability that comes with this piece of land that they are held responsible for and what they have done in order to prevent accidents. Transferring this piece of land will help alleviate the liability on them that comes with this parcel but also believe that the Town would benefit from this parcel. They are not able to create a legal lot to do this because they are not within the zoning regulations and Mr. McElroy explained that the issue is that it is a residential-agricultural lot and it is non-conforming and would become more non-conforming if it is transferred, which is the violation that would prevent this transfer. With a variance or some other form of relief, they would be able to make this transfer but currently, it is not possible.

Chairman Easom said that it does not appear that the shape of this parcel is not the problem and that the problem is the location.

Chairman Easom read a letter from Town Manager, Mark Haddad, dated October 31, 2023 into the record. This letter states his and the Select Boards support of this variance application and explained the benefits it would bring to the Town.

Andrew McElroy read his letter dated October 24, 2023 into the record. This letter explains why he is applying for this variance application, as was previously mentioned earlier.

Member McLaughlin asked about the dimensions of the proposed parcel and if they were accurate readings because from what it appears it would not be wide enough to become a two-way street and Mr. McElroy explained that Dillis & Roy have determined that the proposed road would be able to become a two-way right-of-way road.

Associate Member O’Donnell asked if the potential financial hardship to the applicants could be used as the hardship portion of the bylaw for this variance. More guidance would be needed to determine this.

There was further conversation on how to proceed with this application and it was determined that the Board needed further information to be able to make an informed decision. There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on November 29th, 2023.

***Member Petropoulos made a motion to continue the public hearing of Off Station Ave to the 29th of November, 2023. Member Peisel seconded this motion and it was carried unanimously via roll call vote 5-0.***

**General Business**

**Member Petropoulosmade a motion to adjourn. Member Peisel seconded the motion and it was carried unanimously via roll call vote 6-0.**

A motion to adjourn at 7:30 PM