

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

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November 29, 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

Jay Prager, Full Member

Veronica O’Donnell, Associate Member

**Other Members in Attendance**

Leonard Green, Associate Member

**Others Present**

Judi Barrett, *via Zoom*

Paul Alphen

Jeffrey Brem

Members of the public

**The meeting was called to order at 6:40 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.**

**Meeting Minutes**

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

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

Chairman Easom informed everyone that those who would be sitting on this application would be Bruce Easom, Thomas Peisel, Dan McLaughlin, Jay Prager, and Veronica O’Donnell.

Paul Alphen and Jeffrey Brem were in attendance to represent this 40B application. Mr. Alphen mentioned that since the previous meeting, a revised plan has been submitted. Mr. Alphen proceeded to explain the updated plans, which included a proposed site plan of 28 units rather than 40, in which the original application included. There were multiple reasons for this change, but one major reason was because of the concerns for obtaining land for the nitrogen loading restriction and for Natural Heritage. Mr. Alphen stated that they have been meeting with the Natural Heritage Endangered Species Habitat and while these meetings are on-going, the goal is to have sufficient communication with them so that they can feel confident that they’ll be able to issue a permit for this layout. The updated plans no longer include the proposed duplexes and are only single-family homes now. While there was 10 affordable units in the proposed 40-unit development, there is now only 7 affordable units being proposed. The applicants and their engineers have also been able to move the project away from the east end of the land, where it most directly abuts the lands owned by MIT and so that the houses do not abut the land used for the police departments gun range. Included in the plan are houses now located along Cow Pond Brook Road but otherwise the design appears similar to what was previously proposed, just with less housing units. Due to this unit change from 40-units to 28-units, they were also able to reduce the subsurface septic disposal systems. Before they were exceeding 10,000 gallons per day and with this new configuration, they will not be exceeding this and therefore the jurisdiction for the approval of the septic system will fall within the jurisdiction of the Groton Board of Health. In the coming days, a letter will be submitted regarding an updated waiver request regarding their rules and regulations.

Jeffrey Brem reiterated and confirmed most of what Mr. Alphen brought up and also brought up that the roadways will be approximately the same as the previous plan, along with the road width and turning radiuses. Mr. Brem said that the access road to units 26. 27, and 28 is 20 feet wide, instead of 24 feet but otherwise the roadway remains the same. The utilities also were not changed, with the exception of the septic system being reduced due to the reduction in units being built. Due to this, there will be 4 fields for septic systems, 3 in the Natural Heritage area and one in the island in the middle of the units. Mr. Brem proceeded to explain some more of the aspects of the updated plans, which included the dedicated/restricted area for Natural Heritage and conservation restriction areas. More is to be discussed about this with both parties to obtain permits. The nesting habitat was also outlined on their plan and it was explained that the tree area will remain as a tree area. All of the things affected by the number of units, such as the septic system, will be changing as necessary to a smaller system due to the decrease in units.

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

Member Peisel asked about the turning radius and if the newly proposed units on Cow Pond Brook Road (Units 27, 28 and 29) were going to have a turnaround for fire trucks, UPS and similar delivery drivers. Mr. Brem said that this road does fit a fire truck and there would be access off Cow Pond Brook Road but they are not currently proposing another curb cut at this location. More discussion with the Fire Department and input to be sought out to determine if anything more is necessary for these updated changes.

Member Peisel also asked if the size of the units are also going to stay the same or if they will be changed, in regards to bedroom count, and it was verified that these units will remain as three bedroom units. Even with them all remaining three-bedroom units, this still brings the development under the 10,000-gallon figure that was necessary for the septic system to not have to determine “extra” land for nitrogen loading.

Member Prager also expressed his concern for the units on Cow Pond Brook Road and the turning radius.

Member McLaughlin asked about the stormwater facility and if it was the same from the old plan and if it was an open pond and overall wanted clarification on this. SMF-1 on the plan was explained as a water infiltration basin, which is partially sand and will remain as sand.

Chairman Easom was curious to know more about the NHESP easement. He was curious if there was going to be some type of turtle barrier to keep the turtles off of Rosie Lane and Mr. Brem said that this was still a to-do list item. Mr. Easom also asked if there was an easement, who holds these and if it will be held by Natural Heritage or a third party and Mr. Brem said it would be a third party and the hope is the Groton Conservation Commission, however they have not gotten as far as voicing this to them yet.

Member Peisel asked if the change in the plan satisfied the police departments request for the fence. Mr. Alphen said that they have submitted a letter that will express their agreement to address their concerns with the Police Chief and MIT concerns regarding trespassers.

Chairman Easom asked if this updated plan eliminates the need to have this negotiation with the Town and Boards in the Town for the nitrogen off-site loading and Mr. Alphen agreed with this. It does not necessarily eliminate having to go to Town Meeting because there are other factors that could impact this but it is a step forward.

Chairman Easom read MIT representative Annalisa Bhatia’s email into the record, which was sent on November 21, 2023. In this email, Ms. Bhatia mentions some potential conditions that the Board could include in the final decision for this 40B application that addresses their concerns. It also addresses how the Board could potentially legally add these conditions in to the decision.

Paul Alphen read one of his letters dated November 28th, 2023 into the record. This letter is in response to the MIT email that was sent. This letter addresses that they have not been able to completely research the entirety of the email but that they have moved the units further away from both MIT and the police range, which is directed towards the fence MIT has requested as a condition. Mr. Alphen has also mentioned that some of these conditions are not necessarily something they agree on, such as going into homes and determining what electronic devices the units have and do not have that affect their research unless there is a Bylaw that allows this in Groton. Other than that, Paul Alphen said that they are willing to work with MIT as this project progresses and will perform more research on the potential conditions brought up by MIT. The Board agrees that some of these conditions are unreasonable, such as determining devices used in each unit, but that some of them are reasonable. However, these still may not be conditions that the Board has jurisdiction to include. Town Counsel should be sought out, however Town Planner, Takashi Tada, mentioned that the Planning Board does have a bylaw on lighting requirements and what MIT has suggested is similar to what the Planning Board would require. Judi Barrett also agreed this should be a discussion with Town Counsel to see what the Boards jurisdiction is to determine what they are legally able to put in as a condition in the decision.

*Member Peisel motioned to authorize Chairman Bruce Easom to engage the Town Manager to get an opinion from Town Counsel regarding RFI emissions jurisdiction. Member Petropoulos seconded this motion. It was noted that this is a specialized area, so an outside opinion may be needed. Outside competent legal opinion is also to be considered if Town Counsel determines it is out of his purview. The motion carried unanimously 5-0.*

Paul Alphen read a second letter he wrote into the record, also dated November 28th, 2023. This letter is the explanation of the change of the site plan that address a few “open” concerns that the original plan brought up, such as the fence that the Police Department requested and the septic system concern with nitrogen loading. Mr. Alphen also mentioned that they are working with necessary groups, departments, and committees to solve all other concerns. The soil testing was also mentioned in this letter and there was a secondary letter submitted by a professional that stated that this soil test that was done years ago was still valid today. It was also verified that, per MassDEP, soil testing does not expire as long as the site conditions have not been altered. In response to this, Chairman Easom said that he has spoken to Tom Delaney, DPW Director, and he has said that this location has had minimal activity in years prior and that in his opinion has not changed since 2004, when the soil tests were performed. Due to these conclusions, the Board agreed to differ to the peer reviewer and MassDEP for whether or not these results are suitable for this application. Mr. Brem mentioned that once the septic system gets designed, more soil testing will be performed in the actual areas of the system for the Board of Health regulations.

A Groton resident asked if the Board could make a recommendation to make a weekend dedicated to perspective buyers to be able to see the actual current conditions of this site. There was brief discussion on this and it was ultimately determined that it would be difficult to do this, as it isn’t a built development yet and there are no perspective buyers and because of the liability on the owner. However, it was determined that a site walk for the Board would be helpful to view the current decisions to help make a decision based on these.

Jeffrey Brem read a letter that he wrote in response to a Nitch Engineering letter that was read in to the record at a previous meeting. In his letter, he expresses that they expect conditions in the final decision, if approved, for a final design for the water line and that they concur with Nitsch engineering that there are still details that need to be completed and that these will be submitted as a part of the final design.

Chairman Easom asked if the plan was to still extend the water line to the transfer station and Mr. Brem agreed with this assessment. Mr. Easom also asked if there were any updates on the grant for this water line and Mr. Alphen said that there was not an update and that the next cycle begins in the Spring and from his understanding, the Town has said that they intend to apply at this time.

Member Petropoulos asked that even if the Town does not get this water line, that the intention is for the applicants to fund the water line extension and the applicants verified this assessment as well but it is subject to discussion on how far the waterline would extend if this was the case.

Chairman Easom asked if there was a traffic assessment update and Mr. Alphen said that the traffic study is still in the works due to personal matters with the traffic consultants doing the study. Once it is completed, it still needs to be reviewed by the peer reviewer. Once it is submitted by the applicants, it will then be sent to MDM Transportation to perform this review. However, Mr. Brem mentioned that the traffic counts have been completed.

Chairman Easom reminded everyone that the Board did grant the applicant an extension from the original 180 days for the public hearing process to sometime early in April.

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

A Groton resident, who has previously come before the Board to express their concerns about this project, came to express her ongoing concerns about the project. She asked who controlled the regulations of hours of operations and days to mitigate some of the impact that this project would produce, if this project were to get approved. Judi Barrett asked if there was an existing requirement in the zoning bylaw that relates to work hours for a project and Mr. Tada said that there was a bylaw in the Planning Board regulations and in the Earth Removal Stormwater regulations. Due to this, Ms. Barrett said that it would be normal to adopt these for standard hours of operations for this project. This resident then mentioned that this is a unique situation and it should be taken into account what normally goes on during this area and determine hours of operations from that rather than the standard since it is not a standard situation. Ms. Barrett mentioned that the Board could ask the applicant if they are willing to be agreeable to certain conditions that go beyond what is typically required but they cannot impose anything further than what is already a regulation.

Mr. Tada came before the Board to mention that the revised plans have been forwarded to the Town boards, departments and committees for their input. The only feedback that has been received in the day or so since it was sent were mostly questions about topics like the water line and questions on fire protection. The Board of Health agent has also said that he will work with the Board of Health to provide written comments on the revised plans. Mr. Tada has also said that when he responds to the Fire Department with answers to their questions, he will also ask about the emergency access adequacy on the revised plans to get input on this.

Chairman Easom asked if the Park Commission has been told about the nitrogen loading that has been resolved without the land exchange and Fran Stanley said that she believes it has been distributed to the Commission. Mr. Alphen clarified that this nitrogen loading is not an absolute solution yet because the deal hasn’t been closed yet, but it is further in the works and it is looking more and more hopeful.

Member Petropoulosasked if the turning radii on the updated plans will meet the fire department codes and it was answered by the applicants that it should but it was noted that the only one that is questionable is the curve where there is open space and more discussion will be made with the Fire Department in regards to this.

There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on January 3rd, 2024. Next to be covered would be the traffic study, along with at least one set of comments from the peer reviewer and a set of comments from town boards and committees.

***Member Peisel made a motion to continue the public hearing of Heritage Landing to the 3rd of January, 2024. Member Prager seconded this motion and it was carried unanimously via roll call vote 5-0.***

There was brief discussion on if a site-walk of the proposed property would be beneficial and it was agreed upon that it would be. It was uncertain if the public should be included due to liability and safety concerns, so it was mentioned that the public would not be included on this site-walk. It was determined that the site walk would be held on December 2nd, 2023 at 9AM.

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

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

Chairman Easom read Andrew McElroy’s email dated November 28th, 2023 into the record. This letter is a request for an extension of two weeks for this application.

***Member Peisel made a motion to continue the public hearing of Off Station Ave to the 13th of December, 2023. Member Petropoulos seconded this motion and it was carried by majority vote 6-0-1.***

**General Business**

**Approval of Groton Herald Invoice**

*The Chair will entertain a motion to approve the invoice from the Groton Herald of $95.00. Member Prager made a motion to approved the invoice of $95.00 from the Groton Herald. Member* *Petropoulos seconded this motion and it was carried unanimously 7-0.*

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

*The Chair will entertain a motion to approve the meeting minutes from November 8th, 2023 as drafted. Member McLaughlin made a motion to approve the meeting minutes from the 8th of November 2023. Member Peisel seconded this motion and it was carried by majority vote 6-0-1.*

**Approval of Minutes from November 15th, 2023**

*The Chair will entertain a motion to approve the meeting minutes from November 15th, 2023 as drafted. Member Peisel made a motion to approve the meeting minutes from 15th of November 2023. Member Petropoulos seconded this motion and it was carried by majority vote 6-0-1.*

**Member Petropoulosmade a motion to adjourn. Member Peisel seconded the motion and it was carried unanimously via roll call vote 7-0.**

A motion to adjourn at 8:20 PM