

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

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January 24, 2024 - 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

Leonard Green, Associate Member

**Others Present**

Claudemin DeSouza

Paul Alphen

Jeffrey Brem

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.**

**Meeting Minutes**

**80 Forge Village, #8-23**

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

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

Chairman Easom reminded everyone that the voting members for this application were Dan McLaughlin, Bruce Easom, Jay Prager, Tom Peisel and Leonard Green.

Before this public hearing commenced, Member Prager made a comment that he believes this should be a variance application and not a special permit.

Homeowner Mr. Claudemin DeSouza was in attendance to present this application. He explained that he was intending to add this addition and soon realized that he did not have enough of a setback to build this, so that is why he applying for this special permit.

There was discussion on whether this should be a special permit or a variance application and it was agreed upon the members and the applicant that this should be a variance application since Mr. DeSouza is looking to create non-conformance rather than extend non-conformance.

Member Prager suggested that since the addition was significantly set far from the road, that he would not personally have a problem with granting a variance.

Member McLaughlin asked what the average setbacks of the adjacent lots were and Member Prager said that when he looked, he could not find something that was obviously closer to the road. Member Petropoulos agreed with this assessment.

Applicant and homeowner, Mr. Claudemin DeSouza verbally agreed to sign and date this application to switch it to a variance application. He proceeded to sign and date this change on the application.

Chairman Easom asked if the Board had any questions or comments on the now variance application.

Member McLaughlin said that this is a de minimis encroachment on the setback. Mr. Easom explained that there needs to be something about the topography and/or the shape of the lot that would allow this variance to be granted. It was explained that the shape of the lot is the issue of where the edge of lot line is located and that the topography of the lot in the back of the house is where it is constrained since they put the current house on exactly the fifty-foot mark. Member Petropoulos said for a finding, the shape of the lot is impacted by the failure to abut the edge of the road and that where the lot is to abut the edge of the road, there would be no issue of setback.

*Member Prager made a motion that the Zoning Board of Appeals grant a variance requested for 80 Forge Village Rd to allow a three-foot extension of a front entry foyer off the front of the house. Associate Member Green seconded this motion and it was carried unanimously.*

**Cow Pond Brook Road, Heritage Landing #3-23**

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

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

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

Chairman Easom answered a question that was proposed by a resident and abutter from the previous meeting, which was if the residents on Cow Pond Brook Road would be required to hook-up to the water line if this was installed. Water Commissioner, Tom Orcutt, had said that unless the homeowner had problems with contamination in their well, they would not be required to hook-up or pay for this. The follow-up question to this question was who tested this water and if it was required to determine whether the water is contaminated or not and the answer to this, as given by the Board of Health, was that there were two conditions on whether the Town would require a water test for the well, which were for new constructions or if a property is sold to a new owner. Michelle Collette confirmed this and added that this includes for when a property is conveyed and that these should also be tested for PFAS.

A Groton resident asked if it was mandatory to connect to this water line if the test came back positive for PFAS. Ms. Collette recommended this resident to bring this question to the Board of Health but answered that it is not mandatory to tie in to town water and that the homeowner would have to explore their options and decide what is best for them in this situation. However, the homeowner has to either treat the water or tie in to town water by Board of Health regulations.

The traffic report has been received since the last meeting and can currently be viewed on the Zoning Board of Appeals webpage on the Groton website. Comments from the peer reviewer have not been submitted but they should be submitted within the next few days. Chairman Easom read Mr. Robert Michaud’s email dated January 24, 2024 into the record, which states that they will be submitting their review by the end of the week and they will be ready to present at the next ZBA meeting. The residents that were in attendance did not have any questions yet regarding this traffic study.

Chairman Easom read Nitsch Engineering’s letter, dated January 24, 2024, into the record. This letter explains what is still missing, or not missing, for this project according to Nitsch Engineering and asked for these items to be submitted as necessary. Paul Alphen mentioned that some of these outstanding items have not been submitted because of the plan that has been updated and that some of these are items are not in Groton’s regulations but they will address them like they are. The applicants will also be providing why they have not submitted some of these items. By the next meeting, the applicants have committed to providing a list of what is to come and when they will be provided by the applicants and what will likely not be provided.

Member Petropoulos brought up his concerns about the progress of this application and how it seems as if it was submitted prematurely, especially now that all new updated plans are coming in. He also mentioned how there seems to be a dilemma on the applicants’ inclination to submit certain items after they get approval, but how the Board is asking for these items before a decision is made. In response to this, Mr. Brem mentioned that at the beginning of this it was noted that these are preliminary plans. The Town and State have their own rules that need to be followed, but the peer reviewers will also be submitting their input and explained that they are basing their information on full plans, which are not required to determine if the project is feasible or not per the State and Town’s regulations. Mr. Brem explained that there are preliminary designs and plans, but there are not final designs and plans and the peer reviewers are asking for information that would be on a final design or plan. Due to this conundrum, it was noted that the technical assistance on this application would be helpful to have available to be able to help with answering these unknowns. Mr. Brem read out what was required to submit according to the Town’s regulations, which from his understanding has been submitted as necessary (unless otherwise noted).

Chairman Easom recommended and requested taking the letter Mr. Brem just read aloud and take each item and answer and explain why each item that will not be be provided as asked for because they are not required per the scope of the preliminary plans that they intend to submit. The applicant representatives agreed to this and once this is submitted, the Board will then ask the technical advisor if this is sufficient in their opinion.

Member Prager mentioned that he was also a little concerned about the level of detail that was being requested, not knowing how much is or isn’t needed either way, but was curious to know if they were able to grant a comprehensive permit with a set of standards according to the engineers.

Member McLaughlin mentioned that while this is not a concern for the ZBA, he asked how the applicants intend to solve the concern of two septic systems and a stormwater facility below the grade that is the proposed water table. Mr. Brem said that the water table was below 72 feet and he did not express the same concerns about this. Mr. Brem also mentioned that he had asked Nitsch if the plans submitted were feasible and Chairman Easom recommended that they also include this again in the response they plan to submit to explain each item and why each thing was and was not submitted yet. Associate Member Green recommended taking into consideration the change in the ecosystem and potential changes in the ecosystem regarding these water tables and similar subjects. Mr. Brem expressed his willingness to update the plans as needed once the testing gets completed as per the Town’s regulations.

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

Michelle Collette brought up the private way, proposed as “Rosie Lane”, and recommended bringing this up to the Town Manager, as this is a private way that will have egress for a subdivision and it will have more than three residents. Due to this, this will be required to be named by the Town. The Town Manager should allow and solicit but does not need to use one of these recommended names for the road. Ms. Collette also said that they should check with 911 operators to avoid confusion with similar road names for emergency concerns. Mr. Alphen said that they were willing to abide by this process.

A Groton resident asked about the plan to bring in fill to raise the level. Mr. Brem said that it varies throughout the site on how much will be required and that they are going to submit a waiver that is asking for a road on the project to be steeper than driveway grade but it goes to as much as twenty feet for one spot to fill. It was noted that the twenty feet spot to fill did not include the waiver they were intending to request but with this waiver it might be five feet less and mentioned the potential of borrowed material from other spots on the property.

The same Groton resident asked about the solar fields and the runoff from the fields and what this might do to their mechanisms and also mentioned how this could affect the turtle habitat if changes were made. There was further discussion on this and will be looked into further.

Paul Alphen read his own letter, dated January 10, 2024, into the record. This letter explains the revisions to the plans for Heritage Landing and where specific things were relocated and changed.

Jeffrey Brem went in to further explanation on these changes and explained that one of the main concerns people seem to have been is in regards to the Natural Heritage Endangered Species Program. He explained that in order for this to get resolved, there is a process that needs to occur, which includes a MEPA process. This state Environmental Protection Act process is when every state agency gets notified and it is a very elaborate and lengthy process to get a conservation management plan and it usually takes a year or so to obtain. While they have been making progress with this, it gets complicated because the Town owns the land across the road. Mr. Brem said that while it does not appear that things have been happening, he wanted everyone to know that there has been work behind the scenes that has been going on. Mr. Brem continued to explain the changes that have been made on the plans and that this plan is more along the lines of what Natural Heritage is looking for as an independent plan not requiring anything across the street. There was one wrinkle in this plan that was recently found, which is the incline in the front of the property on the corner where there are thousands of yards of material that they could use for the other parts of the site. This is one of the items that the applicants and Natural Heritage have not come to an agreement on yet. However, Mr. Brem noted that if they were to not agree with them on this change, the area would just remain the same and does not affect their plan. Jeffrey Brem explained that the stormwater facility was going in to the ground and in regards to the size, they are in the process of making sure that it is the correct size and is sufficient with Natural Heritage. He noted the water line and hydrants and where they are being proposed, but it does not show the valves but mentioned that it was an easy enough addition to add. Mr. Brem also mentioned that there will be a restricted easement but it has yet to be determined on who will be receiving this easement to maintain and own it. They have been discussing this with a subdivision on the conservation commission, the Stewardship Committee, to be a potential recipient of this easement.

Mr. Brem said that while it may not seem like much has been accomplished, he did mention that the stormwater report, the traffic review, a more in-depth update from Natural Heritage regarding the previously mentioned material, and a review from Nitsch Engineering and the applicant’s response should be in the Boards hands within the next meeting or two. A photometrics plan and a landscaping plan will also be submitted.

Associate Member O’Donnell asked if the condominium association would also be responsible for the stormwater basin maintenance and Mr. Brem confirmed that it would be and noted that the systems that were above-ground were fairly easy to maintain since they are easily accessible. It was recommended that there should be maintenance plan that goes along with these systems so that the condominium association understand what needs to be done for these to keep them up-to-date. Ms. Collette agreed that the in-view systems are usually much better and easier maintained than the sub-surface ones. Following Ms. O’Donnell’s question, Ms. Collette asked if there would be a condominium association and if it would be their responsibility for the maintenance because from the Stormwater Committees’ perspective, they often find that homeowner associations and homeowners do not completely understand the operating and maintenance unless they hire someone to guide them. Mr. Brem explained that in their plan, they included an Operations and Maintenance plan, a long-term pollution prevention plan and a stormwater pollution prevention plan, all in which will be simple enough to read to the common homeowner. Paul Alphen said that there will be a homeowner’s association, which will be similar to a condominium association, it just won’t be associated with a clustered subdivision. This will be a homeowner’s association that will be more active than a typical homeowners association. Natural Heritage is also expected to give their input on this operations and maintenance plan.

Associate Member O’Donnell asked if there were any testing requirements for the fill they plan to bring on to the site or moving from the site. Mr. Brem asked which town bylaw would be applicable to ensure this occurred, and that if there was not one, then there may not be a testing requirement. Mr. Brem said that this could be a condition that is added on to the decision to make sure this gets applied if there are concerns regarding it. Chairman Easom and Ms. Collette mentioned that there was a Board of Health regulation that states testing requirements on fill.

Anna Elliot, Park Commission Member, said that they have request Town Counsel’s opinion about the hill that could be potentially used to create a new parking lot on behalf of the field users and no response has come in yet. Ms. Elliot was curious if this development could be an opportunity to change the elevation of the road as it goes between the two properties, lowering the elevation of the road so that the parking lot would have less of an incline.

Chairman Easom asked if the Board had any further questions currently and none of the members did at this time. Following this, Mr. Easom continued to read a list of items that need to get completed still. This list included items such as guidance from Judi Barrett, the technical assistant on this application, an update on the street-naming process, responses and edits to Nitch Engineering’s recent peer review letter, an estimation on when the applicants intend to plan to submit not-yet submitted plans that were requested by Nitsch Engineering, MDM traffic study peer review, the photometric and landscaping plans, and a letter stating that the applicants have agreed to testing fill for hazardous materials per Board of Health standards. Mr. Brem said that he will also be supplying a preliminary stormwater report.

Member Petropoulos asked if there was an update on whether or not the applicants were still willing to work with MIT on the lighting impact. Mr. Alphen did not have an update on this but mentioned that the two parties are planning on meeting to discuss a variety of things and they are still waiting for a response regarding this. He also mentioned that they plan to supply the necessary plans that show all of the lighting and that these are expected to be online. Mr. Brem did say that he supplied the lighting engineers with the dark sky compliance regulations and expect them to follow these recommendations.

Fran Stanley recommended putting another additional letter of waivers the applicants expect to request. Mr. Brem said there was one already, but they could update the one already submitted.

Chairman Easom asked if there was an update on what was described as a “spite strip”, which is a piece of land between the right-of-way and a parcel that is owned by the Town and it was unknown if passage was allowed. Mr. Alphen did not have an update on this but will be researching it.

There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on February 7th, 2024. At this meeting the main focus will be the traffic study. Engineers and technical consultant to be sought out to attend these meetings.

***Member Prager made a motion to continue the public hearing of Heritage Landing to the 7th of January, 2024. Member*** ***Peisel seconded this motion and it was carried unanimously.***

**2023 Annual Report Discussion**

Member Prager had a few minor edits to the proposed annual reports.

*The Chair will entertain a motion to approve the Zoning Board of Appeals annual report as amended. Member* *Petropoulos made a motion to approve the Zoning Board of Appeals annual report. Member* *McLaughlin seconded this motion and it was carried unanimously.*

**General Business**

**Approval of Minutes from January 3rd, 2024**

Member Petropoulos noted that one of the last paragraphs for 80 Forge Village should clarify that no one representing the applicant was present.

*The Chair will entertain a motion to approve the meeting minutes from January 3rd, 2024 as amended. Associate Member Green made a motion to approve the meeting minutes from the 3rd of January 2024. Member Peisel**seconded this motion and it was carried unanimously.*

Member Petropoulos mentioned that there were a couple of openings on the Zoning Board of Appeals for associate/alternate members. Mr. Petropoulos volunteered to recruit members and the other members were in agreement for him carry this out.

**Member Pragermade a motion to adjourn. Member Peisel seconded the motion and it was carried unanimously.**

A motion to adjourn at 8:25 PM