

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

Tel: (978) 448-1121

Fax: (978) 448-1113

February 7, 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**

Judi Barrett

Molly Foster

Gregg Baker

Alfred von Campe

Paul Alphen

Jeffrey Brem

Kim Hazarvartian

Dan Dumais

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**

**Discussion of New Member**

Molly Foster introduced herself and gave her background in regards to zoning. The Board had a few questions for Ms. Foster and she was able to answer accordingly. While she said she did not have experience with Massachusetts zoning, she mentioned that she did have some experience in Washington but would be willing and able to read up on the Massachusetts zoning bylaws.

Gregg Baker introduced himself and gave his background. While he did not have direct background regarding zoning matters, he did have a background of working for the Commonwealth of Massachusetts for 25 years at a state hospital located in Tewksbury, which he explained that are run by rules and policies, so he understands that he would need to read the Zoning regulations for Groton and said he would also be willing and able to. Mr. Baker would like to be able to contribute his time in some way to the Town and this would be one of the ways he would be able to. The Board has a few questions for Mr. Baker and he answered accordingly. He was curious how the Board got along with one another, as he finds it important that a Board functions well together and the Board agreed that while everyone has different opinions and perspectives, they do work well together and respect one another.

Alfred von Campe introduced himself and gave his background and believes he would make a good contribution to the Board if he were chosen. The Board had a few questions for him and he answered accordingly. While he has not been a part of a zoning board before and has minimal experience with zoning boards, he has been on the opposite side where he was an applicant for a zoning board matter many years ago.

There was discussion on who the Board should recommend to the Select Board to become an alternate member of the Zoning Board of Appeals.

*Member Petropoulos made a motion to recommend Molly Foster and Gregg Baker to the Select Board to be appointed as associate members of the ZBA. Associate Member Green seconded this motion and it passed by majority vote 6-0-1.*

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

**Chairman Easom opened the public hearing. This is the eleventh 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 mentioned that from the previous meeting, the applicants had a “to-do” list and this included the issue of the “spite strip”, the road name, the traffic study comments from MDM Transportation and a list of items from Nitsch Engineering and a response from the applicants regarding their peer review.

The “spite strip” was the first topic of discussion and Paul Alphen read his letter dated February 2nd, 2024 into the record. This letter is an explanation on the so called “spite strip” that happens to fall on the property of this project and in short explains that all interests in the “no-access easements” have been released and it was released to a predecessor of theirs, VH Shae Corporation. Mr. Aphen also included the 2003 Release Deed from the Town of Groton for supporting documents. There was brief discussion on this topic and the supporting documents and it was determined that the Board would like a second opinion from Town Counsel to verify the findings of the applicant regarding the “no-access easement” along Cow Pond Brook Road.

The road name was the second discussion topic and Chairman Easom asked for the applicants to elaborate on what they found for this. Paul Alphen said that they have communicated with the Town Manager, who has the ultimate authority over naming the road, and he has approved the road name of “Rosie Lane”. There was an email that was also sent verifying this information.

Chairman Easom then brought up the traffic study. Dan Dumais, Senior Project Manager at MDM Transportation, was present in place of Robert Michaud. The traffic study has been submitted and MDM has now been able to provide a peer review on the submitted information. Mr. Dumais went over MDM’s comments on the submitted traffic study and he mentioned that they found the study area selected was appropriate, which included the intersections and the general volumes that were studied.

There was an updated letter sent in by the applicants addressing MDM’s responses, so while this was being brought up on the projector, Member Petropoulos asked if the topic of seasonally adjusted traffic could be explained in greater detail and if this includes the impact of sports schedules. Mr. Dumais said that the traffic would be adjusted to an average season condition and in this specific traffic study, a couple Saturday’s that included sporting events. The applicants provided data for weekday average conditions so they would collect Tuesday through Thursday data during the peak commute, which is typically 7am to 9am and 4pm to 6pm, and then they would look at the average month using seasonally adjusted data through MassDOT. In this case, the sports fields to the north of this site, the applicants did provide Saturday data for conditions with that in place. Mr. Petropoulos mentioned that it appears that the public is interested in whether or not those sports related adjustments were accurate and well-represented and asked if these were assessed and determined accurate. Mr. Dumais said that he would have to answer this at a future meeting after he has discussed this with Mr. Michaud, as he did not go this in depth to the traffic study but they would be able to look into it. Chairman Easom mentioned that from his understanding, the traffic review was not adjusted for high flow volumes and measured the traffic at a high flow period so they wouldn’t have needed to apply the multiplication factor for peak hours. Mr. Easom asked if this was the general consensus and traffic engineer, Kim Hazarvartian, said that they took counts during periods where tournaments were being held at the fields and when they ran their analysis, they had a hypothetical scenario where they increased the volumes by 10%. Member Petropoulos wanted to verify that this method would be an accurate way to measure peak activity and Mr. Dumais confirmed that this is an accurate way to accomplish this.

Continuing on the peer review letter, Mr. Dumais agreed that the study area and adjustments were appropriate. They did recommend getting crash data, in which they did perform after this recommendation. The intersections were also appropriate and the vehicles speeds were well above the posted limits, so they recommended radar speed limit signs. Overall, the traffic study for this project appears to be completed, with a few adjustments that have already been addressed and a few others that are still pending to be addressed. MDM’s peer review letter included their list of recommendations on what should be included on the project. In response to these comments and recommendations, Mr. Alphen said that the degree to which these recommended improvements are related to the applicants’ project is opposed to those things which would probably be recommended without their project, encourages the applicants desire to spend money on these additional things. Mr. Dumais said that they would need to determine which items they would or would not be needed in order to ensure the project is safe.

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

Member McLaughlin mentioned that most of the recommendations were not of great cost and it was mentioned that the radar speed sign may be, but this could vary on if the Town would be able to contribute anything towards it, whether it was the applicant purchasing it and the Town installing it for cheaper or a similar method.

Member Petropoulos asked if the applicants would be able to confirm that they would be willing to add in a waiting area for the bus stops, if necessary, and Mr. Alphen agreed that they would be able to commit to this. Mr. Petropoulos also mentioned that he doesn’t believe some of the current traffic issues on this road are their problem and more so the Town’s problem.

Member Prager agreed with Mr. Petropoulos’s assessment and said that he doesn’t think that the speed on this road is something the applicants need to address directly, but that the Town should look further into this now that it has been brought up and has been a concern otherwise.

Member Peisel asked if there was a hypothetical situation where if there was a certain number of cars that contributed to the traffic study, if these numbers would have MDM recommend that this problem be addressed by the applicants and Mr. Dumais answered this by explaining that he wouldn’t be able to put a specific number on it but there would be a point where this could be possible depending on the markings on the road, the width of the road and similar aspects. However, he said that the number of cars this project will produce will not significantly change the current status of the road.

Associate Member O’Donnel commented that while the data may show that this development may not impact the traffic on the road currently, it would to the current residents who will see even more than what they are currently without the project.

As this letter was submitted tonight, Judi Barrett did not have any comments yet but said she would by the next meeting.

To summarize the traffic study as of this meeting, it did not appear that the addition of this project would greatly impact the current traffic in this area. The current existing traffic is a concern without the project, but it was noted that the development wouldn’t make a significant difference if it were to be approved.

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

Tom Pistorino asked if the Board had an opportunity to go down and do a site walk on the property and if the Board was able to look outside of the general bylaws and look at the impact of what neighbors and future neighbors could endure. It was confirmed that some of the members were able to preform a site walk and the general consensus was that there were concerns, such as the water table and the steepness, on the property but these are more of the applicant’s concern. The traffic was a back-and-forth opinion within the board on whether or not it was a busy road. Chairman Easom mentioned that he was surprised by how close the property was in distance to the police gun range. In regards to the neighbors and what could be done in relation to this, Judi Barrett said that the Board can always consider the people who live there but, in the end, technical assessments should be what is focused on for a decision.

Linda Bicknell commented that the traffic study was not done at the busiest time of the year and does not believe it is an accurate study. She mentioned that most of the sports by the time the counts were done were already completed for the season and the days that did have tournaments, there was still less cars because of the weather. Ms. Bicknell also mentioned that the wires were also not appropriately placed the first time and by the time they came back, the sports were done. She also mentioned that the school bus does not currently go down this road and mentioned the ongoing concerns regarding the traffic and a potential concern about student aged children having to walk to a bus stop at an already dangerous intersection. Ms. Bicknell further went on to explain that multiple people have told the Town about the ongoing traffic issues on this road and while some action has been attempted, it did not solve it by any means. Dan Dumais said that the traffic study isn’t always the peak of the peak, so it would be calculated as an average season condition. MDM did consider that there may be times where sports are getting out and that there’ll be more traffic and they did include a recommendation to add sight lighting at certain locations. Mr. Dumais agrees that they didn’t study the peak of the peak but that is not the general industry standard.

Hans Reimer mentioned that when he moved in over thirty years ago, there were no houses on Cow Pond Brook Road, the transfer station and the fields were just starting up and you could only drive so far up on Cow Pond Brook Road to get to the transfer station. Over the span of thirty years, he has noticed a significant difference in traffic conditions. Mr. Reimer asked at which point does someone say enough is enough and strongly believes that this project will significantly alter the character of the neighborhood. Mr. Riemer gave an example of a time where he asked the Town if he could build on his property, which is a little over three acres, and he was told he could not do this because the property was not big enough. He asked for the Board to consider those who are already living in this area when making a decision. Chairman Easom said that the reason why he was likely told he couldn’t add on or build on his property is because that was likely based on a 40A scenario and not a 40B, which is what makes these two situations different.

Associate Member Green mentioned that the country has changed and grown and towns have to make accommodations because of it. Mr. Green also mentioned the traffic at this location but again brought up how this is before these proposed homes are being built, so there was a problem before and this needs to be solved even without this project but since this project should not statistically make a difference, it is not the problem in this situation.

Member McLaughlin asked about traffic study results and the number of vehicles that are coming and going on this road since the numbers that are shown on the traffic study appears to be a fair number of cars for this location. Linda Bicknell mentioned that these traffic counts do not include when sports were playing, which has been expressed a vital part of this location. However, it appears that in the traffic counts, that there were cables placed on weekends/days where there were tournaments going on. There was further discussion on this and it was explained that many residents do not agree that these counting wires were not placed accurately and missed a number of vehicles. Ms. Bicknell also went on to explain that there are currently signs placed around the area but when she has been down there, she herself has seen drivers completely ignore the posted signs so she does not believe signs will actually work.

A Groton resident commented that there are currently about 10 houses on Cow Pond Brook Road and that this proposed project is 28 homes, which essentially will quadruple the number of cars that currently go on this road, which is a significant increase. Chairman Easom said that this would be an accurate assessment, however there is more than just these houses that drive on this road and according to MDM’s peer review, this development would not cause a significant difference like what was just mentioned.

Member Petropoulos said that he believes most empathize with the residents’ concerns and hope to make the impact as minimal as possible, however the Board have restraints that are required per the State to try to make this development possible unless there is something that is compelling enough in a narrow set of guidelines that need to change and unfortunately character of the neighborhood is not something that is in the scope of this to determine a decision.

Regarding the traffic concern that has been brought up, Mr. Petropoulos recommends that the Board, at some point, send notice to the Select Board that it has come to their attention the traffic problems on this road are significant and worrisome and that something should be done to resolve these problems. The Board agreed that Chairman Easom could bring this up to the Select Board, on behalf of the Zoning Board of Appeals.

Kim Hazarvartian briefly said that the traffic counts were done on a Saturday when there was a tournament being held and they were as careful as they could be to get a busy day and mentioned that the counts that were performed in October were additional counts that MDM asked for. Mr. Hazarvartian also said that the counts are not based on twenty-four hours and that they are based on peak hours. Member Petropoulos mentioned that some believed that the original counting was done in the wrong places, and once this was brought up, the applicants proceeded to lay more wires down to count, so he was curious if technical assistance could help determine if these were accurate locations and how those set of locations were compared to the other set to see if there was an error made in the first set of locations in the first count. Mr. Hazarvartian said that this was reasonable but that he did consider the counts and put the amounts on the higher end.

Member Prager mentioned that regardless of the amounts of current traffic, the amount after the development gets included in the traffic count, the number actually diminishes because the denominator would be higher according to what it currently is. While it would be interesting to see the results, it may not be worthwhile to do. Mr. Prager also agreed that the Board has a limited amount of leeway when it comes to a decision when it comes to 40B applications.

Member Peisel brought up the question of whether it was advantageous to add seven units of affordable units compared to what will be put on to the residents in the area.

Judi Barrett asked if the Board received any comments from the Police Department and wondered if it would be beneficial to get input from them since there is a lot revolving around public safety concerns. It was noted that the Police Department has given a comment, but it was in regards to the shooting range. However, Ms. Barrett still recommended getting a comment from the Police Department regarding the safety concerns that have been brought to their attention. Chairman Easom will contact them and see if they would be able to give a comment on this matter.

Member Petropoulos asked if it would be beneficial to ask the school department about a bus stop at this location and Ms. Barrett said that it might be worthwhile but that it may not be in the peer reviews scope but for the applicant’s knowledge it would be worthwhile to know. Mr. Dumais said that it was worth it to ask the school because if they are not able to come up Cow Pond Brook Road, they would need to have a safe way to get to another bus stop and this would require additional pedestrian access. Public safety is part of the scope that the Board can consider to make a decision on this application. Chairman Easom asked if the traffic consultant could provide guidance on what would be reasonable should the school district not to bring a bus down this road and Mr. Dumais agreed that they would look in to this.

Justin Frazier asked if the traffic count included pedestrian traffic and Mr. Hazarvartian said that their counts included pedestrian and bicycle traffic. Someone was either marking them with a machine or a video was used to count this traffic.

More pedestrian and public safety concerns were mentioned and these are items that will be looked in to further.

Member Petropoulos asked if the ZBA can consider the issue of density, meaning that a neighborhood has a certain number of homes under current zoning and if a 40B application comes in and what the density will do to the homes in a certain area. Ms. Barrett said that the Board can consider public safety, public health, building and site design, open space and environmental impact. While they can potentially frame density in some of these aspects, the basic authority to determine whether the site is appropriate for housing or the proposed development, the basic threshold determination is not made by the Board and is made by the subsidizing agency.

Member McLaughlin asked if the Board thought that sidewalks were necessary for safety for this project, what is the Board able to ask for this. Ms. Barrett mentioned that one of the first things is determine how much of the issue is a current existing condition unremedied by the Town and then the projects proportionally contribution to change and this typically gets resolved by the applicant providing some financial contribution proportionate to their impact. In sum, the applicant has a duty to help provide contribution to fix the problem, but it is up to the Town to ultimately fix the issue because it pre-exists the project.

Tom Orcutt, Water Superintendent, received a letter regarding the water line and have been in contact with Paul Alphen to get a hydraulic analysis and funds to the Town account so that they can hire a consultant from Environmental Partners to do the hydrologic analysis so that they can be sure that the water system they have on Cow Pond Brook Road and throughout the Town can support not only water to this site but also for hydraulics and fire protection purposes. The funds are going to be delivered and the applicant is committed to contributing the funds for this hydraulic study. Once this is received, Mr. Orcutt said that he will process and submit the application to the State, which is due in June but the letter of intent is due next week.

Member Peisel asked if that “one stop” application is to get the funding from the state to install this water line or if this was separate. Mr. Orcutt explained that he believed the applicant submitted their own application last year and got rejected because the application needs to come form the Town of Groton. He said that he will take the information that Paul Alphen has and submit this information on behalf of the developer. Mr. Orcutt explained that the deadline is June 8th and typically results will be known by October or November. If the application gets rejected for this grant, the applicant will then be responsible for funding the water line. Associate Member O’Donnell asked if the hydraulic analysis that is being performed also takes into account quantities and where the loads are being pulled from and if there will be an impact on wells and quality of water being impacted. Mr. Orcutt said that the hydraulic analysis is being performed to see if it will be able to support the development more than anything and to view it from a fire fighting standpoint. Member McLaughlin asked what information this will be based on since there is no development there currently and potential changes could still occur to the neighboring properties and Mr. Orcutt said that they always try to size piping for future developments that could be done after the current proposed development. The water department has the ability to provide the capacity to this project and future projects in the area but they need to determine if the pipe is large enough to do this.

The final topic was the previously mentioned list of questions from Nitsch Engineering. The applicant does not have this ready for this meeting but their comments should be ready for the next meeting.

Comments from the police department, school district, traffic concerns to be sent to the Select Board, and an updated requested waivers to occur in the interim and be a discussion at the next meeting. Judi Barrett recommended getting these comments and waivers to the peer reviewers to receive their comments before the next meeting as well.

There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on March 6th, 2024. This meeting will be pushed forward to 6:00PM because of the budget meeting that is also being held on this day.

***Member Prager made a motion to continue the public hearing of Heritage Landing to the 6th of March, 2024. Member*** ***Peisel seconded this motion and it was carried unanimously.***

**General Business**

**Approval of Minutes from January 24th, 2024**

*The Chair will entertain a motion to approve the meeting minutes from January 24th, 2024. Member Peisel made a motion to approve the meeting minutes from the 24th of January 2024. Associate Member Green seconded this motion and it was carried unanimously.*

**Member Peiselmade a motion to adjourn. Associate Member O’Donnell seconded the motion and it was carried unanimously.**

A motion to adjourn at 8:40 PM