

**Town of Groton**

**Zoning Board of Appeals**

173 Main Street

Groton, Massachusetts 01450

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March 28, 2024 - 6:00 PM - First Floor Meeting Room

**Members Present and Voting for Public Hearing**

Bruce Easom, Chairman

Dan McLaughlin, Clerk, Full Member

Thomas Peisel, Full Member

Jay Prager, Full Member

Veronica O’Donnell, Associate Member

Leonard Green, Associate Member

Molly Foster, Associate Member

Gregg Baker, Associate Member

**Others Present**

Paul Alphen

Jeffrey Brem

Members of the public

**The meeting was called to order at 6:00 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 mentioned that while Molly Foster appeared to be on Zoom, she was actually in person, therefore roll call vote was not necessary for this meeting since everyone was present for this meeting.**

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

**Meeting Minutes**

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

**Chairman Easom opened the public hearing. This is the fourteenth 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, Dan McLaughlin, Thomas Peisel, Jay Prager, and Veronica O’Donnell. Alternate Members Gregg Baker, Leonard Green and Molly Foster were also in attendance.

Since the meeting before last, a stormwater design packet was submitted by the applicant, comments from Nitsch Engineering have been submitted on that stormwater document and various other comments from Nitsch Engineering regarding other aspects of the project. There have been further comments submitted by the applicant as well.

Paul Alphen was present to represent the applicant and he agreed with this assessment, however there was also a document submitted by himself dated March 26th, 2024 responding to Nitsch where they consolidated a list of all of the waiver requests. This waiver list includes all the original waiver requests and updated requests, which includes the Board of Health regulations once it was determined that the septic system will be under the jurisdiction of the local Board of Health and local roadway waiver requests that were mentioned by Nitsch Engineering. A response from Nitsch is still pending regarding these updates. Mr. Alphen also said that if there were any areas in which Nitsch had concerns or is not inclined to grant waivers upon which they already commented on, Jeffrey Brem should comment on these items but he does not believe that there are any outstanding comments from Nitsch. An updated lighting plan/study is still to come; they are working through which hardware is necessary to prepare this study since the original hardware was not appropriate for dark sky requirements. Mr. Brem said that another document that was submitted was a fire turning template.

Member McLaughlin asked about the waiver that was regarding lighting and asked if they planned on complying with dark sky standards and Mr. Alphen said that they anticipate that they will comply with dark sky requirements and a photometric plan will be submitted. The waiver Mr. McLaughlin brought up was the original waiver that was submitted but once the plan for the lighting gets submitted, this waiver will be withdrawn, however Mr. Alphen did not want to withdraw it until the photometric plan with dark sky requirements was in hand.

Chairman Easom read Nitsch Engineering’s response letter to the submitted Stormwater plan from March 20, 2024 into the record. In sum, Nitsch Engineering stated that they were generally comfortable with the preliminary design for the stormwater management system for the project based on the preliminary design and that the project appears to be compliant with MassDEP stormwater management standards. However, the preliminary design does not comply with several local regulations and the applicant will need to address these items through design revisions or waiver requests. Nitsch will also provide an additional letter with recommendations for conditions to be included in the final decision. Mr. Brem also read his responses to these comments, in which a majority said that they would be requesting a waiver for that item, that they would expect a condition in the decision or that they will comply with Nitsch Engineering recommendations. However, Mr. Brem mentioned that they will be following state regulations and that these waiver requests are just for local regulations. This letter covered stormwater management standards and general comments.

Chairman Easom read Nitsch Engineering’s letter that was provided to the ZBA and applicants from March 19, 2024. This letter has various responses and comments from Nitsch Engineering and the applicants with the back and forth between the two regarding aspects of the project. This letter regards waivers and whether or not Nitsch recommends accepting them or not and what they recommend to do if not and whether or not the applicants will comply with these recommendations or if they will request a waiver. In this letter, it brought up the possible sidewalk installation and Chairman Easom mentioned that he asked if the Town intended to install a sidewalk if the project calls for it and he said that he asked the Town Manager this question, who answered by explaining that the Town would cover its portion of the sidewalk construction cost.

Member McLaughlin asked what the slope of the roadway was and Mr. Brem said that they asked for a waiver for this but the plans right now show 2% to 10% and they have asked for 4% to 12% to reduce the amount of fill. Mr. McLaughlin then asked if they would need a retaining wall for how much of a slope there will be near some of the houses. Mr. Brem proceeded to explain the grading and slope from the location in question and how there will be a wall needed up to a certain slope but once it makes it to a certain lot; it will level out and the fence will not be needed for the rest of the area.

An environmental analysis is not a requirement, so the applicants mentioned that they will not provide one unless the board requires them to.

Mr. Alphen read his letter dated March 26, 2024 into the record, which states that the applicants have an updated waiver list. Mr. Alphen explained that these were previously submitted as part of the original application except for a few new waiver requests, which he read into the record.

Following this, Chairman Easom said that he spoke with the Chief of Police in regards to this project regarding public safety for this development and its effect on Cow Pond Brook Road and as of this discussion, Chief Luth did not have any comments. Mr. Easom then recommended that Chief Luth send a letter to this affect so that this could become part of the public record.

Chairman Easom also mentioned that any comments or recommendations on conditions submitted by Nitsch Engineering should be submitted before the end of the close of the public hearing process so that they can get read into the record so that the public and the applicants have the opportunity to comment on the suggested language. Mr. Easom also reminded everyone that April 24, 2024 at midnight was the close of the public hearing portion of this application. Related to this, Member Peisel mentioned that a draft decision was provided for the previous 40B so that the public could also be able to discuss the decision and asked if this was the intention for this 40B application and it was mentioned that this would be ideal as long as peer reviewers and the technical assistance could provide their input before the next public hearing date.

Member Peisel then asked, hypothetically, if the Board were to reject this application and then the applicant seek an appeal, who would pay for this cost to represent the Town. Michelle Collette said that it would fall on the Town of Groton and that the decision usually goes to the Housing Appeals Committee, a State Agency. Ms. Collette also explained that there have been other 40B applications that have been denied and appealed where one was overruled and the other was upheld. Fran Stanley mentioned that Judi Barrett has shared a draft decision template with Town staff.

Fran Stanley asked about the grade of the land would affect the Fire Departments ability to access the property. Mr. Brem answered this by explaining that there are leveling regulations but they are asking for a waiver for this from a 2% slope to a 4% slope, which is not a significant difference. As for the Fire Department, the fire truck will be able to access the entirety of the project without trouble, and this includes any other emergency vehicles. Member Peisel asked if there was any signage stating parking bans and Mr. Brem said that this would be a condition if they Board sees this to be necessary.

Michelle Collette asked if the list of waiver requests regarding Board of Health matters could be sent to the Nashoba Associated Board of Health because they are the Town’s technical advisor for septic system approvals. Ms. Collette also asked about the TSS removal and what percentage it was going to be if it was not going to be 80% and Mr. Brem said that it would be 89%. There was no exact answer on why this was a waiver request. As for soil testing, Ms. Collette also mentioned that that soil testing for the soil drainage basins is an important feature because there is no natural soil on this property because of decades of earth removal and mining that took place on the site, so while she was pleased to hear they will be performing this soil testing, she asked who would be witnessing it and when would it be performed, as this time of year is the ideal time for it to be completed. Ms. Collette also mentioned that a long-term pollution plan was essential and the operations and maintenance plan was also critical to this project, so she recommended ensuring this be included as a condition in the decision. Finally, Ms. Collette asked if the Town Manager was aware of the concern of the road name for “Rosie Lane” and explained that there is also a “Rosecrest Lane” in Groton. She went on to explain that in past years public safety dispatchers have been confused when there is a similar road name and there is an emergency phone call that comes in for those streets because of their similarities and due to this, it affects the necessary dispatcher’s ability to perform what they need to, and that to avoid this, it would be recommended to not have a road name this similar. Due to this, Ms. Collette recommended to re-evaluate naming this street “Rosie Lane”. Mr. Easom said that he will bring up these concerns with the Town Manager.

Member McLaughlin asked if there was any guest parking for this development. Mr. Brem said that each unit has a two-car garage and two spaces to park and that there was no further guest parking.

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

Justin Fraiser, resident and abutter, asked about the comment regarding the Town paying for their portion of the sidewalks and asked if this could be elaborated since it appears the applicants are asking for a waiver for sidewalks. Mr. Easom said that these sidewalks are the ones that would be on Cow Pond Brook Road down to Hoyts Wharf Rd if the school district determines they cannot pick up kids at the intersection of Rosie Lane and Cow Pond Brook Road. If this becomes the situation, then the Board could condition a sidewalk between Rosie Lane and Hoyts Wharf Road. However, because there are already existing houses on this road, the applicant does not need to pick up the entire cost of the sidewalk, so Mr. Haddad indicated that the Town would cover the Town’s portion for these sidewalks. Mr. Fraiser asked if there would be sidewalks in the development and Mr. Brem said that they have requested a waiver for the project itself regarding sidewalks and if sidewalks are necessary off-site, then this would be considered a separate issue. Mr. Fraiser asked if anyone priced out the cost of potential sidewalks and it was noted that this has not been considered yet but there have been recently installed sidewalks that could be used as an example for cost and it was noted that there were also grants given to install these as well, which could become the case for this as well. Mr. Fraiser asked who did not give a comment and Mr. Easom clarified that this was from the Chief of Police. Mr. Fraiser then followed this up with his previous question about if the Town took into consideration the recently approved Groton Farms and this potential development and if these two projects would cost anything in regards to public safety, such as needing to acquire more officers. Mr. Easom said that he will bring this up to the Finance Committee. Associate Member Green mentioned that the Zoning Board has very limited purview on what they can and cannot do in regards to this 40B application, so the Board cannot consider Town issues in this decision such as cost. It was noted that when and if this project gets approved and constructed, it will be reviewed further by Fire and Police, which is when this would be determined. Fran Stanley mentioned that this project was less than 40 units and that this would not be a major impact on increase of residents. Mr. Fraiser mentioned that he also wanted to know if Groton Farms was included on the impact and if both projects would affect public safety employees.

This project will not go to Town Meeting but it will have to go to various boards and committees for approval.

There was further discussion on guest parking and how it would not be ideal to not have any guest parking in the development. It was later agreed that if the Board wants the applicants to include additional parking, they would add a location on the property to achieve this. The Board agreed that guest parking should be included and Jeff Brem said that he would check with their clients about this and add these if they agree.

Ms. Collette thanked the ZBA and the applicants for bringing this application forward because there is an affordable housing crisis in Groton and in Massachusetts that is affecting the economy and labor workforce and said that we need more housing, affordable housing and rental housing.

Annalisa Bhatia, MIT representative, mentioned that if the applicants need guidance on dark sky requirement hardware, she would be able and willing to help out with this.

Chairman Easom proceeded to explain the 40B process to newcomers who did not know the procedure.

There was brief discussion about the next meeting date and it was discussed that the next meeting to be held would be on Thursday April 11, 2024. A draft comprehensive permit is the main focus to have for this meeting. This meeting will be pushed forward to 6:00PM.

***Member Prager made a motion to continue the public hearing of Heritage Landing to the 11th of April, 2024. Member*** ***Peisel seconded this motion and it was carried unanimously.***

**General Business**

**Approval of Minutes from March 20th, 2024**

*The Chair will entertain a motion to approve the meeting minutes from March 20th, 2024. Member McLaughlin made a motion to approve the meeting minutes from the 20th of March 2024. Associate Member O’Donnell seconded this motion and it was carried by majority vote.*

**Associate Member Green made a motion to adjourn. Associate Member Baker seconded the motion and it was carried unanimously.**

A motion to adjourn at 8:00 PM