

# GROTON PLANNING BOARD

June 29, 2016

Meeting Called to Order: 7:05 pm

Present: Chair Deborah Johnson, Ray Blake, Dave LaBar, Glen Hansen, Elizabeth Jespersen, Bob Ferriere (Select Board Liaison)

Audience Member Present

Deb read tonight's Agenda aloud. She asked for a motion to set aside reading of minutes of previous meetings. Glen made a motion to waive reading of minutes until after the public hearing. Ray 2<sup>nd</sup>. Passed Unanimously.

Dave Madden requested assistance of the board in completing the Site Plan Review application for the garage they operate at 115 N. Groton Road in Groton. This is courtesy ADVISORY information only. Dave provided a Google Map of the area explaining landmarks such as the shop, his house across the street, the Cockermouth River and surrounding homes. The board advised he should provide a copy of the property Tax Map, dimensions of the buildings, setbacks from the road, available parking size, and intentions for signage along with the application. He will need a list of property abutters which he said he has already obtained from Sara Smith. The definition of abutters was read aloud to Dave and explained that not only must abutters but other property owners may speak at the hearing. Deb volunteered to give a courtesy call to the property owner near Dave (Gaffey's) who may be interested in the process but are not abutters. Items he will need include a copy of the Zoning Variance Letter; plans for waste disposal since there is no septic system on the property; how water is used since there is no water in the building even though there is a well on the property; and finally, information as to how oils, chemicals, tires, etc are stored and disposed of. He was given a copy of EPA's Green Yards Program information. Dave was shown a copy of the business registration from the State website. He confirmed it was his business information and stated that he will contact the State to update the status. Dave was then given instructions as to how to complete the information needed for mailing notices to the abutters. He was advised to do this ASAP because of the timing needed for notification prior to the July 27 public hearing. He would need the notices mailed by July 10 at the latest to which he stated he would do them right away, by the 8<sup>th</sup> of July.

Chair explained that at this time we have to review what has submitted and accept it or reject it. We can do it all at this meeting. If we accept it we can then go into discussion. Tom presented the new maps which were slightly revised from the preliminary maps previously submitted. The checklist for the minimum requirements for the application was then reviewed.

1. Are any of the lots to be adjusted less than 5 ac? Answer: No
2. Do the roads or any buildings cross wetlands in order to create the lot adjustments? Answer: No
3. The mailings to all abutters were previously mailed out and return signature cards were matched to all. For the purpose of transparency Deb Johnson informed the board and audience that she is an abutter on Blood Lane which is part of the property being merged. Unless anyone objects Deb will continue to chair the hearing. She also stated that if at any time someone objects to her chairing the meeting, she will step aside.
4. Topographical maps had been prepared and were presented.
5. Application filing fees were paid.
6. Are any lots being created that will need a driveway permit? Answer: No
7. Confirmation that Subdivision Regs had been read by applicant.

It appears that the application is complete.

Let the record reflect that we are in fact in Public Hearing Session for Green Acres Lot Line Adjustment at 7:35pm since it was not announced at the beginning.

Deb then asked for a motion to accept the application as complete. Glen made the motion to accept the application as complete. 2<sup>nd</sup> by Ray. Passed Unanimously. No objections from the audience at this time.

Green Acres put a significant amount of property under a Conservation Easement which in effect prevents Green Acres from selling the property to build a subdivision of houses. It does allow them to continue forestry practices and to continue with the State Corridor of snowmobile trails. This is good news for Groton as it provides for hiking and recreation and for wildlife protection. Being in Conservation easement is a step above just holding the land in current use. When the property was put into Conservation Easement it was several lots of land. In effect it would take 4 lots and merge them into one under the Conservation Easement.

A question was asked of Tom as to Green Acre Woodlands intention to allow ATV's on the property. He stated that the family has considered it in the past and may again in the future but at the present time they are not allowed on the property. Tom provided the Legacy documents that were previously requested. Green Acres has purchased additional properties since the Legacy Project began. They may be looking to sell one of the parcels that were previously merged. These processes would un-merge that 308ac and allow them to sell a 32.61ac parcel with buildings that Green Acres does not wish to own. In addition one of the lots was a little over 5ac at the corner of Halls Brook Rd and Victoria Mountains Way. This proposal would change it back to the previous lot. One of the other main purposes of this change is to merge the 4 conservation lots 6-11, 7-21, 7-45, and 7-46 into a single lot. Lot 7-22 is the 33ac lot that has the buildings on it. All the properties under 6-11 would be a single lot with all the conservation lots. Deb brought up the issue of the road frontage for lot 7-11. Tom pointed out that it is 200.23 ft which is within requirements. Glen then brought up the issue of maintaining of Victoria's Mountain Way. As required by Groton Subdivision regs a Road Maintenance Agreement was drawn up by Green Acre Woodlands attorneys. At the present time a locked gate blocks access to the properties off of the road. As a note Tom was informed that a key to the gate needs to be given to local fire departments. A problem was brought up regarding plowing of the road. It was explained that the regs require an agreement for ALL maintenance so the town has no exposure. It also eliminates the problem of some landowners paying for the maintenance while others do not. We cannot approve the plan with a road maintenance plan that does not satisfy our subdivision requirements. Tom inquired as to where it states in the regs that the agreement states roads must be plowed. Deb explained that it was the intent of the Board when drafting the regs that maintenance included everything. Everything is being: plowing, sanding, repairing, grading and emergency work. If we have to go to court to get the interpretation of what maintenance means we will, should we not be able to come to an agreement here. The town doesn't want to go to court over this when Green Acre Woodlands agreement simply could state "ALL" property owners would be liable for maintenance. Tom pointed out that the agreement fulfills the towns' regs as written, in his opinion. Tom also inquired as to whether a 674-41 waiver would be acceptable to the town. The planning board cannot make that decision. It would have to be discussed with the Select Board.

Michael Tkahuk brought up the fact that he was previously stopped from working on the road along with someone he hired to do work on it. He owns 5 lots off of Victoria's Mountain Way, (Arpino Drive) that he now has no road access to because of the locked gate. The Planning Board in 1987 granted him a subdivision permit with access from Mine Road which has been renamed Victoria's Mountain Way. Mike stated that his Title Insurance Company said previously that they don't get involved in denial of access issues until there was a problem. Now there is a problem because of the requirement to sign the road maintenance agreement in order to have access. He wants access to his property. Tom pointed out that currently it was ruled in Grafton

County Superior Court that the private road is owned by Victoria Collins sighting a deed she produced. A side note: Mike stated that his septic is going in the area that he is currently clearing on the hill.

Chuck Braxton who represents Green Acre Woodlands and the owner of the 40ac lot at the corner of Mine Rd and Stage Rd was present. He previously represented Victoria Collins. He believes it was a town road at one time when he represented the Brown's. He doesn't know how the Tkahuk subdivision came about.

Deb asked Mike if he would be willing to sign the road maintenance agreement. His point is "how could this become gated when he regularly pays taxes on his property". Tom said it would be cheaper for him to sign the agreement rather than go to court over the issue. Mike then argued that the Title Insurance Company will be dealing with this now that he doesn't have access. He won't pay a dime to fight this as the Title Company will be doing it. The issue could be resolved amicably Deb suggested by all parties signing the agreement. Another suggestion would be to have the Planning Board go to the Select Board to see if they would accept a 674:41 waiver. Another option would be that the Board could rule the subdivision doesn't exist any longer because development had never been done to any of the lots. If this were the case it would become one lot rather than the 5 that currently exist. This is not what the board would like to do. Mike states that what he wants for this to be fair to him would be to eliminate the gate. Tom's response is that the maintenance agreement gives all property owners access to the road and a part in its maintenance. While the board respects Mike's viewpoint we want to make sure that Green Acre Woodlands is protected, per the current court case. As a note, Victoria's Mountain Road is in Current Use, not Conservation Lands.

This issue is important to the board. We want all parties to be represented fairly here. We want a solution to the whole issue being presented tonight. Because the issue appears to be at an impasse, we the board cannot accept the application tonight.

Tom asked for clarification of the issues. He believes it is the plowing issue and the 674:41 waivers. Deb clarified it further that a draft of the Road Maintenance Agreement in its entirety is needed and resolution to the access issue for Arpino Drive. Tom suggests that it is not within the boards' jurisdiction to not render as part of your decision that this lot line application is not complete because of the issue with Mike Tkahuk. Discussion ensued as to how the State arrived at the necessity for a 674:41 waiver. If the Select Board and Town Attorney are happy with a waiver being the resolve to the Maintenance Agreement then we will move forward.

Therefore, the board will continue the Public Hearing at our next monthly meeting. Tom asked that when we check with the Select Board and Town Attorney we ask if the board has jurisdiction over this. Deb assured him that we will ask about what appropriate action we should take is and what the resolve should be.

Motion at 9:11 pm to continue Public Hearing to our next monthly meeting was made by Glen. 2<sup>nd</sup> by Ray. Opposed: None. Passed Unanimously.

Motion at 9:12 pm by Glen to close our Planning Board Meeting was made by Ray. 2<sup>nd</sup> by Dave. Passed Unanimously.

Respectfully submitted,

Elizabeth Jespersen