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MEETING MINUTES
GEORGETOWN PLANNING BOARD
Wednesday, March 27, 2013
Memorial Town Hall – 3rd Floor
7:00 p.m.

Present: Mr. Harry LaCortiglia; Mr. Christopher Rich; Ms. Tillie Evangelista; Mr. Tim Howard, (Arrived at 8:00 PM); Mr. Bob Watts; Mr. Howard Snyder, Town Planner; Ms. Wendy Beaumont, Administrative Assistant.

Meeting Opens at 7:08 PM.

Approval of Minutes:

1. Minutes of March 13, 2013.

Mr. Rich - **Motion** to accept the Public and the Executive Meeting minutes of March 13th subject to any changes made by colleagues at this meeting.

Ms. Evangelista - **Second.**

Motion Carries: 4-0; Unam.

Vouchers:

1. H.L. Graham Associates: 6 Norino Way

Mr. Rich - **Motion** to accept the vouchers as presented.

Ms. Evangelista - **Second.**

Motion Carries: 4-0; Unam.

Public Hearing:

1. 6 Norino Way: Continued.

Mr. LaCortiglia - Open to continue the public hearing for site plan approval that was continued from the February 13th meeting.

Mr. Botterman - I am from Millennium Engineering and am representing Mr. Mirra. We got a comment letter from Mr. Graham and we have responded to that and I have two sets of revised plans. I also have a Form H requesting an extension of time. We agreed with Mr. Graham's comments and have made the appropriate changes. They had a suggestion for the underground storage tank and we have revised the plans accordingly.

Mr. LaCortiglia - Is it safe to say that these new plans are updated in regards to Mr. Grahams comments?

Mr. Botterman - Yes.

Mr. LaCortiglia - Are the stormwater calculations there too?

Mr. Botterman - Yes.

45
46 Mr. Rich - **Motion** to approve the request of Extension of Time to June 30th as per the
47 petitioner's request.
48 Mr. Watts - **Second.**
49 **Motion Carries: 4-0; Unam.**

50
51 Mr. Botterman - This is my first time here and I am a principal at Millennium Engineering
52 and I wanted to let you know that your review engineer at H.L. Graham and Associates is
53 very good.

54
55 Mr. Rich - **Motion** to continue the hearing to May 8, 2013 at 7:00 PM.
56 Ms. Evangelista - **Second.**
57 **Motion Carries: 4-0; Unam.**

58
59 **Correspondence:**

60 **1. H.L. Graham Associates: Site Plan Review for 6 Norino Way.**

61 Mr. LaCortiglia - I think this is a moot point as we just dealt with this.

62
63 **2. H.L. Graham Associates: Special Permit Review for East Main St. Recreational**
64 **Facilities.**

65 Mr. LaCortiglia - Isn't this coming up at our next meeting?

66
67 Mr. Snyder - Yes, at our next meeting on April 10, 2013.

68
69 **3. Town of Georgetown, Zoning Board of Appeals: Nunan's Florist & Greenhouse.**

70 Mr. Snyder - The Planning Board received notice from the Zoning Board of Appeals in regards
71 to a public hearing being held on April 9th, 2013 at 7:30 PM. The applicant has submitted a
72 special permit application under chapter 165 to operate an outdoor amusement use in the
73 residential B district.

74
75 Mr. LaCortiglia - Is this for mini golf?

76
77 Mr. Snyder - Yes.

78
79 Mr. Rich - Can we look at the schedule of uses and the definitions as I am a tad confused how
80 mini golf falls under the classification they have it under. I guess it would fall under the "other"
81 category.

82
83 Ms. Evangelista - Why wasn't the new bylaw put in the book? Why this isn't considered a
84 minor outdoor private active recreational facility?

85
86 Mr. Rich - It is not private – it is opened to the public.

87

88 Ms. Evangelista - {Reading of the bylaw for all to hear} So there would be a process that the
89 Planning Board is responsible for.
90
91 Mr. Snyder - I spoke with the Building Inspector and he said that it was an outdoor amusement
92 that would be coming before the Planning Board for a Site Plan Review.
93
94 Ms. Evangelista - Did you question this bylaw with him?
95
96 Mr. Snyder – No and you had asked me to talk with him about a different bylaw.
97
98 Ms. Evangelista - This was the one that I meant. I think he should be approached again as
99 perhaps he did not recognize this.
100
101 Mr. LaCortiglia - Are Nunan’s Greenhouses under a special permit from the ZBA?
102
103 Ms. Evangelista - No, I don’t believe so.
104
105 Mr. Rich - It would fall under an exempted agricultural use but the mini golf would be an
106 exception.
107
108 Mr. LaCortiglia - So there should be an exempted use for the ice cream parlor as well. Mr.
109 Snyder would you look into that please?
110
111 Mr. Snyder - Yes.
112
113 Mr. LaCortiglia - So it’s good to know that this will be handled by the ZBA on April 13, 2013 at
114 7:30 PM and subsequent to that will be a Site Plan Approval submission.
115
116 Ms. Evangelista - I know that it is an agricultural use. I wonder if he had the Chapter 61
117 provision. Assuming he gets this permit he will have to remove that section of the land from
118 this protection.
119
120 Mr. Rich - And pay the back taxes on that portion.
121
122 Ms. Evangelista - My recall about it is that when you change things to another use you open the
123 risk of loosing that protection for that part that is being changed.
124
125 Mr. Rich - Absolutely - the number of square feet for the mini golf will now be commercial and
126 have to be taxed at regular rates.
127
128 Mr. LaCortiglia - If you are changing the use of a Chapter 61 parcel, they need to send a notice
129 of intent to the town and the town has 120 days to respond. These are valid questions and I am
130 sure that before we have our next meeting that the ZBA will raise all of these concerns because
131 they are good at what they do.

132
133 Mr. Rich - Should we ask our Planner, Mr. Howard to broach the subject with the Code
134 Enforcement Officer?
135
136 Mr. LaCortiglia - Does the Board wish to have Mr. Snyder send a memo to the Zoning
137 Enforcement Officer?
138
139 Mr. Rich - I don't think it would hurt.
140
141 Mr. LaCortiglia - I am perfectly happy waiting until the April 9th and trusting in the ZBA – they
142 are pretty bright people and will pick up on all of these issues plus others.
143
144 Mr. Watts - I don't think it's appropriate for us to stick our noses in where they don't belong. On
145 the other hand, are we doing a service to the petitioner as well as the other board?
146
147 Ms. Evangelista - I am looking out for the applicant.
148
149 Mr. Snyder - Let me just introduce this thought – he's before the ZBA for the use and when he
150 comes for Site plan all this will be vetted at that point.
151
152 Mr. Watts - It sounds to me that there are two different sections of the bylaw that are applicable.
153
154 Ms. Evangelista - I would like to find out before the hearing because this is a new bylaw, so let's
155 test it.
156
157 Mr. LaCortiglia - Any more discussion?
158
159 Ms. Evangelista - **Motion** that Mr. Snyder communicates with the Building Inspector and ask
160 him if he reviewed our new bylaw and I would like to know if this new bylaw is duplication.
161 Mr. Rich - **Second.**
162 **Motion Carries: 4- 0; Unam.**
163
164 Mr. LaCortiglia - Mr. Howard I believe the Board is leaving it up to you as to how you
165 communicate with the Building Inspector but please do it by email so that there is a written
166 record.
167
168 **Member or Public Reports:**
169 **1. Vote of the School Building Committee.**
170 Mr. Snyder - At a meeting of the School Building Committee last night they took a vote not
171 to submit a Site Plan Approval application to the Planning Board.
172
173 Ms. Evangelista - It was 5 to 4 with one abstaining.
174

175 Mr. Snyder - Ms. Evangelista is the Planning Board representative on the School Building
176 Committee.

177
178 Ms. Evangelista - Basically at the first meeting there were 8 people present and the vote was
179 different as it was 5-3 to file the application. The process was repeated for several reasons.
180 One that the two co-chairs through a recommendation from the Town Administrator to have
181 another vote. The reason for that is that he had communication with Town Counsel and got
182 the opinion that it should not go to the Planning Board as it is for an educational use. No one
183 else on the committee had seen that letter. I was very disappointed as I know that we would
184 have done a great job reviewing this project. The School Building Committee did not discuss
185 the letters we sent. Because we did the vote again, it lead to a lot of doubt. Town
186 administrator also stated that the agenda from 2 weeks ago did not have the word "vote" on
187 it. So the co-chairs are steering the group with assistance from the Town Administrator –
188 because he said the first vote was not legitimate because it was not on the agenda right.

189
190 Mr. Rich - As you know I was present at the meeting and I did inquire as to whether or not it
191 was a written opinion and after I was threatened with having the police called and being
192 physically removed from the room for asking that question it was announced that it was a
193 verbal opinion and not memorialized by any one in writing. And two weeks prior told her
194 committee members she that the written town council opinion stated that Town Counsel said
195 not to go to the Planning Board. At that I time inquired of the Chair if she had read the
196 communication and she said no that she was told what it said.

197
198 Mr. LaCortiglia - So essentially there may or may not have been some summarization errors.

199
200 Mr. Rich - That's a very kind way of putting it.

201
202 Mr. LaCortiglia - That's the only way this board should be putting it. Miscommunications
203 happen when people summarize.

204
205 Mr. Rich - She ultimately did forward the correspondence to the other board members and
206 none of them could find where Town Counsel said not to go to the Planning Board.

207
208 Mr. LaCortiglia - Perhaps it's safe to say that we should categorize the Town Counsel
209 opinions that were received (not the one regarding the word "vote" on the agenda) as Chapter
210 40A exemptions regarding whether or not a School Building Committee must or must not
211 apply.

212
213 Mr. Rich - Our Town counsel opinion is that it is not required. Yet the two attorneys at the
214 conference in Worcester answer was completely opposite of the Town Counsel's opinion.

215
216 Mr. LaCortiglia - You will always find opposing opinions. The opinion that the School
217 Building Committee and the advice of Town Counsel that they were under no obligation to
218 submit a Site Plan approval to the Planning Board. Last night the Committee met at a

219 properly posted meeting and they voted it with all ten members present and they voted not to
220 file a Site Plan Approval so this should end here.

221
222 Ms. Evangelista - When I went into the meeting last night, I was under the impression that
223 they were voting again because the vote was not on the agenda. After researching, that is not
224 the law at all. You do not have to put votes on the agenda. What you need on the agenda is
225 the date, time, and topics, that is all.

226
227 Mr. Rich - What the chair reasonably expects within 48 hours of the meeting, is what is
228 going to be discussed and voted upon. She did not act that she reasonably expected a vote.

229
230 Mr. LaCortiglia - Are we saying that last night's vote was not proper? Is there a question as
231 to whether it was proper or not?

232
233 Ms. Evangelista - Yes, you cannot vote again if the first vote was improper.

234
235 Mr. Rich - They created their own violation of the special meeting law. The verbal Town
236 Counsel opinion that was related by our Town Administrator is that a vote is not good under
237 the law unless it is listed on the agenda that the vote is going to be taken – that being the case
238 – every vote that this Planning Board has done – votes have not been listed on the agenda.

239
240 Mr. LaCortiglia - I think we really need a clarification written from Town council regarding
241 this topic. I realize now that it may have been a verbal opinion given to the Town
242 Administrator and that that opinion may have been given to the Chairs. For clarity to us the
243 Planning Board, we need to know the answer to this. If all of our votes when we take them
244 must be listed on the agenda then all of our votes are no good as they are not on the agenda.

245
246 Mr. Watts - It doesn't make sense – there is a risk that if we have a vote that is close and Mr.
247 Howard is not here and the Chairman doesn't like the vote and next week I'm not here and
248 Mr. Howard is then the Chairman can vote again?

249
250 Mr. LaCortiglia - There are rules for reconsidered votes – hard and fast rules.

251
252 Mr. Rich - If you follow that logic thru everything that's we've done - there are projects in
253 town that may have their permits in question.

254
255 Mr. LaCortiglia - By general consent, Mr. Snyder is going to get the written clarification
256 from Town Counsel regarding requirement of term "vote" to be placed on the agenda.

257
258 Ms. Evangelista - From day one the School Building Committee said they wanted to go to
259 the Planning Board as a meeting. As it stands today I believe that is how they are going do it.
260 In my opinion whether we meet with them informally or using a Site Plan Application we
261 will still have our consultant review the plans.

262

263 {Mr. Howard arrives at 8:00 PM.}

264

265 Ms. Evangelista - **Motion** that if the School Building Committee comes for a Site
266 Approval or a meeting that we also get the services of our consultants.

267 Mr. Howard - **Second.**

268

269 Mr. LaCortiglia - Discussion?

270

271 Mr. Rich - I in good conscious cannot support that because I truly believe that unless one
272 formally applies for Site Plan Approval that this board does not give advisory opinions. I
273 was extremely disappointed by the way that meeting was conducted and them worrying that
274 this board was not going to be reasonable. Then hearing them preach about how we are all
275 on the same team. If we are all on the same team and we are trusting them to deal with 56
276 million dollars of our tax money and they are afraid to come before us to issue orders of
277 conditions concerning the safety of the drainage, the roads, sidewalks, access and egress -
278 well then either you formally apply and you get it.

279

280 I asked one of the School Building Committee Board members in regards to paying a
281 consulting engineer like any other developer would have to do and his comment was; "I
282 don't know where we are going to get that money."

283

284 Ms. Evangelista - It's in the budget for consulting and permitting.

285

286 Mr. Rich - I'm sure it is. But the fact that a board appointed to oversee the building of a
287 school in this town – the single largest project in the history of the town, doesn't want to
288 bring it before the people who are charged with making sure that it is done right and under
289 the guise that "we don't want it to be delayed." And as you witnessed at the meeting: "Well
290 if there are mistakes in the drainage, we are going to have it tested in the field and we will fix
291 it there." I have spent my life in the construction industry and you might as well add 20
292 percent onto the construction cost if you are going to have all those field changes because
293 they are all done at cost plus.

294

295 Ms. Evangelista - It was very difficult as they are not familiarly with the process in regards to
296 development. It was new to them and they asked a lot of questions. We have an **OPM** that
297 our Town Administrator thought he was going to review the calculations of the engineer.
298 That is not his duty and I was shocked because the Town Administrator, the one who was
299 dealing with Town Counsel to do his contract! It spells it out in the contract; I was totally
300 baffled by that.

301

302 Mr. LaCortiglia - Can we get back to the motion on the floor? I think if I am summarizing it
303 right Ms. Evangelista, what you are saying is if the School Building Committee comes before
304 us at a meeting and not a Site Plan Approval Meeting then we would get our town engineer?
305 Are we taking this out of our budget?

306

307 Ms. Evangelista - No, the money would be their responsibility – once we got notified, I
308 would clearly put it in a letter.

309
310 Mr. LaCortiglia - Under what venue would they come in?

311
312 Ms. Evangelista - The way things have been going, they are going to do what they want to
313 do. The only time I have been acknowledged as to being on the Planning Board is the other
314 night. I have done several votes and I am voted down – they don't acknowledge. I think we
315 should prepare as if they are coming because it seems to me that they have gotten away with
316 everything.

317
318 Mr. Snyder - Ms. Evangelista, if they are coming in, they will make that request to me so the
319 Planning Board needs to inform me as to “yes” or “no”.

320
321 Mr. LaCortiglia - There is a motion on the floor that is helping us to find out. Evidentially,
322 they will just arrive at a meeting– they have not submitted anything to you – there are no
323 documents or plans. We just have a DRA representative sitting there and then we are going
324 to give them our consultant services?

325
326 Ms. Evangelista - I'm thinking of the worse scenario. The site approval process got defeated
327 – I am just trying to move along. My main concern is that from day one the School Building
328 Committee has gotten everything they want and the meeting before last was the first time the
329 Co-chairs did not win the vote and I think this is a repercussion of them accepting this and
330 they are not going to so they pulled this other thing for another vote with the back-up of
331 Town Counsel and the Town Administrator.

332
333 Mr. LaCortiglia - You are way off there – way down stream – stay at the dock.

334
335 Ms. Evangelista - I am telling you why I am making the motion. I am very concerned about
336 the time involved – time is money. In Andover it was the Conservation Board that appealed
337 their decision and it took more than a year and a half. They had to come back to Town
338 Meeting for 5 million dollars more. My other concern is that I want us to have our ducks in a
339 row so that if a meeting does occur that we can be set up like they did in Andover.

340
341 Mr. Snyder - Can I just clarify? Andover has in their bylaws, which Georgetown does not
342 have, is when a municipal project comes in it is not met by the Planning Board. They meet
343 with the design review committee and then they make a report to the Planning Board and
344 then the Planning Board therefore makes recommendations. There is nothing in Georgetown
345 bylaws that allow for that process. If you want to think about that for the fall town meeting,
346 we can do that.

347
348 Ms. Evangelista - Why did you not speak up at the meeting last night and say that?

349
350 Mr. Snyder - I was there to observe. If I was asked a question I would have responded.

351
352 Mr. LaCortiglia - Let's hear from other Board members.
353
354 Mr. Rich - I would like to ask my colleagues that seconded that motion to withdraw it.
355
356 Mr. LaCortiglia - We can vote it too.
357
358 Mr. Rich - I don't like voting against a colleague's motion. I cannot support it the way it
359 stands. Can you reread it? And I'd like to be heard on it.
360
361 Mr. LaCortiglia - Sure, Ms. Evangelista moved that if the School Building Committee comes
362 before the board for a meeting that they be provided the services of our consultants.
363
364 Mr. Howard - At their expense.
365
366 Mr. LaCortiglia - That was not on the original motion. Tell us what you are thinking.
367
368 Mr. Howard - My concern from day one was the lack of expertise in terms of their
369 experience and if they are willing to pay for our technical people and they listen to and abide
370 by their advice, then I am a bit more willing to be onboard for us not to be involved directly.
371
372 Mr. LaCortiglia - I need clarification. Us not being involved - it sounds like we are involved.
373 They are using the room and we're here - am I clear on that motion?
374
375 Mr. Rich - How are they on the agenda?
376
377 Mr. LaCortiglia - I don't know.
378
379 Mr. Howard - It is up to them whether or not they want us involved whether we like it or not.
380 If they don't want us involved, I don't think there is a whole lot we can do.
381
382 Mr. Rich - At the end of the meeting I was asked if there was common ground - if there were
383 specific bullet points that they could come in on a limited site plan approval - my response
384 was I don't know but I will try and find out but one thing I think is necessary is I think you
385 would have to agree that whatever reasonable order the Planning Board suggested on those
386 bullet points is that you would have to them. And that's when they voted to not submit an
387 application.
388
389 Mr. LaCortiglia - Let's stick to this. It sounds like Ms. Evangelista is making a motion to if
390 the School Building Committee comes before us at a meeting that we would give them our
391 consultant.
392
393 Mr. Watts - I have a question. Our consultant is not an employee of the town so I don't
394 understand - they could just call them themselves - we don't have to be involved.

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Mr. Rich - I think we have to be very careful – if it does not come before us then are we giving the impression that we approved it?

Mr. LaCortiglia - Of course we are.

Mr. Rich - I took it very seriously when I raised my hand and swore on an oath to do what a member of the Planning Board is supposed to do which is to uphold all rules and regulations, ethic laws and all of the Open Meeting Laws. I just have a problem with the appearance that this Board has reviewed it and approved it.

Mr. Watts - It is my concern that if they come here looking for a site plan review there is no purpose for them to come forward to us. We have discussed many times this issue of informal preliminary conversations and it is a waste of time.

Ms. Evangelista - I agree with everything you are saying but it is not going to happen so do we want them to completely bypass us for any review at all?

Mr. LaCortiglia - We extended two written invitations and one time they said “yes” and one time they said “no”.

Mr. Snyder - The Planning Board sent two written invitations to come in for Site Plan Review.

Mr. Watts - I think by doing that, that we have exercised our responsibility.

Mr. Rich - I think we did too and more than our responsibility. I think my explanation I gave to that committee that they should come before this board – I think a first grader would walk out of there knowing why.

Mr. LaCortiglia - From my perspective I think this board has burned a lot of time on this subject. This board has other business for the town that needs to be done. And I am not saying that we are burning time now but we burned time in the executive sessions, we burned Mr. Snyder’s time sending emails back and forth. If the School Building Committee does not want to come, that is their prerogative and their legal right and I admire them for taking a vote and standing up for what they think. As far as I am concerned, we have a lot of other things on our plate and to continue to discuss this is not to the benefit to the board in my opinion. This whole topic and further discussion of it is a dead horse.

Mr. Rich - I disagree. I think the ripple effect of what’s coming out of that is going to affect this town for ever. From Town Counsel opinions that aren’t written down and not shared, to the Open Meeting Law communication from the Town Administrator, yet that doesn’t seem to apply to him when he sits where he’s sitting in other committees. I have a substantial problem with that.

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Ms. Evangelista - I have one more statement. What do we display to other people besides the town? Hey folks, you have to follow the bylaws but we don't - what does that say to them?

Ms. Evangelista - **Motion** that if the School Building Committee comes for a Site Approval or a meeting that we also get the services of our consultants.

Mr. Howard - **Second.**

Motion Fails: 3 – 2.

{5 minute break was taken.}

Mr. Rich - As I said before break, I was asked if there was a process that some SCB members felt would be a meeting in the middle of the road, if there was...

Mr. LaCortiglia - Is this a question that was asked to you at the meeting?

Mr. Rich - It was outside of the meeting.

Mr. LaCortiglia - Oh, so one member of the School Building Committee asked you a question as a private citizen.

Mr. Rich - Two members were standing there and they asked me a question.

Mr. LaCortiglia - So it was not an action taken by the School Building Committee as a whole.

Mr. Rich - I would hope you'd have more faith in me. If there was a common ground would it be possible for them to come in on a limited site plan approval for specific bullet points? My thought is should we ask town council if it allowable and if it is, are they bound by our order of conditions under the limited circumstances meaning if they decided to come in for limited Site Plan Review on drainage, roads, sidewalks, public safety, access and egress, parking requirements - to seek the answer to that question in writing from town council.

Mr. Howard - I think that is a question worth answering and it sort of sets the guide rules.

Mr. LaCortiglia - Given that it was not asked by the School Building Committee but by one or two members, I would be reluctant to ask anything of Town Counsel.

Mr. Rich - **Motion** that we communicate with Town Counsel in writing and ask for a written response to the following question: Should the School Building Committee and or their representatives decide – can they apply for a limited Site Plan Approval? If they can, is there anything precluding the Planning Board from accepting an application for accepting an application for a limited Site Plan Approval in the situation of the school building under the governance of chapter 40A.

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Ms. Evangelista - **Second.**

{Discussion held in regards to whether or not Site Plan Approval is in Chapter 40A or not}

Mr. Watts - What is a limited Site Plan Approval?

Mr. Rich - As I said earlier, to come in for something that is not defined in our bylaws; drainage, public safety, etc... It could be interrupted as a lesser Site Plan Review. They decide what bullets they want this board to issue orders of condition, to review it and give our opinions. I stress orders of conditions.

Mr. Watts - So they voted for a full site plan and then voted against a full Site Plan Review.

Mr. Rich - As I told you, I was asked by participants in that meeting if that was possible and if it was they may be amenable to something like that but they voted down full site plan review and I am giving it my best shot if there is a common ground. I want to make sure it legal.

Mr. Howard - So it is not a waste of our time.

Mr. Watts - I'd like to figure out a way to wrap this up as this is a very frustrating conversation. I understand that we provide a very important service to the town that is being exempted by the town - there has got to be some point where we don't come back to the well - where we say Ok we made you the offer - I'd like us to come to an agreement as to how far we want to go with this.

Mr. Rich - I told these people I would try and find out and I just fulfilled my commitment to try and find out.

Mr. LaCortiglia - What I would have to ask is if the School Building Committee as a committee if they are curious about this question - they have stated many times that they have access to Town Council through the Town Administrator. They could clearly ask this question too.

Ms. Evangelista - I would like to wrap it up as well - what we do know about the Site Approval process is that it is not in 40A - Zoning 40A dictates as to how amendments are put in - this is thrown out so therefore the only association that we have in our process is the subdivisions regulations - is it possible to follow that guideline as the process - have a meeting, vote on it - so we follow the process as a Site Approval for a Special Permit - we do everything in 40A - post, abutters list etc...

Mr. LaCortiglia - Under what law - this board cannot just make up laws as it sees fit! I was not elected to create new hearing processes. I think I said that I would uphold the laws on the books. If you want to propose to town meeting to add limited Site Plan Approval....

527
528 Mr. Rich - On my motion is to ask Town Counsel if there is limited Site Plan Review and if
529 he says yes then we go to the next question. Another question – the ownership of the
530 property is the Town of Georgetown so shouldn't the final the decision is on the Board of
531 Selectmen – the decision on what is going to be done with the new Penn Brook School.

532
533 Mr. LaCortiglia - Then it falls to the motion to which they were created.

534
535 Mr. Rich - I move the question to ask Town Counsel if there is limited Site Plan Review and
536 is here anything precluding the Planning Board from accepting a limited Site Plan Approval
537 under the governance of Chapter 40A. All in favor of having Mr. Snyder write to Town
538 Counsel requesting these answers:

539
540 Mr. Rich - **Motion** that we communicate with Town Counsel in writing and ask for a
541 written response to the following question: Should the School Building Committee and or
542 their representatives decide – can they apply for a limited Site Plan Approval? If they
543 can, is there anything precluding the Planning Board from accepting an application for
544 accepting an application for a limited Site Plan Approval in the situation of the school
545 building under the governance of chapter 40A.

546 Ms. Evangelista - **Second.**

547 **Motion Carries: 4-1.**

548
549 Mr. LaCortiglia - Can we move on to the business of the board?

550
551 Mr. Rich - No. During the meeting it was brought up a concern about this board bringing up
552 litigation against the School Building Committee and that in fact did change one members
553 vote. The members were aware that the March 13th Planning Board agenda had on it possible
554 litigation and if they had asked they would have been told the reason why this board
555 discussed potential litigation. And I think we all agree that it was discussed as we are
556 charged with doing a job as Planning Board members that it was discussed as potential
557 litigation which “Attorney” Farrell has pointed out...

558
559 Ms. Evangelista - Come on now, be nice.

560
561 Mr. Rich - I am not going to be nice because I'm tired of people not trained in the law trying
562 to tell me what it says and trying to tell other people what it says.

563
564 Mr. LaCortiglia - I'm presuming that what you're saying is that it seems as though litigation
565 was imminent?

566
567 Mr. Rich - At the time I asked for the meeting, yes. I want it out in the open and that it was
568 not a violation to the Open Meeting Law. The last letter from Mr. Farrell sent to you infer
569 that, that Executive Session was in violation of the Open Meeting Law.

570

571 Mr. LaCortiglia - I did not infer that. What I got was a copy of the latest Open Meeting Law
572 guide.

573
574 Mr. Rich - He specifically stated in the email that the previous agenda...

575
576 Mr. LaCortiglia - As the Planning Board chair, it was sent to me by Mr. Farrell and it was
577 pointed out to me that page 8 deals with all of the reasons why a board may enter an
578 executive session and I was very happy to point out to him that the board did it 100 percent
579 correctly. At that point in time when it is no longer relevant then we will vote to release
580 those minutes.

581
582 Ms. Evangelista - I think that it's unfair for another board to criticize us.

583
584 Mr. LaCortiglia - Excuse me, I don't remember this board receiving any communication
585 from the School Building Committee or any other board that criticized us. Let's not devolve
586 to rumor or innuendoes, let's keep this as it should be – this is a board – personal and private
587 communications between individuals aren't criticism and do not imply that it comes from
588 another board in this town. If this Planning Board wrote a letter to the XYZ Board and said
589 we think you're a bunch of idiots that's one thing. Did we get any correspondence criticizing
590 us Mr. Snyder?

591
592 Mr. Snyder - No.

593
594 Mr. Rich - I'd like to go back to the question of ownership of the property. I noticed that
595 selectmen Mr. Fowler is in the audience and anxious to share his thoughts.

596
597 Mr. Fowler - I was at last night meeting and was somewhat disappointed also. I am here also
598 as a citizen concerned about how things get done in our town. I like the things being said
599 about being open and above. As a selectman, I believe the School Building Committee
600 comes under the authority of the selectmen. We form the committee and vote on them and
601 they report back to us. I believe most of what goes through MA School Building goes
602 through us and we take a vote as to whether it will move forward or not. I would say that it
603 somewhat falls back to us. I see you are tired of this discussion. I'd like to make a
604 suggestion, we have had many joint meetings over this school with the School Committee,
605 Finance Committee, and we have never had a joint meeting with the Planning Board. What
606 would be wrong to have a joint meeting of the Selectmen and the Planning Board? Mr.
607 Farrell also falls under the authority of the Board of Selectmen and if you are disappointed
608 with the way things happened last night, I would think you should follow up with the
609 selectmen first before going to an attorney. I surely want to follow up on some of what
610 happened last night as a citizen and a member of the Board of Selectmen.

611
612 Mr. Rich - The School Building Committee as you know it - as far as you know is there a
613 written charge for them to make final decisions or do they only advise the Selectmen as to
614 their decisions?

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Mr. Fowler - I don't know if there is a written charge. I know that they advise us.

Mr. Rich -So in reality, whether or not this project comes to the Planning Board is a function of the Selectmen and not the School Building Committee?

Mr. Fowler - Yes that would be my personal opinion. You could come to the Board of Selectmen and ask us what we think. Could we over rule them? We listen to their advice and then vote on it we do not always have to follow their advice. I don't know if all those votes have been posted.

Mr. Rich - Does that mean all of the votes to cut checks, and the vote to sign a contract...

Mr. Fowler - I asked for Michelle to re-read it and it didn't happen and as the meeting went along I sort of picked up the way it went down and I drove home thinking that there are a lot of things in town that may need to be re-done.

Mr. LaCortiglia - My understanding is that Mr. Snyder is going to get clarification on that for us with respect to that vote and the necessity of having the word "vote" on the agenda before you can actually make a vote.

Mr. Rich - We are going to find that out and the other thing I would like to know is does the School Building Committee advise the Board of Selectmen – do they make the final decision or do they rubber stamp whatever the School Building Committee says.

Mr. Fowler - My answer would be is that the Selectmen take a vote after they come to us with their advice.

Mr. LaCortiglia - May I ask with all due respect seriously, how is the answer to that question relevant? What it sounds like to me Mr. Rich is that you are in some way trying to figure a way to appeal the vote that was taken by the School Building Committee.

Mr. Rich - Absolutely not. I'm doing just what Mr. Farrell did. I'm exploring all of the alternatives to make sure it was all done correctly.

Mr. Fowler - If as a board you feel that strongly that this should go before you, I see nothing wrong with you appealing to the Board of Selectmen. As a citizen I wish you would.

Mr. Rich - I have to tell you Mr. Fowler what my thoughts are. We have jumped thru hoops – what is it going to take. If those drainage calculations are not done correctly and Elm Street is put under water which could happen... The extra added cost if that happens falls on the town.

658 Mr. LaCortiglia - I think we are just discussing here - is there an action you wish to take – is
659 there an action you wish the board to take Mr. Rich? Is there a motion you would like to
660 make? We've been on this and it is one bullet point out of nine that I can see which is the
661 real business of this board.

662
663 Mr. Rich - You know something Mr. LaCortiglia, the business of this board is what the
664 members of this board decide what is the business.

665
666 Mr. LaCortiglia - Let's get something straight, we have an agenda, this is one bullet point on
667 it. Motions have been made instructing Mr. Snyder to do what he has to do. Is there another
668 one that you would like to see done?

669
670 Mr. Rich - **Motion** to have Mr. Snyder inquire from the Board of Selectmen if there is a
671 written charge as to the responsibility of the School Building Committee and if there is,
672 would it be provided to this board and is the role of the School Building Committee
673 advisory to the BOS or do they make final decisions.

674 Mr. Howard - **Second.**

675
676 Mr. LaCortiglia - Discussion?

677
678 Mr. Watts - To me it sounds like a question that if we get an answer – then what? For what
679 purpose? Where are we going with this?

680
681 Mr. Rich - I want to know if the Board of Selectmen are now going to have to vote on the
682 vote of the School Building Committee on whether or not to ratify it.

683
684 Mr. Watts - It sounds like... Mr. Fowler was talking about and suggesting a joint meeting.
685 Maybe some of these questions can be addressed directly?

686
687 Ms. Evangelista - I am on the School Building Committee. The charter is from MSBA. One
688 of the reasons we have an OPM is that they follow the process set up by them. It's very
689 stringent and the votes that come to the Selectmen are prior to meetings that the MSBA have
690 on seeing that the process is being done correctly.

691
692 Mr. LaCortiglia - I'm sorry, I did not understand that at all Ms. Evangelista. Are you an
693 advisory board? Do you make executive decisions?

694
695 Ms. Evangelista - We do not make any executive decisions – that's the Selectmen. It is a
696 partnership with the town and the MSBA (the state). They have the guidelines all set up.
697 We have the meeting based on the OPM. Our decisions are based on those criteria. The
698 School Building Committee made decisions – that was presented to the Board of Selectmen
699 and they had to vote on it as well. Then it went to the MSBA and they had to look at it. The
700 process specifically is all on the computer.

701

702 Mr. LaCortiglia - I think Mr. Rich wants to know – and it sounds like this question would be
703 asked of the Board of Selectmen and the motion – is that correct? So I think that as well as
704 you answered the question Ms. Evangelista the motion asks the question of the Board of
705 Selectmen.

706
707 Mr. Rich - On the motion, I want to make sure that as a Planning Board member that I have
708 done everything expected of me and if there is another meeting that I have to go to and
709 verbalize exactly what I said at the other meeting to a different board that the advice they are
710 getting is incorrect.

711
712 Ms. Evangelista - The issue about a Site Approval process - it is not mentioned in the MSBA
713 rules – that’s a town issues.

714
715 Mr. Rich - I know it’s a town issue. The owner of the property is the Board of Selectmen –
716 they make the decisions. I’d like to know if the owner of the property is going to have a vote
717 on it.

718
719 Mr. Watts - If you want the Selectmen to intercede...

720
721 Mr. Rich - I’m not asking the Selectmen to intercede. I’m asking this question for specific
722 reason. I want to know if the dog is wagging the tail or if the tails wagging the dog.

723
724 Mr. Watts - I don’t know if that is a Planning Board issue.

725
726 Mr. Rich - It is a Planning Board issue as we are talking about Site Plan Review. And I still
727 believe that this is required to be under Site Plan Review as the law says – it is undecided
728 territory.

729
730 Ms. Evangelista - That’s why the designer there said that half of the towns he’s worked with
731 have it and half of the towns don’t.

732
733 Mr. LaCortiglia - Do you want to vote on this? The motion is to inquire of the Board of
734 Selectmen if the School Building Committee’s charter and what their duties are and if they
735 are “advisory” or if they have the authority for executive decision.

736
737 Mr. Rich - I’d like to add on to that: if they are advisory and if this is going to be an agenda
738 item for the Selectmen that this board be advised the date, time and place of that meeting.

739
740 Mr. LaCortiglia - Can I ask why you’re just not coming out and saying – hey we override
741 them? Cause that’s what you’re looking for. Just be plain about it.

742
743 Mr. Rich - No! I’m not going to say that in as much as the boards said we didn’t like our last
744 vote. So we’re going to find someone to say it’s no good and we’ll take another one.

745

746 Mr. LaCortiglia - Ms. Beaumont, will you give me the full blown modified motion?
747 Mr. Rich - You want to know something Mr. Chairman? I take offence to that comment. I
748 want the town to know where the buck stops! That this board has done everything that it is
749 charged to do under the statue to enforce the planning rules and regulations.
750
751 Mr. LaCortiglia - My only question is - how far will you go?
752
753 Mr. Rich - How far will I go? To the end.
754
755 Mr. LaCortiglia - I'm beginning to see that.
756
757 Mr. Howard - Personally, I agree with Mr. Rich.
758
759 Ms. Evangelista - I think so too because the Selectmen's charge is the town's property.
760
761 Mr. LaCortiglia - Hang on - it might be the School Building Committee. I would like to
762 remind the Board of the motion being discussed.
763
764 {The motion is read back.}
765
766 Mr. Watts - I'm sorry – of what meeting?
767
768 Mr. LaCortiglia - The meeting that he is basically asking them to put on the agenda.
769
770 Mr. Rich - We just need to know if it is put on the agenda.
771
772 Mr. LaCortiglia - In other words the trigger is – if it is executive and they make the decision
773 on the School Building Committee the this is not on the agenda but if it turns out that they
774 are an advisory board to some other board then you are requesting that this be placed on the
775 Board of Selectmen's agenda and then be notified of that meeting. That's the effect.
776
777 Mr. Rich - That's not what the motion says. It says that if it is advisory and if the Board of
778 Selectmen vote to ratify the actions of the School Building Committee and that is an agenda
779 item that this board be notified of the date, time and place of the meeting.
780
781 Mr. Watt - There could be numerous meetings right?
782
783 Mr. LaCortiglia - We need to specify what we're talking about is the ratification of the vote
784 od the School Building Committee to not go to the Planning Board.
785 Mr. Rich - Those comments are just not fair.
786
787 Mr. LaCortiglia - It's 9:30 at night - how much of this Planning Boards business have we
788 done?
789

790 Mr. Rich - You might think this is unimportant but....

791

792 Mr. LaCortiglia - I think it's done.

793

794 Mr. Rich - **Motion** to have Mr. Snyder inquire from the Board of Selectmen if there is a
795 written charge as to the responsibility of the School Building Committee and if there is,
796 would it be provided to this board and is the role of the School Building Committee
797 advisory to the BOS or do they make final decisions.

798 Mr. Howard - **Second.**

799 **Motion Carries: 3-2**

800

801 **2. 1997 ATM Article 46: Modifications to Town's Sign bylaw.**

802 Mr. LaCortiglia - The town voted to make a modification to the town's sign bylaw and in that
803 Town Meeting minutes we read that rooftops signs were prohibited by a vote and it never
804 made it into the Zoning Code. This is something that needs to be corrected.

805

806 Mr. Snyder - In your supplemental packet you will find article 46 from the 1997 Annual
807 Town meeting. You will see the article proposed on the warrant at the annual Town
808 Meeting. On the next page are the meeting minutes. {Reads article from the minutes} Note
809 there is an explanation of the article and a motion made that approved part a and part b.
810 Motion C, about billboards, was passed over. What I believe happened is ECODE received
811 the correct edits to be made and did not complete the edit. {Holds up the pages} This is the
812 text what ECODE edited it to and what it is now. Prior to 1997 annual Town Meeting you
813 can see that the words "or roof" and post 1997 code the first "or roof" was removed but not
814 the second.

815

816 Mr. LaCortiglia - Just a scrivener's error.

817

818 Mr. Snyder - Yes. If it is the consensus of the board, I can send them an email asking them to
819 remove "or roof" and it doesn't need to take any vote. It was a simple editing error.

820

821 Mr. Rich - **Motion** to have Mr. Snyder contact ECODE and request the error to be
822 corrected.

823 Mr. Watts - **Second.**

824 **Motion Carries: 5-0; Unam.**

825

826 Mr. LaCortiglia - Mr. Snyder please ensure that the Building Inspector is aware of this
827 change.

828

829 Mr. Snyder - Yes, I will copy the Building Inspector.

830

831 **3. Site Plan Approval and Chapter 165**

832 Ms. Evangelista - I think we discussed what I had in mind to do. It was the consideration of
833 Site Plan Approval is not zoning and it shouldn't be listed there.

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Mr. LaCortiglia - Are you asking to relocate in the bylaws?

Ms. Evangelista - Yes, it is confusing to people as they think it is in Zoning and it is not.

Mr. Snyder - Can I make a recommendation that this is a substantial topic for us to discuss and there are other elements and I can get additional information.

Mr. LaCortiglia - Alright then, Ms. Evangelista and Mr. Snyder can get more information on that and report back to us.

Mr. Rich - I would like to also state that the section in the workshop at Holy Cross and the two attorneys that were there - maybe we could inquire of them if they have any information.

Mr. LaCortiglia - Can you generate a report for us Mr. Snyder.

Mr. Snyder - Yes.

4. Open Meeting Law.

Mr. Snyder - I have provided you with an updated copy - please keep these. One board member requested a copy of an Open Meeting Law complaint.

Ms. Evangelista - My issue to bring this up is that last Saturday I saw in the Newburyport paper that they had a complaint about the Open Meeting Law (West Newbury).

Mr. Snyder - The Conservation Chairperson inadvertently had requested opinions of other committee persons basically she had asked for opinions of the budget – it was deliberation and it was communication. You have to be careful.

Ms. Evangelista - Sounded like she was under the gun so they didn't call it an official meeting and called it a draft.

Mr. LaCortiglia - My readout was that they were actually creating a document by sending it back and forth.

Ms. Evangelista - Four emails that were in violation.

Ms. Evangelista - All of the research I have done - every one there is a vendetta.

Mr. LaCortiglia - That is the takeaway from this.

Mr. Snyder - Be careful how you email each other and me.

Mr. Howard - Best thing is to use a phone.

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Ms. Evangelista - Try to be careful with that.

Planning Office:

1. Conflict of Interest Online Training: Reminder.

Mr. Snyder - If you haven't done it yet, you need to do it. There is a link to complete it and it is good for two years.

Ms. Evangelista - All the boards need to be notified of this.

Mr. Snyder - Either give the certificate to the Clerk or give it to me and I will give it to her.

2. M-Account: #26490 7 Pineneedle Lane.

Mr. Snyder - This one was a challenge – it was set up for a legal review of a covenant for 7 Pineneedle Way – I found no charges against this account. The originally deposit was \$500 and it has just been accumulating interest.

Ms. Evangelista - I know that checking on this, I would like to see what was prior to that. Why would they ask for \$500 if there were no bills?

Mr. Snyder - This is where the account is set up.

Ms. Evangelista - This was a big subdivision.

Mr. LaCortiglia - It went belly up.

Ms. Evangelista - Maybe we should see if we used some of the town's money to pay something.

Mr. Rich - Does this have to do with the subdivision that went bust?

Mr. Snyder - I do not think so. This parcel was not part of the subdivision that went bust.

Mr. Rich - **Motion** to release the M-Account 26490.

Mr. Watts - **Second.**

Motion Carries: 5-0; Unam.

3. Form H: Extension of Time Form: Revised.

Mr. LaCortiglia - This is a revised Form H that Mr. Snyder was requested to do. The dates are now on a quarterly basis.

Mr. Snyder - I have revised the form and this makes it a lot easier. Please note that at the top of the page is the amended date.

Mr. Rich - **Motion** to accept the revised Form H as of March 27, 2013.

Mr. Howard - **Second.**

924 **Motion Carries: 5-0 Unam.**

925

926 **4. State of the Town 2013.**

927 Mr. Snyder - Another document in your supplement packet is a printout of the current draft
928 of the Planning Board State of the Town presented. This will occur on the April 8th meeting
929 so this is the final chance to discuss this as a forum. I wanted to point out one aspect it was
930 requested I put in under "opportunities" regarding Penn Brook School and the Site Plan
931 Approval process and under "challenges" I put in will not be conducting Site Plan Approval
932 process.

933

934 Mr. LaCortiglia - Why don't you pull out the Penn Brook School under "opportunities" and
935 leave in the challenges.

936

937 {Discussion and review of the draft State of the Town 2013 presentation.}

938

939 Ms. Evangelista - Have you had a stormwater management meeting yet?

940

941 Mr. Snyder - Yes. We had to do it because the MS4 Special Permit is coming due. I went to
942 the Selectmen's meeting this past Monday to inform them that it's coming soon but I am still
943 waiting for one town department to weigh in and then it will be complete.

944

945 Mr. LaCortiglia - Moving on to the topics of street acceptances for Cedar lane and Abby
946 Road and the 2007 Master Plan update.

947

948 {Discussion and review of the draft State of the Town 2013 presentation.}

949

950 Mr. Snyder - It is a goal for this year, as the Open Space and Recreation Plan will be
951 completed, to revisit the 2007 Master Plan. I also briefly informed the Selectmen about
952 Cedar Lane and Abby Road just because it had drifted off the radar a little bit. Wanted to
953 insure they knew it was on the warrant and that this is the report required and I advised them
954 they have 120 days after acceptance.

955

956 Mr. LaCortiglia - The Town of Georgetown financial review. This is a document that was
957 sent out. Give it a read guys.

958

959 Mr. Snyder - The Town Administrator distributed to all departments heads and wanted it
960 distributed to their respective Boards and Commissions.

961

962 Mr. LaCortiglia - I gave it a read and there are a lot of recommendations that you might want
963 to look at.

964

965 Ms. Evangelista - What are the Board of Selectmen planning on doing with it?

966

967 Mr. Fowler - We have not discussed it yet.

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Ms. Evangelista - Did you put on the Jewett Street issues on the power point?

Mr. Snyder - I have not found any documents that the town had any receivership of the road.

Ms. Evangelista - When is that issue going to be on our meeting? We don't want to overstep our time frame. Mr. Snyder could you please ensure it is on the next agenda?

Mr. Rich - **Motion** to adjourn.

Mr. Watts - **Second.**

Motion Carries: 5-0; Unam.

Meeting adjourned at 10:03 PM