

**MEETING MINUTES  
GEORGETOWN PLANNING BOARD  
Wednesday, April 14, 2010  
7:00 p.m.**

**Present:** Mr. Harry LaCortiglia; Mrs. Matilda Evangelista; Mr. Chris Rich; Mr. Tim Howard; Mr. Nicholas Cracknell, Town Planner; Ms. Michele Kottcamp, Asst.

**Absent:** Mr. Hugh Carter (arrives at 7:45PM)

**Board Business 7:00 p.m.**

Minutes – Oct. 14, 2009 and Nov. 17, 2009.

Mr. Rich– Motion to approve the Oct. 14, 2009 meeting minutes with corrections.

Ms. Evangelista- Second

All in favor? 3-0; Unam

Mr. Rich motions to approve the November 17, 2009 meeting minutes with corrections.

Ms. Evangelista - Second

All in favor? 3-0; Unam

**Vouchers – \$1,620.00 Total**

Ms. Evangelista- Motion to accept the vouchers.

Mr. Rich – Second

All in favor? 3-0, Unam

**Correspondence –**

Mr. Cracknell - Georgetown Club Foreclosure Auction scheduled for April 28, 2010 at 11am by Sovereign Bank. The notice does not give the location.

**Other Business –**

**School Street flooding issue – Railroad Ave.**

Mr. Cracknell- Gives summary of situation. Planning office also received a response letter from Mr. Bob Grasso, applicant, regarding Lot 1 and the erosion control out there. {Letter on file in the Planning office}

Steve DiSisto, 15 School Street – asks Planning Board to look at the various photos being passed around that shows the flooding over two substantial rain storms. The water crossed over the street by the organ factory and to the backs of the houses on Middle Street. Some people just finished pumping water out of their homes yesterday. The new subdivision being built and the outflow of the subsurface infiltration system may have contributed to the runoff from the rail bed. In addition, there was silt that came down. We are asking for plans to be reviewed by the town engineer and review the drainage plan that was installed as part of the development. For the past two summers, there was a grader/grinder working on the site almost every day during the summer and fall. On a long term basis, the water coming off of the rail bed should be contained somewhere as it is getting worse rather than better.

Mr. LaCortiglia- I don't have a familiarity with the plans or design. I was not on the Board at the time of the permitting.

Mr. Rich- Is water coming from the railroad bed?

Mr. DeSisto- Yes, from the railroad bed and some is coming off of the new subdivision.

Mr. Howard- A lot of water comes down Andover Hill already.

Mr. DeSisto- That water develops in the back of the houses on Cottage Street as you go to the back of this development.

Mr. Rich- During the last two storms, there has to have been water coming down that hill as I saw it coming down where St. Mary's Church is located. That hill feeds into the project at Railroad Avenue. Was the rail bed filling up? Was it running down the pavement and into the storm drains?

Mr. DeSisto- The containment chambers were overflowed with water. The rail bed is a big part of the problem. On a long term basis, is there anything else that can be done to help mitigate this situation?

Mr. Rich- When that rail trail goes in, it will get worse.

Mr. LaCortiglia- It will be mitigated.

Mr. Cracknell- The solution is actually the rail trail - it is an opportunity to make some drainage improvements out there. Otherwise, it's Town Meeting which will be 2- 5 years out before anything is done.

Mr. LaCortiglia- We have cal techs and storm septors out there. I was out at the site. The water was above the pipe. The infiltrators were completely filled and the groundwater

was high. I saw a lot of silt coming out of that pipe. How do we know that the infiltrators were plugged?

Mr. Bob Grasso, engineer – Reads his response letter submitted on April 12, 2010. Mr. Grasso states that when the definitive subdivision application was submitted, a detailed drainage study was included showing drainage calculations. {Letter is on file in the Planning Board office.}

Ms. Evangelista- If the water was flowing down, it's supposed to go to the retention. What was happening prior to development?

Ms. Judy Worrall, 5A School St. – The water ran along School Street behind all our houses.

Mr. DeSisto- Prior to development, the water drainage wasn't so bad. When it was a bus yard, I believe there was significant amount of fill being added to that parcel over the past few years. There is more runoff because of the steeper slope as well as what is being discharged. We are asking that the grades on the house under construction are no worse than what was approved. Now the fill is being pushed out onto the rail bed. Is there anything else the Town could do to alleviate the problem?

Mr. Howard- There is nowhere to drain the water.

Mr. Bob Grasso- We reduced the amount of the impervious area and we added the cal techs. All the houses have roof drains. We have catch basins. We have storm septors to catch the silts and subsurface detention areas.

Mr. LaCortiglia- Is there any way to check the infiltrators?

Mr. Bob Grasso- We can do that – there will be an inspection. We decreased the runoff from pre to post construction for the abutting property. We added this safety factor that was not required.

Mr. Rich- Did your project incur any erosion?

Mr. Grasso- No, we are totally stabilized. The roadway is completed.

Mr. LaCortiglia- How do we move forward?

Mr. Grasso- I talked to the contractor who owns Lot 1 and he said he would put up another silt fence until it was stabilized.

Mr. Rich- Is there fill going into the rail bed?

Mr. Grasso- No, but the engineer [Dave Varga] will be going out tomorrow to do the inspection. The grade is being raised 4-5 inches.

Mr. DeSisto- Disagrees with Mr. Grasso's response regarding the fill.

Mr. LaCortiglia- Asks for Dave Varga to check the grades and make sure it is consistent with the plans.

Mr. Howard- It always did discharge on to School Street before the development.

Mr. DeSisto- I do not agree with that statement. We just want to make sure the approved plans are being followed so it doesn't add to the problem.

Mr. LaCortiglia- I would like to know that what is out there is consistent with what was reviewed by the engineer and approved by this board.

Mr. DeSisto- We want to be sure the plans are being followed and if there is excess material out there, it needs to be removed.

Mr. Rich- [To Mr. DeSisto] We find your request totally reasonable and we will make sure our engineer is doing his job.

{Mr. LaCortiglia- Turns meeting over to Hugh Carter who arrived at 7:45pm}

### **Cont. Public Hearing(s): 8:45pm**

#### **Lot 77 Thurlow Street – Discussion of updated project design.**

Mr. Carter opens the continued Public Hearing for Lot 77 Thurlow Street.

Mr. Bob Grasso, engineer – We conducted a site walk two weeks ago. We revised the plan and added an easement for the proposed driveway which is 20' wide. We reconfigured the private court from a terminus point to the bound point as shown on the plan and at the site walk. It did not change the lot configuration area on Lot B. The first 50 ft of the driveway would be paved and the rest would be gravel. Bob reads the report from Larry Graham, technical review engineer, which is on file in the planning office. Mr. Grasso states that the driveway for the ANR lot will be moved. There will be two separate driveways.

Mr. Cracknell- Asks for the minimum separation between the 2 driveways. Can you show this on the final plans?

Mr. Jeff Horne, applicant- There will be a minimum of a 10' foot separation between the two driveways.

Mr. LaCortiglia- Asks about the building setbacks. Are we being asked to waive the radii a the entrances?

Mr. Bob Grasso- Yes. Mr. Grasso shows the setbacks on the plans the plans.

Mr. LaCortiglia- Refers to the letter from the Assessor's office.

Mr. Jeff Horne- Lot numbers will be corrected for the final version of the plan per the letter from the Assessor's office. It will be labeled as Lot 77 and 77A when corrected. (Memo from the Assessors' office is on file in the Planning office)

Ms .Evangelista- Are you not waiving the fire hydrant?

Mr. Horne- The chief indicated there was no need for a hydrant.

Mr. LaCortiglia- If there is 300' called for in the regulations, can we get something from the fire department as to what distance is recommended for the hoses for future projects?

Mr. Cracknell- {Refers to memo from Fire Dept.} – The Fire Department is looking for 16' width with a shoulder for a fire truck to drive down. The outriggers need 18 ft. to be stable. The bigger issue is that the first 50ft should be a little wider than 12ft. to get into the site. The letter does not reference a second hydrant. Asks the applicant to confirm if a second hydrant is needed.

Mr. Jeff Horne states that he will request the Fire Dept. to send another letter.

Mr. Cracknell- States the concern of the Con Com Agent about an endangered species.

Mr. Grasso states they will be walking the lot with Conservation. Mr. Grasso changes the subdivision plan name to Lot 77 Thurlow Street.

Mr. LaCortiglia- Motion to continue the Public Hearing to April 28<sup>th</sup> to review Larry Graham's comments.

Mr. Rich- Second

All in favor? 5-0; Unam

Mr. Cracknell- States he will draft a Certificate of Vote.

**Bailey Lane / Official Town Map – Robert Bartlett / James Senior, Esq.**

(Atty. Senior, Mr. Bartlett and Tom Mannelta, engineer, are present)

Mr. Cracknell- I was new when the ANR was brought in by Mr. Mannelta in 2008. We have an official town map from 1984 and the official town map did not show a portion of Bailey Ln. on the map. Maps are enclosed in the packets for everyone. {Nick refers to memo dated April 14<sup>th</sup> and exhibit map showing the portion not currently on the map.} This ANR plan in 2008 was ineligible because the lot needed to be shown on the official town map. They needed to resolve the issue. They have filed a citizen petition for changing the official town map to add Bailey Lane to the map to resemble the 1979 zoning map. At that time, Bailey Lane was shown on the map from Taylor Street all the way down to Andover Street. The section not carried forward on the official 1984 town map did not show from Taylor to the southern end of the Sentori property (town property). This property was never placed on an official town map. Listen for a recommendation to town meeting from Attorney Senior. The Board should consider if this petition is appropriate for town meeting and town map.

Mr. LaCortiglia- Would that be a report that needs to be generated as an opinion from the Board? Are we required to hold a Public Hearing?

Mr. Cracknell- In this case, you often report on anything if you so choose to have your opinion stated. You are not required to hold a public hearing. With Town Counsel today, this is a complicated question. The case law appears to be very thin to give them guidance. If there was no error or omission and this is considered a change, there is a clear set of requirements which does require a public hearing. This should have been on the map in 1984 so therefore it is my assumption it may be considered a clerical error or omission. Thus we may not need a public hearing process. Town Counsel needs to look at the evidence first. The evidence submitted from the applicant is murky. It requires an extensive amount of due-diligence. The applicant wants it on the town map as shown in 1979 and label it as a public street.

Mr. Rich- There is a Deed in your exhibits. Did the Selectmen accept it at town meeting?

Mr. Senior – At the registry, I couldn't find anything. In terms of the procedure, it is similar with Heather Rd. Your Board made a recommendation to town meeting in favor and the Board of Selectmen recommended it 3-4 years ago. We are dealing with a statute Sec. 81E to adopt it to the official town map that says, "public ways should be shown and private ways then existing and used in common by more than two owners." (Atty. Senior refers to memo dated April 6<sup>th</sup>).

{Nick refers to Exhibit I – current parcel map}

Attorney Senior - We feel it did qualify to be on the town map. The zoning map bears a notation that it was amended in May, 1984. The town meeting Article #22 says there was

a re-zoning of Industrial B and it was acted upon at the very same town meeting. This is evidence that the roadway existed. I have submitted USGS survey maps from 1944 which shows Bailey Lane as a dotted line on the map. The portion we are talking about tonight is a solid line. The USGS also shows homes (more than 2). There is also an historic map from 1872. The street just has to exist to be on the official town map. More than five homes existed at that time. I believe it was an error in interpretation of what the statute meant.

Fred True stated at town meeting in 1984 that the town map is to only show accepted streets. The interpretation given at that time said that only accepted streets are to be on town map. However, the law at the time also stated that private and more than two houses utilizing it in common with another is supposed to be shown on the official town map. This is the reason to correct it. The only question is: "Was it there and was there more than 2 houses using that road?" The answer is "Yes." Therefore, it should be shown on the map.

What our case is shows it was adopted under a standard that wasn't correct. I've shown it fits the standard. The Planning Board in 1984 thought the standard was different. I submit that it ought to be corrected. The applicant can't get a building permit or a Form A plan if it's not on the official town map.

Mr. Carter- Listening to Atty. Senior, I feel it is not murky.

Mr. Rich- Is it the section that runs to the Lakeshore?

Mr. LaCortiglia- I don't dispute what you are saying. My problem is the method used to correct it. The citizens' petition is saying that they want it depicted like the map looked in 1979. Right now it is a conservation area.

Atty. Senior- We are not trying to add anything new or subtract anything. We are trying to make it what the town should have done in 1984. The landowners have been deprived of rights since 1984, based on a misinterpretation of the law.

Mr. Rich- The three homeowners you are talking about – where are those?

Atty. Senior – See Page 3 of my letter of the Assessor's records. There are six homes that were built on this stretch of road as of 1984.

Mr. Rich- Where these six homes sit, how many vacant lots are there?

Mr. Bartlett- There are two lots. Two acres are vacant.

Atty. Senior- There are only five cases using official town maps. I read them to find out the procedures on public hearings.

Mr. Rich- You are talking about a portion of Bailey Lane where these houses are located. I still want to see what happened at the Board of Selectmen with the realstate and the town accepting the Deed.

Atty. Senior – If the town was supposed to do something and they did it wrong, doesn't the town need to make it right?

Mr. LaCortiglia- Your citizens' petition is showing in 2010 put a line through a Conservation area.

Mr. Rich- If this mistake was there and no one has caught it for so long, does it mean that the error becomes approved by omission?

Atty. Senior- I found nothing. If those people in the six houses want to do anything, they can not get a building permit. Most towns don't have official town maps.

Mr. Rich- Are you asking us to request at Town Meeting that section of Bailey Lane to be placed on the map?

Mr. Cracknell- What might be suggested here is the conservation land. I recommend that the Board consider Bailey Lane from Taylor Street to Mohawk where we have two sets of layouts on record, we have two sets of plans on record deeding land to the town, which is missing from the 1984 plan. Bailey Lane as a way significantly changes in it's characteristics. We have plans on record with deeds and we know there were more than two structures there as of 1984. I agree it should be listed as a private way. I have not yet found that any portion of Bailey Lane not shown on the official town map has ever been laid out as a public way at town meeting. I have not seen any evidence to support the map be changed and show Bailey Lane as a public street. I have no objection to it being labeled as a private way.

Mr. Howard- I would suggest that in 1984 the town didn't want the liability of fixing that road. Therefore, it wasn't accepted as a public way.

Mr. Cracknell- The remedy here is the map change.

Atty. Senior- If I can't show you that it was accepted as a public way, then maybe you put it on the map as a private way.

Mr. Rich- Would you be satisfied if this Board recommended that this road, up to a certain point, be a private way and stops at the fence (conservation land)? There is a barricade there. North of that barrier to Taylor -would that solve your concerns so you can file the ANR plan?

Mr. Bartlett, landowner- As long as it allows my frontage fro the two From A lots, I am satisfied.

Mr. LaCortiglia- Is it possible to amend a citizens' petition at town meeting?

Atty. Senior- The Planning Board would make the motion at Town Meeting and make the amendment. I will work with your Board on the language. If you are in agreement, the motion would be made that the Planning Board is in favor up to a certain point but that you amend by subtracting or making the language less than what is states currently.

Mr. Rich- Are you willing to submit a proposed report from the Planning Board to Town Meeting with a proposed amendment?

Atty. Senior- Actually, one of the petitioners has to make the motion. I can prepare an explanation of the conclusion that you arrived at tonight and state your concerns. Therefore, the Board makes a recommendation and gives the recommended motion.

Mr. Cracknell- Suggests giving everyone at town meeting the zoning map on a handout showing the area to be considered as a private way.

Mr. Rich- States he will make the presentation at town meeting.

Mr. LaCortiglia- About 6-8 months ago MVPC was asked to fix the official town map. We also asked for technical assistance and as of July 1, we are correcting the map using GIS.

Atty. Senior – Agrees to appear at the next Planning Board meeting on April 28<sup>th</sup> for further discussion.

Mr. Cracknell- Regarding the width and surface of that portion of Bailey Lane, I would expect the Board would request significant improvements if an application were filed.

**ATM Articles:**

**Street Acceptances Update:**

- 1) Sage Rd, Raymond Rd, and Pineneedle Lane – Whispering Pines**
- 2) Sawmill Way, Bayberry Ln, Waldingfield Rd, & Rosemarie Ln. – Northwoods Estates**

Mr. Cracknell suggests the Board vote to approve the two articles for town meeting. The Board of Selectmen are required to vote to accept this layout 7 days in advance of town meeting in order for town meeting to vote.

Mr. LaCortiglia- Motion to have Town Planner forward a letter dated April 15th to the Board of Selectmen with the Board's recommendation.

Mr. Rich- Second

All in favor? 5-0; Unam

Mr. Cracknell- We know the current owner of Northwoods Estates is deceased.

Regarding Whispering Pines, Tom O'Connell of Artisan Development has his attorney seeking fee simple deeds from the respective owners for each lot within the subdivision.

We are doing a notice to all 47 abutters in Whispering Pines. We need to perform within the 120 days of town meeting.

**Zoning Bylaw Amendments:  
Conformity with Use Schedule**

[No discussion]

**Transfers:**

**Little's Hill Affordable Housing**

Mr. LaCortiglia- Are we going to have the amount of money to be published in the warrant, if that amount does not take into account interest up until this day of town meeting.

Mr. Cracknell- We can't transfer future payments so there will be another transfer of about \$10,000 and we can transfer any accrued interest at that time.

Meeting is adjourned at 9:40pm