

GEORGETOWN PLANNING BOARD
Meeting Minutes
Wednesday, July 28, 2010

Attendees: Hugh Carter, Chairman; Harry LaCortiglia; Matilda Evangelista; Christopher Rich; Nick Cracknell, Town Planner; Laura Replier, Minutes

Absent: Mr. Tim Howard

BOARD BUSINESS

Meeting called to order by Mr. LaCortiglia at 7:40.

MINUTES – March 24

MOTION to postpone discussion of March 24, 2010 minutes to the next meeting – Mr. Rich / Mrs. Evangelista / Vote is unanimous.

VOUCHERS – Total \$589.00

MOTION to authorize payment of vouchers for \$589.00 – Mr. Rich / Mrs. Evangelista / Vote is unanimous.

Mr. Carter arrives at 7:45. The Vice-Chair transfers control of the meeting back to Mr. Carter.

CORRESPONDENCE

MIMAP Contract –

Mr. Cracknell – I have already signed this after it was voted & approved by the board a month ago. I wanted to know if it is OK to send it back to MVPC?

Mr. LaCortiglia – Already voted, so send it.

MOTION to authorize Town Planner to execute contract on behalf of the Planning Board.
Mr. Rich / Mr. LaCortiglia / Vote is unanimous.

Building Inspector Introduction

Mr. Cracknell – Introduces Jon Metivier, Georgetown's new Building Inspector.

Mr. Metivier – This is my fourth week as Building Inspector. I have gone through what was outstanding and am now working with Mr. Cracknell to become familiar with Georgetown's

bylaws. I was the Building Inspector in Acton for 4 years. I am a Builder, currently building 4-5 houses, and also have a background as an Engineer.

Mr. Rich – Is the issue on Prospect St a GPB issue?

Mr. Metivier – No, what happened there comes down to a question of whether the scope of work went beyond what was authorized. As far as GPB is concerned, it should've gone to the ZBA. If it came to me now & was proposed, I couldn't approve it according to the bylaw. I would send it to the ZBA for multiple dwellings.

Mrs. Evangelista – That's where he did go in the end.

Mr. LaCortiglia – There is very ambiguous language in the code.

Mr. Cracknell – Where is the GPB jurisdiction? Add it to our list. As I recall, the owner never intended to have 2 units. It changed at some point..

Mr. Metivier – He initially went to the ZBA, it was withdrawn without prejudice. Mr. Cracknell brought up a list of inconsistencies in the bylaw, and that's what we're working on. We'll be coming to Town Meeting for clarification.

Mr. Metivier – If there is grey & room for interpretation in our bylaws we will end up going to lawyers. It needs to be cleaned up.

Mr. Cracknell – We are concerned to make what the bylaw is clearer, and to make sure applicants only have to go to one board for a permit.

OTHER BUSINESS

Little's Hill Tripartite Reduction Request

Rep: Craig Spear, Applicant

Mr. Cracknell – In your packets is an email from Dave Vargas (Inspection Engineer) outlining his recommendation for the release of funds. He did an inspection in early July & July 23rd. He has gone through all 153 items comprehensively. Some of the questions are related to street trees and questions about the trees and the lot owners. If Mr. Spear was going to provide trees, it is likely he would need to submit a request for modification. I want to defer to Mr. Spear to see how many lots and trees are affected by his agreements with owners. I had questions about Mr. Vargas's comments about the note "No Action Required" on this list. He says that means that the item has been completed. Outstanding = not complete. \$50k is being retained until everything is complete. Mr. Vargas mentions a street acceptance plan, but these streets were not intended to be public ways so that is not requested. The owners may petition the town at a later date but the project was originally approved as a private way. There is no need for a street acceptance plan. Regarding the electrical issue, I spoke with Wayne Snow, Mr. Vargas, and Mr. Spear about the utility pad. Mr. Vargas wanted to point out that he wasn't sure how long it

would be temporary for. Mr. Snow said he is not planning to put pad on it soon. There doesn't seem to be a need for it as it is inactive. Is this in our jurisdiction?

Mr. LaCortiglia – Is it in the roadway?

Mr. Cracknell – The roadway is not being accepted by us anyway, so it is probably up to the Homeowners' Association.

Mr. Rich – Is there supposed to be a sidewalk on the East side of Littles Hill Lane?

Mr. Cracknell – Yes, it has been completed.

Mr. Rich – There is no handicap sidecut at Littles Hill Lane.?

Mr. Spear – This is the inspection report from last year. The handicap sidecut has been installed now. The sidewalk ends, the handicap ramp comes from the driveway at the corner of Littles Hill, towards Londonderry. It is a separate handicap ramp, not a driveway, to the standard handicap dimension.

Mr. Rich - I looked for it today & didn't see it.

Mr. Spear – There is a crosswalk there.

Mr. Cracknell – Mr. Vargas says in his memo that it was completed. Note that the list of No Action Required = Completed.

Mr. LaCortiglia – How much do we have for surety?

Mr. Cracknell – \$163,049.98 as of today.

Mr. LaCortiglia – The Mr. Vargas recommends we release \$113,084.57, based on a .5 contingency.

Mr. Rich – How did we get to a .5 contingency?

Mr. Cracknell – It was discussed about a year ago. The GPB set that when the project started, I don't know why. It was before the time of everyone currently on the board.

Mr. Rich – Does the .5 contingency adequately protect the town? I'm not comfortable.

Mr. LaCortiglia – Does the remainder of \$41,954 reflect the actual cost of what is outstanding? There is \$17,500 from Ph I; \$15k from Ph II.; \$13,046 from Ph III; and \$37,729 from Phase IV

Mr. Cracknell – These are all at 2.5. (Refers to Exhibit A spreadsheet.) Phase IV does not include work that has already been done.

Mr. LaCortiglia – I will be comfortable releasing \$83k tonight.

Mr. Spear – I think everything is done. The As-Built plans are complete, though not here. All the work is done.

Mr. Cracknell – I just went through the spreadsheet and added them up, and they are all correct. Everything adds up at the bottom of each column. \$10,500 is the work that remains to be done in this phase. All line items are correct, though a few of the dates are not updated.

(Discussion of Mr. Vargas Tripartite Agreement spreadsheet items)

Mr. Rich – Is it not the charge of the GPB to ensure that the town is adequately protected if everything were to stop tomorrow? I am not convinced that the remaining money is enough to ensure that.

Mr. Carter – There is very little left to do, most of which is the As-Built plans and trees (which are coming down in price). I think it would be wrong to keep 2.5. We went .5 for this whole project, why change it now when there is nothing left to do? \$83k is too high.

Mr. LaCortiglia – I feel comfortable with \$83k. 2.5 is too high. I just want to make sure if .5 is enough.

Mr. Spear – If nothing else was done now, the As-Built plans are done, the grass has been seeded but is struggling, the individual lot owners could take care of it and help it along. Everything is done. The road is 100% complete and it looks beautiful.

Mr. LaCortiglia – I took Mr. Vargas's number and applied the 2.5 multiplier, that's where the \$83k came from. The last time we took less there wasn't enough money to complete what needed to be done. That's why I'm being conservative. I want to make sure we are covered.

Mr. Rich – The installation of the trees on the plan – are they all in, including each tree that was supposed to be there?

Mr. Spear – Five houses have not been built. This board insisted that we finish the road before we finished the sub-division. So for those 5 lots we will have to cut down the existing trees and re-plant new ones. Some other owners have requested that we not plant trees.

Mr. Rich – Did they come to the GPB and ask for that change?

Mr. Spear – There is a letter with that request.

Mr. Cracknell – That letter came in yesterday.

Mr. Rich – (Reads Page 1 of BSC Group letter 7/23/10 – last paragraph on page 1 regarding trees.) Is that saying that the property owners are responsible for bringing it up to compliance?

Mr. Spear – The Purchase & Sale agreement states that the individual lots put the street trees in. I was asked by the GPB to put a provision in the P&Ss to ask the individual lots to put the street trees in. It looks like a nice, mature sub-division now.

Mr. LaCortiglia – If I were to look at the plan, the trees that are required, are they shown on the lots or in the right of way?

Mr. Spear – On the private property of the lot.

Mr. LaCortiglia – How does this board now compel the planting of the trees?

Mr. Rich – This clause is taking it from the responsibility of the developer & placing it on the responsibility of the purchaser. We have no jurisdiction over people after they buy the lot.

Mr. Spear – If I have a contract that they must install the trees, I believe I can require that.

Mr. Rich – We can require that you get the trees put in and you have to chase them. These were recorded, so they run with the land?

Mr. Spear – Yes.

Mr. Cracknell – They money for those trees has been held for the lots that haven't been built. He does plan on presenting a modification to the GPB, but it is not before the board today. Things that have been completed cannot be recaptured.

Mrs. Evangelista – The streets that are down there that the neighbors wanted as an accepted street, is the street ready to go to Town Meeting to be accepted?

Mr. LaCortiglia – We have a recorded covenant that these streets will never be accepted as public ways.

Mr. Cracknell – If the homeowners had an interest in changing that they would need to come back to the GPB and you would vote to modify or not. We do not have surety for that, the Homeowners' Association would be responsible for that. The streets have been completed in adherence with plan, but there will be no application for street acceptance.

Mr. Carter – A rate of 2.5 is usurious and is not consistent with the rest of the project. We are only talking about grass seed and street trees. I do not agree with a rate of 2.5.

Mr. Rich – There is no grass out there.

Mr. Carter – Is that really \$80k worth of work? The project is complete.

Mr. LaCortiglia – For any of us to go through a procurement process to install trees and grass would be much more. That's the real world.

Mr. Spear – In the real world everyone needs to maintain the grass in front of their property, whether it belongs to them or not. The Homeowners Assoc does not bear responsibility for that.

MOTION to release \$90k for the tripartite agreement for Little’s Hill Subdivision – Mr. LaCortiglia / Mr. Rich /

Mr. Spear – Do you understand the laws of unintended consequences?

Mr. Rich – What are those consequences?

Mr. Spear – Most towns try to work with developers to see that a project is completed. This project has had numerous problems. There was a lawsuit from a neighbor and the worst recession in a century. If this motion passes you are almost guaranteeing that the work you want done will not be completed, because of your actions.

Mr. Rich – Your surety is not supposed to be your operating account.

Mr. Spear – Have you ever had a special situation when you have had to try to work with someone to get something done?

Mr. Rich – Because you sir are not credible. I take everything you say with salt.

Mr. Spear – I believe that you are talking about 4 stone bounds. I was sandbagged. I was told they had been completed. They weren’t.

Mr. Carter – How many issues have we had that were brought before us that were unresolved?

Mr. Spear – Are you talking about the \$100k in curbing that the former Highway Inspector insisted on that wasn’t in the plan?

Mrs. Evangelista – Granite curbing has been the standard for a long time.

Mr. Spear – The town repaved the lower part of Canterbury, afer I had already completed it, and charged me for it. A person on this board who was on the Highway Department did that. This board cost me an extra \$100k on this project. I’d like to know what you’re referring to that I haven’t done. You are accusing me of something I haven’t done. And as a result I won’t be able to pay my bills.

Mr. Carter – Mr. Rich has a valid point about needing to protect the town.

Mr. LaCortiglia – That’s to make sure that if you go belly-up at any point we can cover anything that needs to be done.

Mrs. Evangelista – Did you also do something about the drain on Baldpate Road. Did you do any work there?

Mr. Spear – No. We paved a small section of road there but didn't do anything to that catchbasin.,

Mr. LaCortiglia – I wish to call the question.

MOTION to release \$90k for the tripartite agreement for Little's Hill Subdivision – Mr. LaCortiglia / Mr. Rich / Roll call vote:

- 2 Aye – Mr. LaCortiglia, Mr. Rich
- 1 Nay – Mr. Carter
- 1 Abstain - Mrs. Evangelista

Mr. Spear – How do you expect me to pay my bills?

Mr. LaCortiglia – We have to put the town first. Has this passed?

Mr. Cracknell – No, you need 3 votes.

MOTION to reconsider – Mr. Carter / Mr. Rich / [Discussion cont.]

Mr. Rich – if this fails because of the lack of a unanimous vote Mr. Spear gets nothing tonight. I don't want to see that happen. He should get something back.

MOTION to reconsider – Mr. Carter / Mr. Rich /

- 3 Aye – Mr. Carter, Mr. Rich, Mr. LaCortiglia
- 1 Abstain – Mrs. Evangelista

MOTION to release \$90k for the tripartite agreement for Little's Hill Subdivision
-Mr. LaCortiglia / Mr. Rich / Roll Call Vote –

- 3 Aye – Mr. Carter, Mr. Rich, Mr. LaCortiglia
- 1 Abstain – Mrs. Evangelista

Mr. Spear – I believe that this vote has made it so that I cannot pay my bills.

Mr. Rich – I can't believe you don't have a 10% safety fund.

Mr. Spear – I do not. The economy is very tough. I cannot pay my bills as a result of this vote.

Littles Hill Soccer Field Fence

Reps: Jim DiMento, Parks & Recreation Commission; Mr. Richard Collins, Abutter

Mr. Rich – You need to go to the Selectboard first, to get authorization for Mr. DiMento to make an agreement regarding this matter. I suggest that you add extra arbor vitae to make the hedge thicker, rather than adding a fence.

Mr. LaCortiglia – The Special Permit has been met with the installation of the stockade fence. We have no more hand in this matter. You can come to any agreement you need between you.

GPB – That’s correct. Mr. Cracknell should ask Town Counsel whether our interpretation is correct, whether it runs with the land. How long is the town responsible for maintenance?

Mr. DiMento – To install a professional stockade fence would be about \$10k, or a split rail fence is \$3k. And more to add some trees.

MOTION to direct the Town Planner to pose the question to Town Counsel as to whether a condition on a definitive subdivision plan / special permit to install a fence, runs with the land in perpetuity if no term is mentioned in the condition; and if yes, for how long? - Mr. Rich / Mr. LaCortiglia

3 Aye – Mr. Carter, Mr. Rich, Mr. LaCortiglia

1 Abstain – Mrs. Evangelista

19 Nelson Street

Mr. Cracknell – This has become something of a quagmire. We need to ...

Mr. Carter – Is this the same issue as at Elm Street?

Mr. Cracknell – The fact that, according to Mr. Metivier’s observations, the residents have observed that the height is very high. We believe the one at Nelson is 4-5’ above and Elm is 2’ lower. This is predicated on our definition, & doesn’t allow people to work with or around a knoll. Is our zoning definition working? The code needs to be evaluated.

Mr. Rich – I’d be interested to know the height of the house built on Andover St. It is 4 stories.

Mr. Cracknell – The definition now in use was adopted in 2006. Some houses are grandfathered in under the old code.

Mrs. Evangelista – When you are on Nelson St looking at 3 newer houses across Central (9-10 yrs old) the Nelson one doesn’t look so big.

Mr. Cracknell – We know the heights for the buildings on Nelson & Elm. The Nelson house is 40’ from the prior grade, the one on Elm is 33’ from the prior grade. This is based on topography and septic plans.

Mr. LaCortiglia – Does our definition mean that it can’t be more than 2.5 stories?

Mr. Metivier – We do not have a definition of a story. It just says when a basement can be counted as a story.

Mr. LaCortiglia – Do we know how to fix the code?

Mr. Metivier – It is generally accepted as a rule for height that it is the mean height of the roof and average of the finished grade. But I'm not suggesting we use that.

Mr. LaCortiglia – It can be gotten around with grading etc.

Mr. Metivier – That is the generally accepted method, but it doesn't address what this board is most concerned with, the backfilling etc.

Mr. Rich – In Georgetown we have a very high water table. Houses are mostly slabs on footings, with few basements.

Mrs. Evangelista – The house on Elm St appears to be closer to the road so I thought it was higher. Should we address it that way? If it is going to be that height, it should be further back on the lot.

Mr. Rich – If someone wants to build a house they have to show the prior and end grade of lot.

Mr. Cracknell / Mr. Metivier – That's how it is now.

Mr. Metivier – Ultimately however it is solved, we have to enforce the existing bylaw. Two new home permits had to go back for revisions. I made a note on the permit to say that height could only be so much.

Mr. Cracknell – Basements are defined in our zoning, for others Mr. Metivier uses the state code.

Mr. LaCortiglia – Do we need to define a story in our code?

Mr. Metivier – No.

Mr. Cracknell – The minimum story height is 7'3.

Mr. Rich – Anything over 7' is a story.

Mr. Metivier – Yes. 35' height for 2 stories is very common.

Mr. LaCortiglia – The prior grade is important. If we didn't have that they could truck in a lot of soil & build it way up.

MOTION to adjourn– Mr. LaCortiglia / Mr. Rich / Vote is unanimous.
Meeting is adjourned at 10:25 pm.