

**MEETING MINUTES
GEORGETOWN PLANNING BOARD
Wednesday, September 22, 2010
7:30 p.m.**

Present: Mr. Hugh Carter; Mr. Tim Howard; Mr. Harry LaCortiglia; Mr. Chris Rich; Mr. Nicholas Cracknell, Town Planner; Ms. Michele Kottcamp – Asst.

Absent: Ms. Evangelista

Board Business 7:00 p.m.

Minutes – April 28th, 2010

Meeting is opened at 7:37 PM.

Mr. LaCortiglia- Motion to accept the minutes of April 28, 2010 with changes.

Mr. Rich – Second

All in favor? 3-0; Unam (Ms. Evangelista absent)

Vouchers – \$150.00 Total

Mr. LaCortiglia-Motion to pay the vouchers totaling \$150.00

Mr. Howard- Second

All in favor? 3-0; Unam

Correspondence –

CIP –

Mr. Cracknell- I left a message with Mike Howard. As of this afternoon, I am not a 100% sure that he will stay on as he feels that not everything went as well as he hoped. He is giving it consideration and I am waiting for his reply.

Mr. LaCortiglia- Motion to defer the CIP appointment to the next meeting.

Mr. Howard- Second

All in favor? 4-0, Unam

Mr. Rich- The Town moderator is also looking for for appointments to Fin Com and CIP. They have a direct correlation to the tax base of the Town.

ANR Decision 94 Elm St Signature-

Mr.Carter signs the ANR endorsement for 94 Elm Street.

Other Business:

Parker River Bond Release Release-Mark Mastrioni is present from Pulte Homes.

Mr. Cracknell refers to Exhibit 2 of the Town Planner Draft Comments that are on file in the Planning Office. Pulte has a letter requesting the amount of \$200,000 under the performance guarantee. The roadway and utilities were completed over a year ago. We did have drainage issues and we needed to remove the blocks that were being trespassed on the other side of the railbed. There was an issue with the berm that crossed the former railbed and the ponding of water between the berm and Parker River Landing. A year ago, we came up with an agreement "Drainage Improvement Plan" that was presented to the Planning Board and the Conservation Commission that was approved. Over the summer Pulte implemented these improvements and informed us on August 31st that they have completed the project and are requesting a release of the remaining funds. Larry Graham, Town engineer, inspected the site Monday with Nick and sent a Technical Review. Larry has concerns about the quality of grass and loam as well as the swale into the wetland. Steve, ConCom Agent, indicated that he is holding a \$100,000 bond until the grass takes and the plants survive. The piping work has been done in accordance to the plans. The Form J was signed over a year ago and has been re-signed. We are satisfied up to this point.

Mr. Mastroini- Requests release of the remaining balance of the surety bond and thanks the Town Planner and Planning Board for all their efforts in seeing the project through to its satisfactory completion.

Mr. Rich- Motions to release the balance of the SafeCo surety bond #6293536 in the amount of \$200,000 concerning the Parker River Landing project.

Mr. LaCortiglia- Second

All in favor? 4-0; Unam

Little Hill Fence- Mr. Jim Dimento of the Park & Rec Commission is present.

Mr. Cracknell- Starting back in July, this relates to the soccer field at Little Hill which is now under the care and custody of the Park & Rec. At the time the special permit was approved for Little Hill, there was a requirement to be a 6' stockade fence. Jim Dimento and the Park and Recreation have since removed the fence as it became a hazard. The Park and Rec are looking for alternatives. The chain link fence was refused. When Mr. Collins, direct abutter, was here in July there was an agreement between the 2 parties on either of the two options which are to utilize a lot of landscaping or a split rail fence. I don't think anyone on the Board has experience with Special Permits that run with the land and information is included in my draft comments for your reference. The opinions from Town Counsel stated that the stockade fence is binding to the Town as the owner of that parcel so long as the fence is related to the use and the use is maintained by the Town. The Town has a responsibility to maintain the fence that's shown under the special Permit and recorded. If the two parties agree on a different type of fencing, they could come up with a minor amendment to the subdivision that the 6' stockade fence be

replaced with a split rail fence (see price quote in Draft Comments). A letter from Mr. Collins was submitted today by the direct abutter and is in general agreement with the substitute fence. Nick reads the letter to the Board and the letter is on file in the planning office. I am requesting that some type of partition be erected. The only potential conflict is the planting of the locust shrubs.

Mr. Jim Dimento – Mr. Collins wants the shrubs to be the responsibility of the Town and wants two trees planted.

Mr. Rich- This is a minor modification request. In this petition they are requesting if this Board decides that there need not be a fence and took a vote if it is necessary, that is still considered a minor modification?

Mr. Cracknell- That is the call of the Planning Board to decide if it's a minor modification.

Mr. Rich- Next question - Who signed the application?

Mr. Dimento- I signed as applicant and owner on the application.

Mr. Rich asks Jim if he got permission from the Board of Selectmen?

Mr. Dimento- They did not authorize me as I did not know it was necessary to seek authorization from the Board of Selectmen.

Mr. Rich- In my opinion, you need to get their authorization. Once you file, this Board has the authority to say that no fence at all is considered a minor modification.

Mr. Dimento- My vote is to appease the abutter in some manner. He has met us half way. The bushes and trees will be \$5,000. The stockade fence purchase would be \$11,000 and the split rail \$3,500.

Mr. LaCortiglia- I'd rather eliminate the requirement for a fence that elevates the Park & Rec. from having to install a fence all the way down to the end of Bartlett's property and Mr. Collin's property and also maintain it. It is burdensome for the Town. I'm sure you can come up with some sort of agreement with Mr. Collins.

Mr. LaCortiglia- Motion to waive the filing fee for the minor modification of this Special Permit.

Mr. Howard- Second

All in favor? 4-0; Unam

Mr. Rich- I would make a motion under this submission that we allow a minor modification to this property by removing a request for any fence whatsoever as mentioned in the prior conditions of the Special Permit subject to Mr. Dimento submitting a letter from the Board of Selectmen that he has the authority to file this.
Mr. LaCortiglia- Second

Discussion?

Mr. LaCortiglia- Why would there be any question that the Chairman for the Park and Rec not have authority over all Park and Rec parcels?

Mr. Rich- The permit that established this is being changed. The owner of record has to request the change. The owner of record is the Town of Georgetown. It is managed by the Park & Rec.

Mr. Dimento- This is good for the Town and I believe all departments should follow this standard operating procedure.

All in favor? 4-0; Unam

Mr. Carter- We just took away the necessity to have a fence there.

Mr. Rich- This leaves the negotiation to make whatever has to happen out there and get us out of the loop.

Mr. Carter- We just gave Park & Rec. carte blanche to do nothing. That's not how we operate.

Mr. LaCortiglia- Something will go there.

Mr. Carter – They can decide what goes there. I would've been more comfortable if we just made sure something was going there.

Mr. Cracknell- We have never heard from Mr. Bartlett on this issue. There is no obligation by those parties. Mr. Collins can appeal that this is not a minor modification.

Mr. Rich- We gave carte blanche to the Town of Georgetown.

Mr. Carter- We gave preferential treatment to the Town over what we original demanded of the developer. I am bringing up the inconsistency. There was a requirement in place with the definitive subdivision. I am sure they will do everything they need to do but there are no checks and balances in this particular case.

Mr. Rich- There is a cost to maintain the shrubs vs. the appropriate stockade fence with a warranty. We'll have to maintain the fence forever.

Mr. Cracknell – Hopefully by taking us out of the loop it will all work out.

Subdivision Amendments- (For Consideration)

Mr. Cracknell explains that he inserted the proposed subdivision amendments per Harry's and Tillie's suggestions at the last meeting. These amendments will go in the legal notice. {See Exhibit 3 of the Draft Comments that are on file in the Planning office }

Zoning Amendments- (For Consideration)

The legal notice will be prepared in December. Several zoning amendments will be worked on with the Building Inspector and ZBA.

Mr. Cracknell- I have added multi-family use and the intensity use schedule per Tillie's prior suggestion.

Mr. LaCortiglia- Asks about the consultant's report from the Board of Health. The Board of Health agent is tracking down the report from the school. It is tough to bring this back to town meeting.

Mr. Rich- I have a source from New Hampshire that states there is an approved system that also captures the heat.

Mr. LaCortiglia- Move to enter into Executive Session for the purpose of discussing litigation with the understanding that we will not be returning to Public Session.

Mr. Rich- Second

All in favor? 4-0; Unam (Ms. Evangelista absent)

Mr. LaCortiglia- Aye

Mr. Carter- Aye

Mr. Howard- Aye

Mr. Rich- Aye

**EXECUTIVE SESSION MINUTES
GEORGETOWN PLANNING BOARD
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Present: Mr. Hugh Carter; Mr. Tim Howard; Mr. Harry LaCortiglia; Mr. Chris Rich; Mr. Nicholas Cracknell, Town Planner; Ms. Michele Kottcamp – Asst.

Absent: Ms. Evangelista

Mr. LaCortiglia- Move to enter into Executive Session for the purpose of discussing litigation with the understanding that we will not be returning to Public Session.

Mr. Rich- Second

All in favor? 4-0; Unam (Ms.Evangelista absent)

Mr. LaCortiglia- Aye

Mr. Carter- Aye

Mr. Howard- Aye

Mr. Rich- Aye

Executive Session:

Mr. Rich- It said they foiled an answer on the 3rd. Has Town Counsel sent us their filed answer?

Mr. Cracknell- No

Mr. Rich- JW Construction had 20 days from the 12th of August to file an answer. Why they don't just send it in is beyond me.

Mr. Cracknell- We are not going to get anything out of JW Construction. We are going to ask for the answer from 9/3/10. Maybe we should make it October 1 to act and give the Board a week to review their answer.

Mr. LaCortiglia- Discovery should begin immediately. The strategy in the closing paragraph is to bring this to a close.

Mr. Rich- Discovery is just a time line.

Mr. LaCortiglia- It sounds like their first goal is to never step in court. They want to negotiate this. If this was a private matter – proceed with no negotiation and go to

directly to court. Do not settle out of court. I do not believe that this company will not negotiate with us. We need to move as quickly as we can to court.

Mr. Cracknell- Is negotiation more lucrative to an attorney?

Mr. Rich- I would tell Town Counsel to send a letter to their attorney and once we start Discovery, there will be no settlement. This puts us in the driver's seat.

Mr. Carter- What is more expensive?

Mr. Rich- Typically it's cheaper to negotiate when both parties are willing to negotiate.

Mr. Carter- When did we first contact them to finish the road?

Mr. Cracknell- In 2008

Mr. Carter- I agree with Chris.

Mr. Cracknell- We'll get the answer from Town Counsel from the Bond Company. Chris Rich and the Planning Board will review. We'll request to File the 55A for JW Construction to get a default judgement against JW Construction immediately. We'll ask Town Counsel to commence with Discovery in 7 days and cease negotiations. Negotiation is not an option for resolution. Is a judge seeing this as an ultimatum?

Mr. Rich- If we give them one week to keep their word and make a settlement, all bets are off. Also add in your letter "Commence Discovery - no further extensions without Planning Board approval."

Meeting adjourned at 9PM.

Mr. Rich- Motion to adjourn.

Mr. Howard- Second

All in favor? 4-0; Unam