

**Meeting Minutes**  
**GEORGETOWN PLANNING BOARD**  
**Wednesday, April 22, 2009**  
**7:00 p.m.**

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

**Absent:** Mr. Hugh Carter, Chairman

**Mr. LaCortiglia opens the meeting at 7:10PM.**

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

**Minutes – 3/11/09**

Minutes approval is re-scheduled to the next Planning Board meeting on May 13, 2009.

**Vouchers –**

Mr. Howard- Motion to pay vouchers totaling \$2,130.70.

Mr. Rich- Second

All in favor? 4-0; Unam (Mr. Carter absent)

**Other Business –**

**Deer Run Lane – Request to release lots and cash bond**

Mr. Rich- For the record, paying this invoice from a bond account should be the exception in this case only.

Mr. LaCortiglia- My understanding is that when we hold a cash bond, it is separate and distinct. The cash bond is to be separate from the inspection services account.

Mr. Rich- Accounting needs to have separate line item accounts pertaining to a Bond and inspection services but these accounts need to be set up through the same bank.

Mr. LaCortiglia- I feel better paying the \$512.70 invoice from the inspection services account and the remaining money is then refunded to that person of which the account was set up under (Maglio). The new inspectional services account needs to be opened in the applicant's name (Carullo) to pay the other invoice.

Mr. Rich- We refund the money to the applicant who posted the Bond. One check is to be cut to the Planning Board and one to the person who posted the Bond.

Mr. David Harris, attorney for the applicant, Mr. Carullo of Deer Run- Mr. Carullo has been funding the account for the past 6 years at the request of the town.

Mr. LaCortiglia- The applicant whose name that was on the account when it was opened is to get what is left in the account when all the invoices have been paid at the completion of a project.

David Harris states that he will be depositing two checks [one check for back taxes and one check for construction inspections into the inspection engineering services account in the amount of \$1,307.27.] Then the bond can be released to the applicant. Mr. Harris also states that the Planning office has incorrect filing information regarding the Covenant and he will be forwarding the correct documents.

Mr. LaCortiglia- As far as the Planning Board is concerned the road is complete at Deer Run with a signed Form J.

Mr. Harris- In 2002, the property was totally reconfigured. The property was totally reworked into 5 lots when Mr. Carullo took it over. The current subdivision is in place of the Schwartz documents that are on file. Schwartz was the original owner of the land.

Mr. LaCortiglia- The question is now whether we release the bond. On a separate issue, the covenant is not correctly filed at the registry. However, in my opinion, the subdivision is done, the road is ready and the form J is signed.

Mr. Harris- To satisfy the bank and the buyers, we have to release the lots. I will get you the correct filing of the recorded covenant. There is a covenant outstanding that we have to get off the record.

Mr. Rich- Motion to release cash bond in the amount of \$42,152.42 including interest.

Mr.Howard- Second

All in favor? 4-0; unam (Mr. Carter absent)

Mr. Rich- The covenant pertains to a 2-lot subdivision that never took effect. Someone has to clear the title up and show that 2 lot subdivision and the current applicant's subdivision are in fact he same piece of realistate. That has nothing to do with the Bond itself.

**Correspondence:**

Mr. Rich - Requests Michele to send Townsend Oil Memo to Board of Health for their review.

## **Rock Pond Estates – Sign Form K and notarize Covenant**

Mr. Bussing, new applicant for Rock Pond Estates is present- I am waiting for a letter from the Insurance Company issuing the bond stating that they are aware that I have taken over the project. I also received a letter from Dean Chrongris [original applicant] that states that I am finishing the road for him at Rock Pond Estates.

Mr. Cracknell- Asks applicant for a corporate resolution letter from Mr. Bussing that he is stepping into Richardson Lane LLC shoes and requests a letter from the bondholder that they will stand behind the bond if Mr. Bussing steps in the shoes of the original applicant, Richardson Lane LLC. There is some question whether the bond company said the bond is still good in order to protect the interest of the town. The bondholder said the bond is valid until the board releases the bond. Is it still valid if someone else is doing the work out there? Nick states that the original covenant was never recorded by Dean Chrongris, the original applicant, even though the Form K was approved by the Planning Board in November, 2007. I am suggesting that we withhold a building lot, #3, and release the other lots which is the request of the applicant tonight as a compromise. Mr. Cracknell reads the letter from Mr. Chrongris dated 4/22/09 that is on file in the planning office which states that Jim Bussing is doing the work for Richardson Lane LLC.

Mr. Rich- Who is the record owner of the lots?

Mr. Bussing- Oakhill, LLC and I have the Deeds for the lots.

Mr. LaCortiglia- We asked for 3 items [1. letter from Dean Chrongris 2. Corporate Resolution 3. Letter from Bondholder] We have received 2 so do we wait for the third (the letter from the Bondholder) ?

Mr. Cracknell- The alternative is to not release all 5 lots.

Mr. Bussing- The bondholder requested a letter from me stating that I am standing in the shoes of Oakhill LLC then they would send the letter. I sent him [bondholder] a letter but have not received a response.

Mr. Rich- (Mr. Rich reads the bond that is on file in the planning office)

Mr. Chrongris has sent a letter that states that Mr. Bussing is the successor which binds the Bond Co. [United Casualty] to Oakhill, LLC.

Mr. Cracknell- The bond can't be removed for lack of payment. Mr. Cracknell refers to the original covenant dated November 2005 from Mr. Chrongris that never got recorded.

Mr. Rich- Requests from Mr. Bussing a copy of the original letter from Dean Chrongris.

Mr. Cracknell- Tells the Planning Board that the original 2005 covenant was never recorded even though the lots were released. The covenant needs to be notarized in order for the covenant to be recorded. This was never done by Dean Chrongris.

Mr. Rich- Dean Chrongris needs to be present as well as all the original Board members who signed the Form K. A Corporate Resolution is signed by corporate officers and the corporation is bound to honor the resolution. The covenant has to be recorded.

Mr. LaCortiglia- If there was not a covenant recorded, then we do not need to release the lots.

Mr. Rich- Dean Chrongris is in violation of not recording the covenant back in 2005.

Mr. LaCortiglia requests a motion to have the town planner sign off on building permit of Lot 1.

[Motion not made]

Mr. Rich- Once this covenant is notarized, dated and recorded then we can give a conditional release. The Form K can only be recorded after the Covenant is recorded.

Mr. LaCortiglia- We have a conditional vote to let Nick Cracknell sign the building permit sign off once the 2 documents just mentioned are recorded.

Ms. Evangelista- Asks Mr. Bussing for an update and road completion date.

Mr. Bussing- There is approximately \$13,000 worth of work to be done on the road. I need a bigger catch basin. I will be calling Dave Varga and meeting him on site. Once I show Dave the basin issues, I will be taking care of 3 catch basins, sidewalks and fixing the granite bounds. This will all be complete by Summer.

Mr. Howard- Motion to have Planner sign building permit release for Lot 1 conditional upon the recording of the covenant and the releases of all the lots. In addition, the Planning office requires the receipt of the original letter from Dean Chrongris dated 4/22/09.

Mr. Rich- Second

All in favor? 4-0; Unam (Mr. Carter absent)

Mr. Rich- We now know the Bond is still in effect based on the fact that Mr. Bussing is the “successor” as stated in the bond. As a notary, I need to be in the company of Dean Chrongris and Hugh Carter.

Mr. LaCortiglia- The building permit release must be done after receipt of the original letter from Dean Chrongris dated 4/22/09. All Planning Board members agree.

### **Whispering Pines – Trees**

Rich Williams with Hayes Engineering is present on behalf of the developer, Artisan Development, for Whispering Pines.

Mr. Williams- I want to clear up any confusion with the trees that were proposed for the Whispering Pines subdivision. We decided to check with the Planning Board for approval of the tree selections. I received an email from Nick that gave a list of trees for us to purchase. They were not included in our original budget and were not on the punch list that we were provided with when we took over the project.. It is a \$10,000 - \$15,000 purchase for 130 trees. I sent a letter with a request for trees that work in this particular zone that make good street trees. We are looking for approval from this Board to install those trees that do work within our budget. These trees are recommendations from our suppliers.

Mr. Howard- Are they salt tolerant?

Mr. Williams- Yes. We are buying trees direct from the grove.

Mr. Rich- This number that is in the punch list comes from Dave Varga, the town engineer. Who wrote the budget?

Mr. Williams- Dave Varga.

Mr. Rich- Didn't the developer write the budget?

Mr. Williams- There is nothing on the plan that says what the species of trees should be?

Mr. Cracknell- When I spoke with Rich Williams, I wasn't aware that Rich already picked out all the trees. I looked at the Certificate of Vote and the plans and there was nothing indicated in either one that indicated a specific species of trees in the subdivision. I provided you [Hayes Engineering] with a recommendation from Harry LaCortiglia but was not aware of the cost of \$170 per tree which did not fit in the budget. I think the proposed trees on your revised list are sufficient which gives more diversity of trees. {This tree list is on file in the planning office }

Mr. Howard- Motion to approve the proposed trees as presented by Hayes Engineering.  
Ms. Evangelista- Second  
All in favor? 4-0; Unam (Mr. Carter absent)

**Cont. Public Hearing(s): ZONING AMENDMENTS**

**ATM 09-23: Georgetown Sq 40R overlay district**

Mr. LaCortiglia- We will reopen the Public Hearing for zoning amendments ATM 09-23: Georgetown Square 40R Overlay District and ATM 09-27: Big Box Retail Definition.

Mr. Cracknell gives an overview of the 40R Overlay District to the Board.  
I just received a response tonight from DHCD. The bylaw is 22 pages long and there have been minor changes made to the bylaw. I need to review them more carefully and they might be more restrictive. DHCD has requested a conference call. They felt there was enough parking in the district required for people that live above the ground floor but they had some concerns about commercial parking for the ground floor. At the last meeting a week ago, I had presented to the Board that Don Schmidt and his colleagues liked the idea of an in-lieu payment program for projects less than 5 units. This would insure enough money to create an affordable housing unit and withhold the density bonus payment until the Town creates the units. Don Schmidt of the DHCD asked their legal counsel and they were not in favor. They said every project has to have 20% affordable housing regardless of it's size. The remedy is for us to look at other zoning bylaws for smaller projects. If DHCD is a sticky point for small projects then we need to look at other alternatives. Mr. Cracknell proposes that the Board continue to another meeting to further discuss the 40R Overlay District.

Mr. Howard- Motion to continue the Public Hearing for 40R Overlay District to April 29<sup>th</sup> at 5:30pm.

Mr. Rich- Second  
All in favor? 4-0; Unam (Mr. Carter absent)

**ATM 09-27: Big Box Retail (Article 26)**

Mr. Rich- Motion to open Public Hearing for ATM 09-27: Big Box definition.

Mr. Cracknell- I spoke to Jonathon Eichman. He said you have to be careful in which direction the number goes. I emailed him a suggested revision from the last meeting for an amended description to the ATM 09-27. He stated that a change could be made. If the Planning Board would like to support that type of amendment, town counsel says it is acceptable. You can change it. {Planning Board Chairman, Hugh Carter, emailed letter

of support on April 22, 2009 for the revised amendment recommended by Nick Cracknell which would exclude supermarkets in the definition. This letter of support and revised amendment is on file in the planning office.

**DRAFT AMENDMENT: 4/22/09**

**Article 26: Big Box Retail (ATM09-27)**

To see if the Town will vote to amend the Zoning Bylaw by amending the text to §165-7 – Definition and word usage with text that defines a Big-Box retailers as a single retail establishment over 50,000 SF in floor area and permit such uses only in the CC zoning district by special permit; or take any other action thereon.

1. Amend §165-7 (Definitions) by adding new definition of “Big Box Retail Establishment” as follows:

*Big Box Retail Establishment: Except for grocery establishments up to 75,000 SF in gross floor area that devote at least 75% of sales floor area to the sale of non-sale-taxable items, a big box retail establishment is a singular retail establishment that involves construction or use of a singular retail sales establishment that is greater than 50,000 gross square feet in floor area.*

2. Amend §165-11 (Use and Intensity Schedules) by adding new use for “Big Box Retail Establishment” as follows:

<b>Business Use</b>	<b>Use Regulations Schedule</b>							
	<b>RA</b>	<b>RB</b>	<b>CA</b>	<b>CB</b>	<b>CC</b>	<b>IA</b>	<b>IB</b>	<b>RC</b>
Big Box Retail Establishment	O	O	O	O	A	O	O	O

*The proposed change is within the scope of the warrant article and the public hearing is still open. Thus, the Planning Board may amend the motion.*

Mr. LaCortiglia- At this point, we needed to find out if we could change it after speaking to Kopelman & Paige, our town counsel.

Mr. Rich- Motion to add amendment to the language as shown on the handout from Nick Cracknell dated 4/22/09.

Mr.Howard- Second

**Discussion?**

Ms. Evangelista- I have never seen taxable items before in a bylaw. I think there is too much wording in the zoning bylaw.

Mr. Cracknell- It is done regularly and is in effect in Cambridge, MA and California.

Mulls Ave Resident- What about a supermarket also being a retailer?

Gary Fowler, resident- Clothing is also non-taxable.

Mr. Cracknell- The idea of putting 75% in there is that if a retailer is just selling milk, then they call themselves a supermarket. Is there a better terminology that could be inserted there like Tim Howard's suggestion that 75% is food? Maybe a better word to use is "food items" instead of "non-sale-taxable items." Big Box retailing only includes supermarkets when it includes food sales as part of its footprint. Big Box is a 20,000 sq ft to 250,000 sq ft complex like Walmart. The impacts from those types of uses relate to wages and tax revenue and putting other businesses out of business. The literature does not say that supermarkets are in a different class. You can not compare the average supermarket with the average Big Box retailer. There are two special permits required to do a supermarket - one from the ZBA and one from the Planning Board. We still need to do the analysis.

Ms. Evangelista- I am for the 75,000 sq ft but would like to remove the "taxable" sentence in the definition.

Mr. Cracknell- If you don't want to call out "supermarket" specifically then we can leave it out of the definition.

Mr. LaCortiglia- I still believe the number should be reduced to 30,000 sq ft.

Ms. Evangelista- Suggests that the Board just add the number to 75,000 sq ft. in the definition.

Tim Howard suggests to add "sale of food related items" and remove "non-sales taxable items" and keep the number at 50,000 sq ft.

Mr. LaCortiglia- Current motion is to keep it exactly as revised.

{No vote taken on current Motion and is removed}

Mr. Rich- Motion to delete "non sales taxable items" and add sales of "food items" to the definition of Big Box Retail Establishment.

Mr. Howard- Second

All in favor? 3-1, (Mr. LaCortiglia against) (Mr. Carter absent)

Mr. Rich- Motion to recommend to Town Meeting the adoption of ATM 09-27 Big Box Definition (Article 26).

Mr. Howard- Second

All in favor? 3-1; (Mr. LaCortiglia against) (Mr. Carter absent)

Mr. Rich- Motion to close the Public Hearing



Mr. Howard- Second  
All in favor? 4-0; Unam

Mr. Rich- Motion to adjourn.  
Mr. Howard- Second  
All in favor? 4-0; Unam