

**Meeting Minutes**  
**GEORGETOWN PLANNING BOARD**  
**Wednesday, April 15, 2009**  
**7:00 p.m.**

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

Mr. Carter opens the planning board meeting at 7:10PM

**Rock Pond Estates**

Mr. James Bussing, applicant, is present to discuss Rock Pond Estates.

Mr. Rich asks if Mr. Bussing stands in the shoes of Richardson Lane LLC.

Mr. Bussing – I didn't take over Richardson Lane LLC.

Mr. Rich- The bond holding company originally bonded Richardson Lane LLC. I am asking you to make known that Oakhill is replacing Richardson Lane LLC. The letter on file states that the bond is still in effect but it does not state that you are stepping in the shoes of Richardson Lane, LLC.

Mr. Rich- Legally they can say that they did not bond Oakhill LLC. The letter needs to state that the bond is still in full force and they recognize that Oakhill, LLC will continue the project and step in the shoes of Richardson Lane, LLC. It will still be bonded without issuing a new policy.

Mr. Cracknell, Town Planner – Amend the letter and state that Oakhill is stepping in the shoes of Richardson Lane LLC.

Mr. Bussing- I am also requesting that the Planning Board sign another Form K to release the lots.

Mr. Cracknell- Chris is saying that Rock Pond would still be bonded if Oakhill says that they will step in the shoes of Richardson Lane LLC.

Mr. LaCortiglia- We are being asked to release the lots and we don't have a bond covering Mr. Bussing.

Mr. Rich- Tell them that a planning board member has asked that a letter be written to the bondholding company that the bond needs to be in effect under the name of Oakhill LLC, not Richardson Lane. This letter is stating that the bond is in effect and in full force under Richardson Lane. The letter needs to first be changed to Oakhill LLC. Then we can release the lots. This letter is not clear whether the bond company is covering Oakhill LLC. We have to protect ourselves. Dean Chrongris, the original owner, has a Corporate Resolution form that has to be signed and notarized and filed with us that states you are buying the realstate.

Mr. Cracknell- The action item is for Mr. Bussing to take a Corporate Resolution and remedy the defect in the letter with an amendment to the Bond Company and the Planning Board stating that he wants to finish the subdivision to spec as filed and would like permission from the Board to step in the shoes of Richardson Lane LLC and finish the project as Oakhill LLC.

Mr. Bussing- Could you re-sign the Form K once the Bond is corrected so I can get a building permit? The original Form K was never recorded.

Mr. Rich- If you have trouble, contact Nick and myself and I will contact the Bond Company myself. You want the original confirmatory Form K to be signed by the Board.

Mr. Cracknell- We will be meeting next Wednesday and the Planning Board can sign the confirmatory Form K if the letter from the bondholder has been amended per our request.

## **Planning Board Public Hearing: ZONING AMENDMENTS**

### **Article 9-23: Georgetown Square 40R Smart Growth Overlay District**

The Chairman, Mr. Hugh Carter, reads the entire Public Hearing Notice which is on file in the planning office.

Mr. Cracknell – Gives brief overview and shows the overlay district on the map. This is an 8 acre overlay district as indicated on the map which is on file in the planning office. The brown-colored area is substantially developed. Mixed use buildings will not be allowed as of right there. He explains the Conceptual Residential Density Plan and the 40R Overlay District Zoning Map. The developable rights do not change in the green areas. Out of the 8 acres, there is 1.9 acres that is developable land area. If everything works out with waste water and parking, there would be about 40 units. However, this number is not likely today due to zoning, waste water and parking issues.

Mr. Cracknell shows some of the past historical buildings in Town. The next step in the process is Town Meeting and getting a response from DHCD. I have preliminary feedback but have not received their full comments that we will take to Town Meeting as amendments. Then we go live if it passes at Town Meeting.

{Paul Taraschuk, Chairman, is present from the ZBA}

Mr. Rich- The process does not take away current jurisdiction from any other boards.

Mr. Cracknell- The development rights associated with 23-24 parcels within the proposed overlay district are not impacted in any way. The overlay sits on top of the existing zoning. This is incentive based and is a voluntary opt in but what we can say to these property owners, is that they can do this without going for a use variance.

Mr. Rich- If a developer wanted to bring a building back to what it was years ago, do you think CPC money should be available to those developers?

Mr. Cracknell- If it is an eligible activity under the CPC, then “yes.” If there is an affordable housing component.

Mr. Rich- This has a community preservation component.

Mr. Cracknell- This is just the beginning. We have to work with many other departments in order to make this happen. If this overlay gets through, there will be more incentives to do other things. This is what this is designed to do. This is just the beginning to ever get to the point of implementing this vision. This is an important first step. The \$75,000 in grant money is for the town and will help us and the Planning Board to use for additional administrative help, additional office hours or to hire consultants to do a study that might be necessary.

Mr. Rich- Therefore, we will not have to increase the town’s tax rate to get it done.

Mr. Cracknell- We’ve always said in an open forum like this that these funds would not go into the general fund if this bylaw is passed. Those funds would be put into a dedicated fund to be used for a feasibility study to address the parking and waste water, etc. 99% of the time, the money is transferred to the town and put in the general fund. Through the adoption of this bylaw , we could seek an amendment to request that these funds are in a dedicated fund to do the waste water analysis. It would actually be put into a revolving fund per the town administrator and treasurer. This is also the recommendation of the DHCD and would be a condition of their approval of this grant.

Mr. Rich- We just don’t want the money to get co-mingled in the general fund and get lost.

Mr. Cracknell- I do believe the DHCD will ask us to create a wastewater solution with the grant money and do a feasibility study. We will go to the CPC if this doesn’t work out.

Ms. Evangelista- I understand that if the building is identified as “significant locally” it could be declared as an historical building by the Historical Commission. It becomes a legitimate use for CPC money.

Mr. Taraszuk, Chairman, ZBA – I am hear to show support from the ZBA on each of the amendments and I will gladly be at Town Meeting to tell the residents that the ZBA is in full support of these amendments. In particular to the accessory buildings, everything from the ZBA was taken into consideration. I will be there in support.

Mr. LaCortiglia- Motion to continue Public Hearing for the 40R smart growth overlay district until 7pm April 22, 2009.

Mr. Rich- Second

All in favor? 5-0; unam

Mr. Howard- Regarding the tan colored area on the map- define the difference between the mixed-use sub-districts and multi-family/mixed-use sub-districts.

Mr. Cracknell- If they meet all the dimensional controls and the use requirements, and if they meet the performance and development standards, they can do it as-of-right per the zoning. Today you can't do mixed-use on any of these buildings as they stand today. If we had a waste water solution, it increases the value of these buildings significantly. What we want to be careful with is that many of these buildings are contributing to the historical significance of the town and we need to protect them and stimulate demolition. The new zoning will allow for something like the proposed building you see on the sketch if there is a waste water solution.

Mr. Rich- There is no plan what so ever to bring sewer to the downtown.

Mr. Cracknell- The study will look at how the property owners can deal with their own individual waste water systems. We need to do an historic inventory first and focus on the redevelopment opportunities that are on the square. The waste water folks will also have to do an analysis. This is merely a pilot.

Mr. Howard- If we did sewer in the downtown by using a shared system, residents of town would not be responsible for paying for it but it would be shared by those in the downtown that would use it.

Ms. Evangelista- This is a tremendous opportunity.

Mr. Cracknell- Those in the downtown area can do the mixed-use by special permit, just not as of right. We have to study the waste water issue first. We are protecting those buildings from demolition.

Ms. Evangelista- If they want a mixed-use, they have to follow the 40R.

Mr. Howard- If someone in the King Davis building wants to do a residential floor on one of their upper floors, they could do it as the building is now. We are protecting those buildings from demolition and preserving historic structures in town.

Ms. Evangelista- Asks a question about housing contribution payment.

Mr. Cracknell- Refers to page 9 of the Housing Balance Bylaw Amendments: 5 units = 1 affordable unit. Any project with 1-4 units has to pay 8% of the average median sales price or assessed value.

Ms. Evangelista- My thought is that the percentage is not enough.

Mr. Cracknell- Under the 40R , the town is obligated to make sure 20% of the units are affordable. If somebody builds a \$250,000 unit, 8% is \$20,000 per unit. That is only one 40R unit with 5 units total.

Ms. Evangelista- You are talking about buying down.

Mr. Cracknell- It is absolutely impractical for a developer with under 5 units to put in an affordable unit .

Mr. Cracknell- I agree it can not be over reaching. I will continue the conversation with Tillie before our next continued Public Hearing to get closure on this.

**ATM 09-24: Accessory Buildings (Article 23)**

Mr. Carter reads the public hearing notice.

Mr. Cracknell- Refers to page 25 of Final Bylaw Amendments. As it is stated, you need a variance from the ZBA. The primary purpose of this amendment is to provide a mechanism for property owners within the zoning districts of RA, B and C districts. This amendment offers a property owner the ability to seek a special permit to go up to 50% in the side and rear yard setback rather than the variance. It has to be less than 576 sq ft., no more than 15 ft in height and if dormers are used, they have to be on the front or side of the principle structure. It encourages better design. This is fair and balanced.

Mr. LaCortiglia- Motion to approve the ATM 09-24 Accessory Buildings amendment as written. and close the Public Hearing for ATM 09-24: Accessory Buildings.

Mr. Rich- Second

All in favor? 5-0; Unam

Mr.LaCortiglia – Motion to close the Public Hearing for ATM 09-24: Accessory Buildings.

Mr.Rich- Second

All in favor? 5-0; Unam

**ATM 09-25: Bed & Breakfast Uses (Article 24)**

Mr. Cracknell- We decided to only expand from the commercial district to include the RA district as a compromise. It was felt from Planning Board and the ZBA that we needed to develop more rigorous design standards for B&B's and distinguish between a more suitable area and look at it again in the future over the next 6 months with a further amendment at the next town meeting.

Mr. LaCortiglia- There is a limitation for 35% of gross floor area. What is considered living space?

Mr. Cracknell- An unfinished basement or attic is not included. It is measured from the gross living space inside.

Mr. Rich- It does not go by the number of bedrooms.

Mr. LaCortiglia- Move to recommend approval of Bed & Breakfast Uses (Article 24) to town meeting.

Mr. Rich- Second

All in favor? 5-0; Unam

Mr. LaCortiglia- Move to close Public Hearing for B&B uses.

Mr. Howard- Second

All in favor? 5-0; Unam

**ATM 09-26: Open Space Residential Design (Article 25)**

Mr. Cracknell- Gives brief summary of current bylaw. Some towns have had trouble where the developer does a condominium OSRD and then there are no performance standards for the roadway improvement design and construction standards because they are found in the subdivision regulations. How do we apply standards that are not explicitly referenced in the special permit for the OSRD? That is what we are trying to do here using site plan review and the review standards would be applied to a multi- family development? I have added in the RA district. There is an attempt here to clarify the segmentation issue to clarify the difference between the number of lots and the size of the property. Any property over 10 acres that has two or more lots will be required to submit an OSRD plan. (References Page 27) We are proposing an increase of 60% open space. We are also opening up the potential for the town through the Planning Board to allow somebody to hold an easement like Essex County Greenbelt or the town rather than the fee. If you had an active farm, you want them to keep the farm with the easement being on the table for discussion.

Ms. Evangelista- Could we add the change to include ball fields/recreational land?

Mr. Cracknell- Reads current bylaw. The definition includes “passive recreation” which is debatable if that includes soccer fields. The passive recreation may be a possibility that ball fields fit into that “use” description. A park purpose may be less passive.

**Discussion?**

Mr. LaCortiglia- Motion to recommend to Town meeting ATM 09-26– Open Space Residential Design Amendment (Article 25)

Mr. Howard- Second

All in favor? 5-0; Unam

Mr. Rich- Motion to close Public Hearing of the OSRD zoning amendment.

Ms. Evangelista- Second

All in favor? 5-0; Unam

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

Mr. Rich- I would like the Board to consider amending this to be for a single retail establishment to be over 75,000 sq ft. In doing my research, a minimum size for a supermarket is 75,000 sq ft. If SHAWS wanted to come in, think of the size of the supermarket in Rowley. It is well hidden off of Rte 1. We need to allow 75,000 sq ft to recruit that type of building into the tax base.

Mr. Cracknell- I did send an email today to the Board about this proposed language and how to differentiate the land use code. As a response to the public, I am also responding to ATM 9-28 which is a map change. This is a response to the 43D district on National Avenue.

Mr. Cracknell gives a brief history from a proposed amendment change to the zoning at National Avenue from Town meeting 3 years ago. It was determined that the residential zoning of the wedge at the back of the property (refers to map) was an impediment to putting a big box retailer on this site. The property owner is in attendance tonight, Mr. Tom Kennedy.

As a byproduct of that meeting, we decided that it made a lot of sense to change it from RB to IB. 40% of this site is unavailable for industrial development based on the buffer and the zoning as it is today. The town has taken some steps since then with the Master Plan, etc. We clearly are not ready to endorse the facilitation of big box retailing in Georgetown. We still need to continue studying that issue. I do think that we were not focused in on supermarkets then but larger retailers like a Walmart that has bigger implications to the town. One of the Selectmen felt that it would not be a good idea to change the number in the square footage of the description. It is my understanding that by amendment, we can increase the number but we can not lower it. You can not make the code more restrictive after you have published it. I will get an answer from town counsel on whether you can increase or decrease the number. The question for the Board tonight is whether this is a good idea or not.

Mr. Rich- I spoke to developers of shopping centers that included supermarkets. I asked what the minimum sq. footage was for it to work? Their answer was 75,000 sq ft.

Mr. Cracknell- I have reason to believe that the number can not be changed.

Ms. Evangelista- The process is already characterized in the state regulations.

Mr. Rich- If a town resident gets up at town meeting and says I want to make an amendment to change the number to 30,000 sq ft. they have that right.

Ms. Evangelista- It depends on whether the number goes up or down whether it can be amended.

Mr. Cracknell- The number going up was to support a non big box retail use such as a supermarket. IT falls into the general retail category if it is more than 50,000 sq ft. The discussion for tonight is whether it makes sense to exclude supermarkets up to 75,000 sq ft. and would it still be allowed after town meeting? I was told that most supermarkets range from 40,000 – 75,000 sq ft. What is the town's position in relation to supermarkets which are currently allowed at any sq. footage in a district by special permit today? A developer still needs a special permit even at 75,000 sq ft. Mr. Rich is suggesting that instead of moving the number up, the only other way to remedy the defect is to have an exclusion for supermarkets up to a certain threshold with a special permit. Right now if you pass this amendment at 50,000 sq. ft. you need to go to the ZBA for a use variance. I would prefer that the Planning Board consider this type of amendment or not and I will have one more week to obtain legal counsel until our next meeting.

Mr. Rich- Motion to continue the Public Hearing discussion of the big box retail definition on April 22, 2009.

Ms. Evangelista- Second

All in favor? 5-0; Unam

Mr. LaCortiglia- I feel more comfortable with the sq. footage being lowered to 30,000sq ft. That's why the Barnstable study was so important in the Master Plan. It is a negative tax revenue to the town.

Mr. Cracknell- I don't believe that supermarkets are included in the definition of Big Box. You need to look at the business profile of the town and you have to evaluate each proposal differently. I will circulate the Barnstable study and we can discuss it again. Nothing over 30,000 sq ft will ever be legal in any of the properties because you need a use variance. A use variance is too much risk for any developer.

Ms. Evangelista- I don't think you should be spending so much time on this.

Mr. Cracknell- The issue with the definition is that this is all economic development for the town of Georgetown. This amendment will allow development by special permit. This does not pertain to just one property owner's interest but to all the property owners of the entire district. Let's answer Chris' question on whether to put in an exclusion for a supermarket up to 75,000 sq. ft. in the definition.

Mr. Carter- Yes

Mr. Rich- Yes

Mr. Howard- Yes

Mr. LaCortiglia- No

Ms. Evangelista- Not sure

Mr. Rich- The taxes could be kept in this town if we had a supermarket like the one in Rowley.

Mr. Cracknell- The point is that this zoning has been in place for years. Our existing zoning is still too high a bar for any development to happen. What we have does nothing to accommodate a 75,000 sq ft facility.

Mr. Tom Kennedy, developer – In talking with Kopelman & Paige today, I do not believe that we can amend it to make an exception for a supermarket to go to 75,000 sq ft. due to the state statute. Unfortunately you can not increase something that is already there. I suggest we do the 50,000 and amend the zoning so that all the zoning has the same use. He gives brief history of current projects he has done in the area. I want my property properly zoned and limit it to 50,000 sq ft as it is stated now. Under state statutes, you can not change it today.

**ATM 9-28: Zoning Map Change (Article 27)**



Mr . Cracknell- This amendment refers to Map 14, Lot 7 and is proposed to be rezoned from RB to IB.

Mr. Rich- Move to accept the zoning amendment of 165-2, rear portion of Map 14, Lot 7 to be re-zoned from residential to industrial (RB to IB).

Ms. Evangelista- Second

Discussion?

Mr. Rich- In Article 27 – Zoning Map Amendment (ATM 9-28), this is not dependent upon Big Box. They [Article 26 & Article 27] stand individually on their own.

Mr. Cracknell- Yes, but the intention is that they are connected.

Mr. Carter- When we first did these 2 articles we did them together.

Mr. Cracknell- There is not a doubt that the Big Box article is there to promote Article 28 - Re-zoning. In fairness to everyone in the room, there is no question that these two articles are hand in glove.

Mr. LaCortiglia- Then one amendment not passing will call for the death of the other.

Ms. Evangelista- We want to open the door for interest. It is not good planning and it is poor zoning.

Ms. Evangelista- We want to encourage development. Amendment 27 only restricts Big Box. Everything else can occur.

Mr. Cracknell- If the map is changed, the usage is open. Where is the mechanism for the town to do the study the day after town meeting?

Mr. Rich- I think the town is regretting not changing the zoning from 3 years ago. Let the town decide at Town meeting on May 4<sup>th</sup>.

Mr. Carter- Do we continue to next week?

Mr. LaCortiglia- Motion to continue Article 27 (Zoning Map Amendment) to April 22, 2009.

Ms. Evangelista- Second

{Mr. LaCortiglia withdraws previous motion}

Mr. Cracknell- You can't make changes to the number in the one article that was discussed.

Mr. Rich- To leave that parcel as residential in your expedited permitting district is contradictory. We need to straighten that zoning issue out.

Mr. Howard- Motion to approve the zoning map amendment ATM 09-28 (Article 27) and recommend to town meeting. {Mr. Carter reads entire Public Hearing notice for clarification}.

Mr. Rich- Second

All in favor? 4-1 (Mr.LaCortiglia not in favor)

Mr. Rich- Motion to close the Public Hearing on Article 27: Zoning Map Amendment.

Ms.Evanglista- Second

All in favor? 5-0; Unam

Mr. Rich- Motion to adjourn.

Mr. LaCortiglia - Second

All in favor? 5-0; Unam