

**Meeting Minutes
Georgetown Planning Board
August 12, 2009**

Attendees: Harry LaCortiglia, Tillie Evangelista, Chris Rich, Hugh Carter, Tim Howard, Nick Cracknell, Planner, Laura Replier, Recorder

MOTION to pay the temporary minute taker – Mr. LaCortiglia / Mr. Howard / Vote is unanimous.

BUSINESS

Minutes – April 15, 2009

MOTION to accept the minutes of April 15, 2009 – Mrs. Evangelista / Mr. Rich

Corrections are offered and recorded.

Vote is unanimous.

Vouchers - None

Stone Row

Representatives: TJ Conti & George Agganis, Owners; Tim Ruh, Abutter

There are many documents to be recorded & returned to the Georgetown Planning Board (GPB). Tim Ruh is purchasing the property. Need to get extension of time so that can happen. Need a form G so can go forward.

Mr. Rich to Tim Ruh – Have you reviewed the new protective covenant?

Mr. Ruh – Yes, I have. It's fine.

Mr. Cracknell, Planner – We believe this is all now consistent.

Mr. LaCortiglia – What does the permit say?

Mr. Cracknell, Planner – The applicant has provided a draft copy, we required it to be finalized so it is on record for GPB, the applicants & the neighborhood. All 8 of 9 conditions have been met. We withheld the Form G covenant until it was all in final form. This doesn't require a vote, just signatures.

Mr. Rich – Regarding the notification of change in name, I suggest adding that you are to be recognized as the new owner and successor in interest.

MOTION contingent on the successful closing on sale of the project known as 14 Stone Row, GPB votes to agree Timothy Ruh as new owner and successor in interest of co-applicants TJ Conti & George Agganis of Stone Row LLC, so that Mr. Ruh then becomes successor in interest in all right, title and interest. – Mr. Rich / Mr. LaCortiglia

Mr. LaCortiglia – Are you buying the property yourself or as a trust?

Mr. Ruh – I am buying it myself.

Mrs. Evangelista – It this the right thing to do before he signs the purchase?

Mr. Rich – As long as is contingent upon the successful sale it doesn't take effect until then. The GPB agrees in advance to recognize him as the new owner.

Mr. Cracknell, Planner – He still has all the same obligations the other applicants had. He is stepping into the shoes of the previous owners, assuming all their responsibilities. That's also why we need an extension of time.

MOTION contingent on the successful closing on sale of the project known as 14 Stone Row, GPB votes to agree Timothy Ruh as new owner and successor in interest of co-applicants TJ Conti & George Agganis of Stone Row LLC, so that Mr. Ruh then becomes successor in interest in all right, title and interest. – Mr. Rich / Mr. LaCortiglia / Vote is unanimous.

MOTION contingent upon the successful sale of the project, to grant Tim Ruh an extension of time under ...

Mr. LaCortiglia – Rather than explicitly naming Mr. Ruh, let's just make it for whoever owns it.

MOTION to extend the time for project 14 Stone Row for 1 year to install utilities and the common drive binder coat to January 9, 2011. – Mr. Rich / Mr. LaCortiglia /

Mrs. Evangelista – There is no attorney present, which makes me nervous. Things have gone so wrong in the past.

Mr. Cracknell, Planner – This has been prepared by their attorney.

MOTION to extend the time for project 14 Stone Row for 1 year to install utilities and the common drive binder coat to January 9, 2011. – Mr. Rich / Mr. LaCortiglia / Vote is unanimous.

Correspondence

None.

34 Thurlow – Minor Modification OSRD Permit

Representatives: Tom Ogden, James Ogden, Owners

Mr. Tom Ogden, Owner – The last certificate of vote had Parcel of A either donated to the Town of Georgetown or the Homeowners Association. The certificate we said can do it either way. We have decided to donate the land to the town and the Conservation Commission has accepted it. They stipulated more area, so that's our change.

Mr. Rich – You're donating more land?

Mr. Tom Ogden – Yes.

MOTION to accept the minor modification to the OSRD special permit for 34 Thurlow Street – Mr. Rich / Mr. Carter / Vote is unanimous.

Mr. LaCortiglia – When does that open space parcel need to be transferred to the town?

Mr. James Ogden, Owner – Before the occupancy permits are issued.

Mr. LaCortiglia – This vote goes to the selectmen but not town meeting. I looked at the deed language, there is no mention of purpose – Chapter 40, Sec.8C – which places the parcel under the care & custody of the Conservation Commission. That is a standard deed to keep it as conservation land in perpetuity.

Mr. Tom Ogden, Owner – We will have the land reviewed first.

Mr. Rich – Ask the Conservation Commission for the standard language for the deed.

Recreation Fields

Representative: John Pingree, Georgetown Athletic Association (GAA)

Mr. Pingree – We are following up on any changes.

Mrs. Evangelista – What was the input from your last meeting with Jeff Moore?

Mr. Pingree – He said we could make a small change. We had a couple of different proposals going forward after our meeting with Park & Recreation. It will be same issue on any spot in town. It would be a special permit situation as written now. It will be written by the GAA.

Mr. Rich – Is the GAA incorporated?

Mr. Pingree – We file taxes ... but I don't know the answer to that. We are a private organization.

Mr. Cracknell, Planner – I suggest co-ordinating a meeting between the GAA, Park & Rec, and other GPB members where we can discuss the two options we talked about informally. The status quo is a special permit. Where you are doing big active recreation or small passive recreation, the bylaw is not clear. It needs a special permit for all projects, active or passive.

Should we create a new definition allowing all active and passive as of right, with oversight by selectmen? Or, create active recreation by special permit, with smaller or passive recreation as by-right. There is ambiguity for all uses at this point. Are you looking at Fall Town Meeting?

Mr. Pingree, GAA – Yes, but it may be put back to Spring Town Meeting. It has to be addressed before we find another parcel of land and still find ourselves in this position.

Mr. Cracknell, Planner – Maybe we can get another informal discussion to continue the conversation to generate ideas.

Mr. Rich – One of your options was to give the Board of Selectmen part of our authority. This member does not like to give authority away. Land use is supposed to be our expertise, that's our charge. I hate to see us giving that authority away.

Mrs. Evangelista – I see two issues. The zoning amendment has to be changed and the process has to be established. We are trying to set up an agreeable process.

Mr. Rich – Just don't give our authority away.

Chaplin Hills Update

Mr. Cracknell, Planner – We have had an email from Jeremy Sedman after we sent a GPB letter. The bond safeguard company gave us the bond assurance we were looking for, for Dave Varga to give us a punchlist. I am meeting with Peter Durkee (Highway Inspector) on Monday to generate the punchlist. Believe it will be in line with the 2004 estimate of about \$100k. Town Counsel can look at the language of the agreement. They will get a contractor and get it done by the end of fall. The project was delayed in their legal dept, but now they are willing to do it once they have the punchlist.

Mr. LaCortiglia – What if Dave Varga misses something. Are we locked in?

Mr. Cracknell, Planner – I believe yes. We will get a settlement agreement, if we disagree with what we get. We should make sure that what we get from him is correct. Peter Durkee can review it with you. If we sign the settlement agreement that's what it will be. There is no harm in asking for a 5% contingency amount. I'll speak with Dave Varga and see how he suggests we deal with that.

Harris Way Affordable Housing

Rep: Lonnie Brennan, Citizen, Affordable Housing Task Force (AHTF) member

Mr. Cracknell, Planner – I have asked Town Counsel to work on this. The developer has a requirement for this 10 lot subdivision to provide 1 affordable housing unit, on lot 10. It is not required that the developer build on lot 10 at any time, it could be left to be the last lot. GPB offered one other option, to come back prior to the release of the 6th lot and offer an alternative.

Five lots have been released, the sixth not yet. Three have been built, one is building. The developer enquired whether GPB is open to alternatives. The developer came back in April proposing to provide an in-lieu payment on lot 10. GPB looked at the revised housing balance, to find an equitable number – 4% of the average sale price for each unit. He came up with \$250-275k over the time of the lots being developed. His first payment would be about \$87k. The GPB liked that idea and authorized contact with Town Counsel to review the proposal. We wanted the agreement and mortgage agreement to be reviewed. The documents were prepared by their attorney. Town Counsel looked at the documents and letter in June. We just got their feedback since our last meeting. It has been summed up in my email. The AHTF thought we should go forward with the unit on lot 10, but if GPB wants alternatives, a \$250k bond to secure our interest in getting the money. We asked Town Counsel to review three documents from the applicant, to give us understanding whether this was an approved means of meeting the affordable housing commitment. Also to make sure the town gets that money once the lots have been conveyed. Town Counsel says the agreements as presented are not inappropriate and could will work well to protect the town. The GPB could vote the money into escrow, get a town meeting vote, and a title rundown on record. The developer is not obliged to provide the unit or money until building is complete. It is not likely to come on line for several years if we go with the lot 10 option. Our primary goal is to improve affordable housing. I believe the AHTF could use the money to buy units and get at least 2 affordable housing units in Georgetown rather than one.

Mr. Carter – Regarding the \$250k surety – what form would it take?

Mr. Cracknell, Planner – I'm not sure, the strongest form possible. We are looking for cash maybe.

Mr. Carter – Is this still an option of the developer?

Mr. Brennan, AHTF Member – The AHTF met twice on this issue to understand the different ways to get the unit or money. The concern was the problems we have had in the past and what we can do to improve security. They give us chunk cash up front and more as each lot released. That includes a subordination agreement, so we are first in line with the bank. It looks like people are working together and have made this work. The AHTF wanted to assure security, and that's what has happened here.

Mr. Carter – If it remained on the last lot, it could be there for years or lost for good. This is the best way to go so we are first in line with the bank.

Mr. Rich – Ask Town Counsel if they think the Affordable Housing Trust can be the mortgagee. So we don't have to go to town meeting. If the trust has authority to do that, we can get money in to them more quickly.

Mrs. Evangelista – Where is the AHTF? Will they be concerned that they aren't involved with this decision? We took a vote and said we were concerned about security. That is provided for in Mr. Cracknell's memo so I'm comfortable. We had a unanimous vote to look out for security.

You are controlling this process and say you are happy with security. Maybe we should contact Chair.

Mr. Rich – If Town Counsel says the trust can take it and be the mortgagee then this is resolved.

Mr. Carter – In the interest of time, looking at our options, the best option is to be mortgagee/first mortgage holder.

Mrs. Evangelista – Yes, but I thought it should be something the whole AHTF should be involved in.

Mr. Cracknell, Planner – I would like to forward the Town Counsel correspondence to the AHTF so they know what their recommendation is. If the legal question about the mortgagee came back affirmatively, it would be good for GPB to move forward. We should also send the Town Counsel documents to Peter Confalone (developer) and his attorney for comments.

Mr. LaCortiglia – I would like to see that the Board of Selectmen are aware.

MOTION to enquire of Town Counsel as to whether or not the AHT can be the mortgagee under that which was passed under town meeting creating the AHT, and to send it to the Board of Selectmen for their approval of the method, and to inform the Board of Selectmen of what has been sent to Town Counsel. – Mr. Rich / Mr. LaCortiglia / Vote is unanimous.

Parker River Landing (PRL)

Representatives: Dick Talbot, Gerry Goldberg, PRL Homeowners Association (PRLHA)

Mr. Cracknell, Planner – We have tried to get National Grid to respond to the proposal provided in May. The applicant was here with plan for removing the berm, landscaping, and removal of the blocks, as presented by Pulte in March. My understanding from Pulte was that National Grid has rejected the proposal. Their contention I believe, is concerned about drainage that has been intensified as result of the PRL project. They claim they were not notified of the project & felt they had been injured. They are not in an amicable mood for agreeing a license to go over the tracks and get the blocks. The only way to get them out is along the rail bed. The two companies have not reached agreement. Mark Mastroanni (Pulte) spoke to me & Steve Przyjemski. He wants to put piping on & remove the berm from the rail bed. We suggested the Conservation Commission would not be an obstacle if the pipe is required to restore the rail bed for the rail trail. We have to do something with the berm. And we have to do something to expedite this. Mark Mastroanni made a plan that showed the culvert & sent it to National Grid. The PRL Homeowners Assoc confirmed that National Grid received it in May. They are still reviewing it. We have asked for feedback / response. We haven't received all comments from their departments as to whether what Pulte is offering, including the pipe at the berm, will be enough to alter the berm, remove the blocks and install the pipe. The National Grid headquarters were moved, so that took time. They are reviewing it now. I will continue to ask for feedback. I'm not sure what the town can do now unless we look at pulling the bond we negotiated with

Pulte. There still is the \$200k bond, being held to cover \$30k amount of work, including the vegetated conservation area, and to grade out the berm, but not including the pipe.

Mr. Talbot, PRLHA - When does bond exp?

Mr. Cracknell, Planner – There is no expiration date, just when it is released by the board.

Mr. LaCortiglia – Can we use that bond money for that?

Mr. Cracknell, Planner – It is probably safe with the drainage and roadway, but probably not the berm and blocks.

Mrs. Evangelista – Was this in May two yrs ago?

Mr. Cracknell, Planner – No, May 2009, Pulte sent a revised plan to National Grid.

Mrs. Evangelista – It took so long for National Grid to admit there was a pipe.

Mr. Cracknell, Planner – National Grid suggested they want at least one pipe if not more. They are concerned about flooding and water over-topping the railbed. They are looking for multiple culverts to ensure there is no flooding on the railbed. National Grid suggested that they want to see a culvert installed and the berm removed. Our plan did not include the berm as National Grid did not want that worked on. Pulte said they willing to install a pipe.

Mr. Talbot, PRLHA – Resolution was part of the initial punchlist when the homeowners association was formed. This has a long history.

Mr. Rich – National Grid commented that they had no notice – no constructive notice. They video the lines twice a year. That data is on file in the engineering department of public utilities. A view of those tapes through the engineering department at DPW will show the condition of those pipes at the time.

Mr. Cracknell, Planner – There may be an easier way. Pulte put the blocks in to prevent ATVs going into the restored wetlands on the other side of railway corridor. They granted Pulte a license, temporary access to put blocks in.

Mr. LaCortiglia – It was granted to Hawthorne Developers, not Pulte.

Mr. Cracknell, Planner – So, there is no chance National Grid didn't know what was going on. The issue is, Pulte put the blocks in and got a temporary license. They say the prior agent said the blocks could stay there always. But it's not in writing.

Mrs. Evangelista – Would \$200k pay for everything?

Mr. Cracknell, Planner – Yes

Mr. LaCortiglia – I would be willing to support pulling the bond if the GPB asked the Conservation Commission to write an Enforcement Order, so it would be an enforcement situation. But if we pull the money it will still go on and on.

Mr. Rich – File a complaint with the Department of Public Utilities.

Mr. Carter – Will it work?

Mr. Rich – Yes.

Mrs. Evangelista – We need to get a complaint on file with the Board of Selectmen so if they ever want to do anything in Georgetown again we have it on file.

Mr. Rich – File a complaint requesting their assistance with an adjudicatory hearing. They will issue an opinion defining what property rights National Grid has, if any.

Mr. LaCortiglia – It might establish who owns the rail bed. Would it resolve it more quickly?

Mr. Rich – I think it might light a fire under National Grid, they won't want to go there.

Mr. Cracknell, Planner – I suggest we give them 10 days notice

Mr. LaCortiglia – Just do it.

MOTION to file a complaint with the Department of Public Utilities to get an adjudicatory hearing concerning National Grid interest and lack of response associated with Parker River Landing – Mr. Rich / Mr. LaCortiglia / Vote is unanimous.

43D Application

Mr. Carter – We went to a meeting in Boston with 12 other towns – Canton, Franklin, Athol, Andover (8 sites), Hudson, Norfolk, Shrewsbury, Freetown.

Mr. Cracknell, Planner – They gave each board 5 minutes to give an overview. We showed the core limitation of permitting between the Conservation Commission, ZBA. They were favorable towards our application and could've permitted it today. There were questions about Carlton Drive & the state forest, as to whether we had heard from Mass Highway as to how they would get in there. It is not in the immediate future for a Park & Ride as there are concerns about access. There are lots of traffic issues with the distance to the I95 off ramp. They have 24 environmental indicators and GIS layers on properties, to see if it is a suitable site. They had reviewed it and there were not concerns. There are concerns about the wetlands and bylaw, they will have requirements for stormwater handling.

Mr. Carter – There were well aware of the reputation the Conservation Commission has for being tough, but thought that the issues wouldn't slide by them. Showed comfort with how things are done.

Mr. Cracknell, Planner – Canton had an old manufacturing site with access questions, so they told them to defer to a time when Mass Highway had commented. We requested they defer our approval until October so we could buy time for the Economic Development Committee (EDC), GPB and Board of Selectmen to look at it. So we think they would've approved it. Then we would've had to approve it within 30 days, but now we have 3 more months to work it out. That's time we need.

Mrs. Evangelista – Is there any money?

Mr. Carter – No, but the towns approved now will be first in line for funding if it comes back.

Mr. Cracknell, Planner – So we now have lots of time. They encouraged us to send our application to the Town of Rowley for communication with abutting community. I offered to speak with the Planning Board in Rowley if there are questions. We'll see if Rowley has questions/comments and see if we can address the administrative issues of adopting this program. Who will be doing what if we adopt 43D? We wanted to re-zone, conduct a traffic study, and streamline permitting but the funding gone. So now we need to decide if all we want to do is 43D activities only, or the whole thing. We have to do 43D tasks if we sign up for the program. There is a lot of process if you're permitting a 43D site.

Mr. Rich – Maybe we should ask the state ethics commission about how to engage someone to handle those applications. We don't want anyone to have reason to question our decisions. There should not be any hint of impropriety. We need to ask for advice of Town Counsel and the ethics commission.

Mr. Cracknell, Planner – The policy related questions presented to the Board of Selectmen indicated ideas discussed for alternative funding options. The EDC should explore talking to banks, property owners, developers interested in priority sites, regional development agencies, and a host of potential funders. I think the EDC would agree that the best source of funding would be to use outside funding from regional planning agencies. We met with North Shore Regional Development to see if we could get funding for this program. We know state funding has been suspended, so the solution is to get it outside Georgetown if possible. The business community option is the one that is most suspect for a conflict of interest. How comfortable are we with each option and category.

Mr. LaCortiglia – I believe the Board of Selectmen was asking for input from the GPB re. 43D and funding sources.

Mr. Cracknell, Planner – There has been outreach to banks, but not property owners.

Mrs. Evangelista – I think the Board of Selectmen should be approached for the money.

Mr. LaCortiglia – Under the action Plan from Master Plan these items fall to Board of Selectmen. That provides a level of separation. It is built into the Master Plan. We also have the option to walk away from 43D entirely, given that there is no funding.

Mrs. Evangelista – I think we should vote on it

MOTION to give a vote of confidence in proceeding with the 43D application even in light of lack of funding – Mr. LaCortiglia / Mrs. Evangelista /

Mr. Rich – If we vote for it, is that contrary to what was said at ATM? The motion was to do it if we have the money.

Mr. LaCortiglia – I made the motion, it was with the understanding that funds would be matched by the state to expedite a 43D.

Mr. Cracknell, Planner – When said yes to that motion, I was responsible for being the point of contact for it. If I stay in that default position I have to do the work in my existing hours. If you support going forward without funding, you're agreeing to fund it yourselves.

Mr. LaCortiglia – Maybe we should stop it now.

Mrs. Evangelista – Change your motion and don't mention state funding. If we support this they have to be tied together.

Mr. Rich – We told the people of Georgetown that we wouldn't spend their money unless we got state money. I would have a problem going forward with a 43D application which would go against the representation we made to the town.

Mr. Carter – If we all vote against it, would we go back to the town at FTM with a new proposal?

Mr. Rich – We need to figure out how it will be paid for. We need to know how it will be paid for.

Mr. Cracknell, Planner – It sounds like the motion should be amended to reflect this.

Mr. Rich – It needs a lot of thought. The incentive to us was the money from the state and that is gone. I think we need to pull the plug on it.

Mr. Howard – What are the consequences of that?

Mr. LaCortiglia – It's up to the Board of Selectmen.

Mrs. Evangelista – The vote at ATM is invalid at this point. I think the Fin Comm will reverse that allocation. I think that if we stop this now by denying this, we've lost the opportunity to be

first in line for money in the future. The whole purpose of economic development is to bring revenue to the town. So this is to incent development to come to town. Nothing will happen.

Mr. Howard – It all comes down to money. We told the people who voted for the article that it was going to have matching funds, but they're gone. If the town thinks it's best for economic development then we should put our heads together and do our own expedited permitting.

Mrs. Evangelista – Remember, that takes personnel. These boards are all volunteers.

Mr. Rich – We don't have the money in town to go off doing expedited permitting at this point. We gave our word, we hard-sold the fact that the state was giving us money.

Mrs. Evangelista – Unless Nick is full-time I would not support it.

Mr. Lonnie Brennan, Citizen – Whether people at town meeting agreed or not, people understood that there was a funding option. At Fall Town Meeting will people have an option to vote on Plan B for funding.

Motion withdrawn – Mr. LaCortiglia / Mrs. Evangelista

Mr. Carter – Let's go back with a different proposal at Fall Town Meeting (FTM).

Mr. Cracknell, Planner – We'll have until second or third week of October for the state's decision. Then the Board of Selectmen has 30 days to sign it. If they don't, that'll be it. So this is the ideal timing to re-vote at FTM. Whatever we come up with in the next 2 months can be taken to FTM. What will it cost to have someone from the town be the point of contact? We could reduce the program to just that. Separate what we're required to do from what we're not. It could be someone who already works for the town.

Mrs. Evangelista – It will be the \$23,250 allocated, unless we went with a consultant.

Mr. Lonnie Brennan, Citizen – FinComm may just take that money and allocate it somewhere else. Mr. Cracknell's intention is to safeguard that money.

Mr. LaCortiglia – I believe when I made the motion the money was put into the GPB account. The motion was a clean charge to move the money into that account. The money stays in our account until the end of FY2010. We're blending the issues of spending the \$23k and the support for the 43D program. But Mr. Cracknell is the point of contact, and we would be agreeing to let him be used for that program rather than GPB business.

Mr. Cracknell, Planner – The point is that you're going back to FTM with a modified proposal, if the GPB is OK with going forward with a Plan B. If we don't have a Plan B, then it dies.

Mr. LaCortiglia – If someone donated money and the town votes to accept a donation, then it wouldn't be a conflict of interest.

MOTION to support moving forward and asking the Board of Selectmen to find a source of money (private or otherwise) in place of the state money for 43D – Mrs. Evangelista / Mr. Rich / Vote is unanimous.

MOTION to adjourn – Mr. Rich / Mr. Howard / Vote is unanimous. (10:00)