

Minutes
Georgetown Planning Board
Wednesday, August 26, 2009
7:00 p.m.

Present: Mr. Harry LaCortiglia; Mr. Tim Howard; Mr. Hugh Carter; Mr. Christopher Rich; Ms. Matilda Evangelista; Mr. Nicholas Cracknell; Town Planner; Ms. Carol Fitzpatrick, Minutes Recorder

Board Business, 7:00 p.m.

Vouchers -

Mr. Rich: I make a Motion to approve the vouchers in the amount of \$571.49.

Mr. Howard: Second

All in favor; 4-0; Unam

Correspondence -

Mr. Cracknell: We rescheduled the November meeting due to a Selectman meeting conflict.

Mr. Rich: I make a motion to change the November 11th meeting to November 17th.

Mr. Howard: Second

All in favor? 4-0; Unam

Harmony Lane – Extension request

Frank Gatchell, Sr., Applicant and Developer

Frank Gatchell Jr.

Frank Gatchell Sr. I would like to request an extension on Harmony Lane.

Mr. Cracknell: We dug out the COV from Sept 11 2007 for a 3 lot subdivision for Harmony Lane which has one existing house on it, two new lots. I have not reviewed it completely but it seems boilerplate. The requirement on the COV states that within 2 years the applicant gets to the binder. This has already been voted as a condition. He needs to get a license agreement through Park and Rec to starting construction. He does have a license agreement through the Park and Rec, a prerequisite to starting construction. This took the applicant a year to complete, July 2008.

Mr. Rich: Have you received the Form G?

Mr. Cracknell: We received a check last week and the funds in the M-Account are up to \$4000.

Mr. Cracknell: We need to have the N and the G prior to endorsement and the release of liability. This

happened before I was here. Do you have all the necessary documents needed to start the project? I was not here when this started.

Mr. Gatchell: It has been so long I don't know. I am confused on what we did do. I have a deed from my lawyer. The plans have all been recorded.

Mr. LaCortiglia: Nick, you did not see any expiration on the license?

Mr. Cracknell: No I did not. I would like a copy of the Form N and the Form G.

Mr. LaCortiglia: Frank is also doing parking on the property, land donated by Littles Hill. What kind of an extension would you like Frank?

Mr. Gatchell, Sr: With the bad economy things have not gone as planned. We still don't know if we have secured the money for the project. We would like to do the drainage and the water main in this fall and do the binder in the spring. Then we would start the curbing as we release the house lots and as the house lots are done finish the curbing.

Mr. Cracknell: He is asking for a 16 month extension.

Ms. Evangelista: Why don't we give him 2 years because that is a more realistic date?

Mr. Rich: I motion that we grant the request for a subdivision extension for the applicant, Harmony Lane, with the concrete binder date no later than December 31, 2010. Condition 17, COV issued by the Planning Board on December 11, 2007.

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

Other Business -

Littles Hill - Bond and punch list discussion

Mr. Cracknell: I received a progress report from Dave Varga last week . I forwarded this to Craig Spears. There is a \$3500 invoice for the site visits and the inspection reports. Dave has not completed the inspection report. Craig did not feel comfortable speaking to any of this without the complete report.

This will be on the September 9th agenda. At that time Craig will see if he wants to swap out the tripartite. This will be to swap the tripartite with a bond in the \$600-700,000 (2.5 multiplier) range which he will not want to do. I will forward all info to you and the applicant once I receive it from Dave.

Mr. LaCortiglia: Will Dave be able to report back on the milestones and whether they have been met on the subdivision extension agreement and its August 1st deadline?

Mr. Cracknell: I will ask Mr. Spears to address those conditions. There was an August date for the

monuments and the signs. If he is not delivering in good faith, I would be willing to pull the subdivision permit.

Mr. Rich: Mr. Spears email of August 19th, did you look into his 5 issues Nick?

Mr. Cracknell: I emailed the applicant back this morning and reiterated that the signs and monuments needed to be in place before they get a building permit. I told him he had to meet the conditions before I would sign the building permit application.

Mr. Rich: It looks like here he has a building permit. If you didn't sign off on this, how did they get it?

Mr. Cracknell: I have not signed one for this project without him meeting these conditions.

Mr. LaCortiglia: Has Quint seen this? If not this should be forwarded to him.

Mr. Cracknell: I don't think so. I will forward it tomorrow.

43D Application Discussion – update on Application review

Mr. Cracknell: There have been many emails you have received from me. The Planning Board has made it clear to the Selectmen that we plan to move forward with the application and seek other forms of funding. We need to let them know who will be in charge at the local level. Exhibit 6 explains the EDC met and put together a letter (August 20th) to the Selectmen stating plans to try to find other funding and continue support for the 43D application. The only additional info I have is that I have looked at the budget the obligations of setting up the 43D are 180 hours or \$8700. We know that our land use regulations are ill equipped to handle the development.

Hugh Carter arrives at 7:50 pm.

Ms. Evangelista: For clarification, you need \$8700 (GIS, online permitting) prior to starting the application?

Mr. Cracknell: We need to be ready on the 121st day, the \$15,000 is planning and land use (over the 2 years) and we know we need it. The fees we collect can we used for staff and administration.

Mr. Howard: We still need the \$23,250 to do what we want to do.

Mr. Cracknell: We need to separate what the state requires and what we want to do.

Mr. Rich: I watched the selectman meeting of Aug 24th. Normally when we get a letter like this they state they voted X in support of it. Was there a vote?

Ms. Evangelista: They didn't vote but they had a consensus of support.

Mr. LaCortiglia: Harry reads Phil Trapani's letter of August 24th stating the selectman's support of the 43D Application.

Mr. Rich: We discussed at our meeting that we wanted to know what they wanted. We need to find out if it is kosher. Is is not the I am not in favor of the 43D, I am apprehensive about the 43D funding and how it will be policed.

Mr. LaCortiglia: It appears that we are in a holding pattern at this point.

Mr. Rich: Then what are we doing?

Mr. Cracknell: We are looking a state agencies, non-profits to see if they can help us. We are not going to the business community. I have a meeting with Mass Development that they reviewed the application and might be able to help us with funding.

Mr. Rich: The word I gave the town at the town meeting was we would not proceed without state money. I am not going back on my word.

Mr Carter: None of us are going back on our word. We are pursuing other state channels for funding.

Mr. Rich: Someone solicited money from the bank (Georgetown Savings Bank).

Ms Evangelista: We agreed that the appointed 43D coordinator would not be the person to do this. It would be handled by Bill Luster with the North Shore Alliance for Economic Development.

Mr. Rich: How much time have you spent on this Nick? That is time and money taken from the town and our budget.

Mr. Cracknell: Anytime you apply for an application you spend time and resources. We and the Board of Selectman have decided to suspend all solicitations from local businesses. Non-local business solicitation has not been suspended. Tillie and I are going to meet with Mass Development next week and you are all invited.

Ms. Evangelista: My first question will be can we use fees collected from the 43D applications to fund the position.

Mr. Cracknell: I will keep you posted.

Continued Public Hearings:

Mr. LaCortiglia:I make a motion to open the continued Public Hearing, 102 Pond Street.

Mr. Rich: Second

All in favor; 5-0; Unam

Pondview Estates:

Rick Salvo, Borselli Engineering

Scott Green, Applicant and Developer

Mr. Cracknell: Larry just got these plans yesterday regarding the waivers. We met on July 23rd (me, Tillie, Larry, Rick and Peter Durkee). The applicant and the engineer want to give you an overview of Exhibit A and prepare for some decisions to be made on the 9th in relation to the waivers and closure on this project.

Mr. Salvo: The 2 waivers we would like to present are that of the sidewalk and the requirement to extend the property right of way to abutting properties. A sidewalk of 5 feet on one side of the roadway is required by Section 365.35C8. Regarding the sidewalk, what we are asking for is a full waiver and to have no sidewalks in the subdivision. Instead we would include an 8 foot wide level grass area that would be a walkable surface. If they wanted to put sidewalks there in the future they could. We believe that sidewalks are more of an urban thing, with our subdivision being more suburban. There is probably a much greater need for a sidewalk on Pond St rather than within the development. We propose a 580 linear feet sidewalk from within the subdivision to the intersection with Lake Avenue. It was requested that we use bituminous concrete as opposed to cement concrete with vertical granite curbing placed at the end of the road.

Mr. LaCortiglia: Why is hot top preferable to concrete?

Mr. Salvo: The highway superintendent said that it was easier for maintenance and repair. Also, if you look on the zoning map of the adjacent land, The Gun Club, is at one corner of our property and Mass Fish & Game land is at the other end. Because it is protected open space the land is not sub-dividable. Now we need to discuss public access to permanent open space. We don't want people wandering around not knowing they are on the Gun Club property.

Our suggestion is to construct a sidewalk down towards Lake Ave, Pentucket Pond, the Gun Club makes a more appropriated access to get to that larger open space rather than roam through the woods and end of in the shooting range.

Mr. Rich: What is the elevation of Lot 5 and 7? What is the elevation drop?

Mr. Salvo: 110 and 130.

Mr. Rich: So it is a 20 foot uphill hike?

Mr. Salvo: There is signage all around the Gun Club land.

Ms. LaCortiglia: What is the distance of the roadway?

Mr. Salvo: 1179 feet.

Mr. LaCortiglia: You would need another waiver unless it connected to another way. It is obvious that the applicant does not want to give an access to the open space.

Mr. Cracknell: Does it make sense to have the 20 foot right of way and the 10 foot path that we talked about go across Lot 5 up the hill and off to the land. Will they be in the line of fire if they cross that land in that corner?

Mr. Salvo: This aerial photo shows that it is 500 feet.

Mr. LaCortiglia: Are the power line folks concerned about this? If you walk, you will end up at the power lines. There is signage as you enter onto the Fish & Wildlife property.

Mr. Green: They are danger signs all along the back of the Fish & Game property.

Mr. LaCortiglia: I have never see those signs.

Mr. Cracknell: So the only access to the public land is off the back of Lot 5.

Ms, Evangelista: Can a path be put there, towards the power lines, straight up?

Mr. Green: That's not my property. It is owned by somebody else.

Mr. LaCortiglia: You need to have signage and monuments to the side. You are walking on protected open space. Are you looking to give a right to access, a deed?

Mr. Green: I would like to talk to counsel about this.

Mr. LaCortiglia: Get us a GPS plotter on where the Mass Fish and Wildlife is? We need good lines to protect everybody's interest.

Mr. Rich: If you split it could be 10 feet on each side.

Mr. Salvo: The beauty of this is it provides 2 access points to the land. The other issues in the letter have been opined on.

Mr. LaCortiglia: The board needs to determine if Mass Fish and Wildlife plans to develop the land. You are looking for some direction from the board on the granting of the waiver?

Mr. Rich: Has anyone done a title search on the Mass Fish and Wildlife as to whether is was granted protected open space to the Commonwealth into perpetuity? This would support the granting of that waiver.

Mr. LaCortiglia: There is some type of protection on that land. You have the square footage and the lines can be tweaked. We vote these waivers when we see the final subdivision plans. We don't have that tonight.

Mr. Cracknell: You were going to address the Fire boxes and Larry will have questions once he has reviewed this.

Mr. Rich: Is anybody here an abutter?

Mr. Edward Gauthier, 15 Lake Ave: I am an abutter.

Mr. Rich: Where does the water go?

Mr. Salvo: We have twin, six inch pipes covered by a curb that makes it way to the Pentucket Pond. The water goes through the underground subsurface infiltration system that can handle a 100-year storm. It was Durkee's idea and we still need to get his final approval on this plan. We have done a tremendous amount of soil testing also.

Mr. Howard: The important thing is that it doesn't go onto anyone's backyard.

Mr. Gauthier: If you are going to run it down Pond Street, you have to solve the existing water flow problems first. We had big problems during the Mother's Day flooding a few years ago. It goes right across my driveway. You need to fix the present problems that we have with the overflow also.

Mr. Green: This system will handle most significant storm events.

Mr. LaCortiglia: Is this private or will it be an accepted road?

Mr. Salvo: It will be a public, accepted road. The highway dept will have access to the particle separators. There are 3 lines of defense for stormwater overflow. Larry seemed satisfied with the overall design.

Mr. Howard: I would defer all of this to Larry.

Mr. Salvo: The type of system that is designed here is the right system for this application.

Mr. Howard: If it is okay with Larry it is fine with me.

Ms. Evangelista: I like Mr. Green's idea of maintaining the system by putting the price and number on the deeds of the houses. Almost like a pseudo-homeowner's association.

Mr. Green: Funding shouldn't be an issue. The funding is good for 15 years and the average person sells their home every 7 years so and it will be renewed when the home is resold.

Mr. Salvo: This is why we went with a particle separator, it is easier to maintain with the town's clamshell.

Mr. LaCortiglia: I make a motion to continue the Public Hearing for 102 Pond Street to September 23rd.

Mr. Howard: Second

All in favor, 5-0; Unam

Recreation Fields – Cont. Discussion

Mr. Cracknell: I drafted some amendments to provide a framework for the PB, GAA, and the Park and Rec. I put together 4 amendments you have seen before to help with the permitting of this. Amendment One is to clarify 165.9. It was created in case we all want to meet again to discuss in case we want to put forth a warrant for the fall town meeting. The second amendment is the definition for outdoor

active and outdoor passive recreation and set up permitting processes. I suggest allowing passive recreation use for “by right” with a site plan review and active recreation would be a special permit. The third amendment is to set up a special permit process for active recreational fields, parking, facilities, etc. The fourth amendment is that you do need to do a site plan review for both active and passive recreational uses because there is ambiguity in the existing language. I have communicated this to Jim DiMento, Jon Pingree and Jeff Moore.

Mr. LaCortiglia: Has the ConCom been notified? They might be interested since they are involved in passive recreational use?

Mr. Carter: I suggest that there is no “as of right” in a residential district.

Mr. LaCortiglia: There is a lot of work to be done here. I don't even know how to define this.

Mr. Cracknell: This puts the ball in their court. This is going to take a long time to get right. All parties have agreed to meet again in early September. I am not pushing them to make the fall town meeting. Please provide comment on any of this.

Ms. Evangelista: The fall town meeting will be the 19th or the 26th of October. So they will need to know this if they want to bring this before the town meeting for a vote.

Harris Way – review of Alternative Affordable Housing

Mr. Cracknell: We got a legal opinion today. I send it to you by email. We asked if the Affordable Housing Trust could act as the mortgagee if it was set up and members were appointed to the Trust, whether they could act as Trustee and whether they could avoid going back to town meeting for a subsequent vote to accept an agreement such as Harris Way. They can act as mortgagee. I forwarded this to the BOS and Nancy McCann the attorney for Harris Way. We need to see if they are still amenable to proceeding with the changes by Town Counsel. I also passed on all of this to the Affordable Task Force. They will meet on September 2 to discuss. That is it on Harris Way.

Parker River Landing – update from National Grid

Mr. Cracknell: I sent out a letter to Steve Towle the real estate representative from National Grid. Steve has been involved with this for years. He said that he got most of the comments from the engineering division, but that he needed to clarify a few things and would get back to us next week on Pulte's revised proposal. I will keep this on the September 9th agenda. I email him every few days. I am keeping the homeowners association in the loop.

Affordable Housing Discussion

Mr. Rich: With all due respect Mr. O'Reilly (BOS Evan O'Reilly in the audience), time is of the essence with the timeliness of appointing the Affordable Housing trustees because there is a substantial amount of money that we don't want to miss the opportunity of getting for the town.

Evan O'Reilly: I understand. Do you guys have anybody in mind? That is the trouble with these appointments.

Mr. LaCortiglia: Five good people. One of them has to be a Selectman.

Mr. O'Reilly: Yes. Hopefully we can find the people.

Mr. Rich: I would make myself available, if needed.

Update on Sawmill/Waldingfield/Bayberry/Rosemarie Lane – Street Acceptance

Mr. Cracknell: These streets were approved in 1983, 1989 and 1990 and have all been maintained by the town since then and never got accepted as public ways. The files are very disorganized. The M-account has \$8,000 in it. You can use the M-account for legal expenses and construction of the roadway and facilities. Peter Durkee said there are some catch basins that need to be replaced. I told him to go out and draw up a punch list to finish the roadway. The as-builts and the street acceptance plans are more in question. Jonathan Eichman of Town Counsel said that we can use the funds to make the necessary repairs to the roadway. Jonathan said that we could use the current deeds, assessor's records and the definitive subdivision plans and stamped as-builts and use those to write up the deeds, do an order of taking, a waiver form for each of the owners once we determine who owns the streets. We need to see if the deceased developer retained title and reserved it in the conveyances or whether the derelict fee statute comes into play for each of the 40 odd owners. We would want a waiver for each property.

Mr. Rich: Would it not be the place of the property owners to petition that the street become a public way?

Mr. LaCortiglia: Well we are plowing it. What new homeowner understands the distinction whether their street is accepted or unaccepted?

Mr. Cracknell: The intention was that all the streets would be accepted. The street acceptance process is the Form J that has to be signed. The highway surveyor has to sign it. Peter wants these streets accepted. Neighbors are trying to sell their homes without conveyances and that has now become a problem for them.

Mr. Rich: This is not Peter Durkee's job to be running around making sure that developers are doing what they are supposed to do.

Mr. LaCortiglia: No, that is our job.

Mr. Cracknell: We pulled the Bond to make sure those steps would be taken with the sole purpose of completing the roadway. The money was taken from the developer in 1999, voted by the Board, with the sole purpose of completing the roadway. The developer died soon after. Peter was to do chip seal and do the drainage replacements because it is now needed. We need to ask the BOS to authorize K&P to spend 6 hours to move this forward, maybe \$1000. We can probably use the M-Account.

Mr. Howard: Peter can't get Chapter 90 funds unless these roads are accepted.

Mr. LaCortiglia: I move to have Nick request, from the Selectman, permission to access Town Counsel with regards to Sawmill//Bayberry/Rosemarie Lane street acceptance.

Mr. Rich: Second

All in favor; 5-0; Unam

Mr. Howard: I make a motion to adjourn the meeting at 9:30 p.m.

Mr. Rich: Second

All in favor? 5-0; Unam