

Meeting Minutes  
Georgetown Planning Board  
Wednesday, October 08, 2008  
7:00 p. m.

**Present:** Mr. Hugh Carter, Mr. Harry LaCortiglia, Ms. Matilda Evangelista Mr. Nicholas Cracknell, Town Planner, Ms. Carol Fitzpatrick, Minutes Recorder

**Absent:** Mr. Tim Howard, Mr. Christopher Rich

**Board Business 7:30 pm:**

**Vouchers: None**

**Correspondence:**

Cronin Court drainage issues document from Larry Graham; DHCD- Affordable Housing Trust status report of town's housing affordable housing inventory. Georgetown is currently at 13.88% according to 2000 census. They are asking for a update.

Mr. Cracknell: I will make an effort to make sure we respond and give an update.

**Minutes:**

Mr. LaCortiglia: I make a motion to accept the minutes of September 10, 2008 and September 24, 2008 with the Executive Session.

Ms. Evangelista: Second

Motion Carries - 2-0, Ms. Evangelista abstained

**Pillsbury Village**

Mr. Cracknell: Katherine from K&P sent the package regarding whether we take the deed or the easement. We are taking the fee. In 2000, there were 4 recorded easements: 2 recorded in October and 2 recorded in November. The development was built in two phases. A fifth document, the Declaration of Covenant, was also recorded which allowed the the HOA to be put together. Town Counsel has reviewed this, town departments have signed off, and Larry Graham has approved the final development. Town Counsel now agrees that it is appropriate to accept the streets in fee. I recommend that the development is eligible for acceptance as a public way. I propose we add this to the town warrant.

Mr. LaCortiglia: Is this the process that the Planning Board recommended to the Selectman to accept the streets?

Mr. LaCortiglia: I move to recommend to the Board of Selectman to place on the town warrant, Ilene Circle, Pillsbury Lane and Bernay Way, the acceptances of these private roads as public roadways.

Ms. Evangelista: Second

All in favor? 3-0, Unam

**Richardson Lane**

Mr. Cracknell: The never ending corporate resolution saga. I have nothing to report on this particular item. The draft resolution was provided by Mr. Chris Rich.

Mr. LaCortiglia: Can we postpone this until Chris comes?

Mr. Cracknell: I don't think we need to. We have forwarded this to the applicant. The Board is withholding the final lot release. We are waiting to hear from him.

### **Chaplin Hills**

Mr. Cracknell: According to the latest inspection report, there is \$60,000 worth of work to be completed with a \$243,000 bond outstanding. The developer is now deceased. We are trying to determine the status of the bond now that the developer is deceased. There are at least 3-4 homes for sale on that street. There is a drainage and a curbing issue due to delays and neglect. There will be some remedial work needed before we put on the topcoat. There is a letter from the Attorney for JW Jones and Edward George & Associates in the packet. The policy is still valid and there is reasonable probability that we will be dealing with the insurance company. Jonathan Eichman of Kopelman & Paige [Town Counsel] is demanding that a 45-day claim be amended that represents the existing conditions on the site.

Mr. LaCortiglia: If they do not respond, what is our recourse?

Mr. Cracknell: They either finish the road or provide us with the money to finish the road. I recommend that we send the authorized letter out tomorrow asking for the \$4000.

Mr. LaCortiglia: I make a motion to authorize Town Counsel to send the October 2008 letter to the insurer/ bond holder (Safeguard) of Chaplin Hills requesting a check for \$4000.

Ms. Evangelista: Second  
All in favor? 3-0, Unam

### **Deer Run:**

Mr. Cracknell: A punch letter was put together by Dave Varga with work to be finished. The top pavement is not down. They will not complete the finish work by their October 22, 2008 deadline extension. The Attorney David Harris called and I suggested that we go with the end of the year as a real time line and extension.

Ms. Evangelista: I think we should have an extension fee and a better form that states that it is a Subdivision Permit.

Mr. LaCortiglia: I move to extend the Subdivision Extension Permit, Form H, for Deer Run to December 31, 2008

Ms. Evangelista: Second  
All in favor? 3-0, Unam

### **Blueberry Lane**

Mr. Cracknell: There is no update on Blueberry Lane. The contractor hasn't heard from his subcontractors. The money is in the account. There are 3 vacant lots. The Subdivision Permit had lapsed in the spring (May 3, 2008) and we gave them a year. They aren't in bad shape.

## **Railroad Avenue**

Mr. Cracknell: Lot 3 is one of the lots in the back that Mr. Grasso was offering the town for the senior center. The house is 1 story and is in within the existing set backs. There was a problem with the no cut zone once the foundation hole had been dug. Previously, I authorized that 2 tiny trees be moved because they were damaged and potentially a large oak that was dead. If they are going to put the house this close I recommended that they place a retaining wall no closer than 3 feet of the house, 6-7 feet high. I received a letter from the owner of the lot who wants to have a 1:1 slope with no wall and new trees planted. The problem is that there is a very large oak tree with roots in this area and another large tree within the no cut zone that will be impacted without a retaining wall being built. I made it clear to the owner that they need an engineer to look at the plan. I think some kind of retaining wall is needed.

Mr. Carter: Why didn't anyone look to see the size of the house?

Mr. Cracknell: Once they dug the hole they knew they had a problem. They do not want to put a wall in because of the expense. They propose a 4 foot retaining wall within 3 feet of the foundation. What I have asked that I want more information with the drip lines and the no cut zone included. Right now, they are slightly into the no cut zone.

Mr. LaCortiglia: What is the point of having a no cut zone then? The bottom line is it is in the no cut zone. They messed it up they need to fix it.

Ms. Evangelista: You can replace the trees. That would be the best recommendation.

Mr. Cracknell: The right message to send is that you are more comfortable with the 7 foot wall. The 2 large trees have to be protected. Unless we get a detailed site plan, we are not interested in smaller walls or no walls. It might cost them \$10,000 to put in the 7 foot wall.

Mr. Carter: Why wasn't the no-cut zone laid out? How can we prevent things like this from happening again? There are no punitive damages right now to prevent this.

Mr. Cracknell: The no-cut zone was laid out. The message is to put in a 7 foot wall stamped by a structural engineer. One way to prevent this from happening again is to make sure the no-cut is flagged with a pre-condition in the approval. You can also rescind permits and file a Cease and Desist.

Mr. LaCortiglia: Put in the 7 foot wall to the natural soil line, put in backfill and increase the buffer.

Mr. Carter: What are you comfortable with?

Mr. Cracknell: I am not convinced that you can't go with a smaller wall with vegetation. The burden of proof is on them. We need to bring these people in and Bob Grasso. I told Bob that I am not comfortable with the level of detail as it is. I will contact them.

## **Housing Balance Bylaw**

Mr. Cracknell: Harry was at the ZBA meeting last night. The Attorney, Laura Pawle, at K&P reviewed this and had questions. She asked: Is this a special permit process with waivers granted, or is this more like a Site Plan Review and more administrative? The 2<sup>nd</sup> issue was that in the construction of the Affordable Units, we not leave it open-ended and that we consider that by the half-way point through the project we get the units. The 3<sup>rd</sup> comment was that we make it clear that we stay current with the 40B statute. She is recommending that with our section on the deed rider, we remove all the language and leave what is acceptable to the DCHD and defer to the state. We need to make our waiver provisions more flexible because every project is a little different. I recommend that this Bylaw be done as an administrative review, not as a special permit. The board needs to take surety and have maximum flexibility. They really can't be last, they have to be proportional. A developer can ask to do it at the end and follow that language. The bottom line is that the town wants to get the unit.

Ms. Evangelista: We have been burnt so many times. We have review and approval of the sites. The review is not as strong as the approval.

Mr. Cracknell: The question is: Is it administrative or discretionary? Special permits can be denied by the Planning Board. Laura is saying do you want this to be administrative or a special permit. I said we want it to be administrative. The surety is one of those conditions we can put on. Don't take away your right to treat projects differently. You need to keep your options open.

Mr. LaCortiglia: We are having a Public Hearing on this. We can change the language.

Mr. Cracknell: Let's make new changes only if they are needed. I am not opposed to making changes. The form of the surety would change due to the circumstance. You want to make sure your base model covers all the contingencies. The language around the bylaw gives us some flexibility.

Mr. Carter: A special permit would make it very onerous.

Mr. Cracknell: The goal is to get the language right on this in the next few weeks. We have until the end of the month to do this.

Mr. Carter: I am fine with it the way it is. The Attorney did not make many changes which is saying that it was drafted well to begin with.

Mr. Cracknell: I will get Laura's comments and update Draft accordingly.

## **Subdivision Regulation Amendments**

Mr. Cracknell: I have not reviewed Larry's comments. The Public Hearing is on October 22<sup>nd</sup>. I want a chance to go over this.

Harry's comments on the ZBA's understanding of the Affordable Housing Bylaw from last night's meeting:

Mr. LaCortiglia: There were some interesting comments from the ZBA. They are concerned about how 5 people would be appointed by the selectman and that those appointees would have power without much oversight.

Mr. Cracknell: The Affordable Housing Trust Bylaw should go to the town meeting as a separate warrant.

Mr. LaCortiglia: If there is not a Public Hearing on this, something should be mentioned prior to the meeting.

Mr. Cracknell: I am going to ask the Treasurer and the Town Administrator if we can create an Affordable Housing Trust, an amendment, or an account set up for that purpose.

### **Whispering Pines**

Mr. Cracknell: You asked me to send a demand letter to ensure that the town is protected when the development goes up for auction, to put the Newburyport Five Cent Bank on notice that the road is not finished. Dave Varga will give a field report tomorrow with recommendations. It is important to take a vote on the dollar figure he comes up with. The bank's only requirement through the tripartite agreement is to provide us with the money to complete the roadway. We need to make sure that the estimate from Dave requires provisions and line items on the full cost to finish the work whether the town employees finish it or otherwise. The letter was put together on October 3<sup>rd</sup> and Chris Rich has already commented.

Mr. Carter: It sounds by this letter that the Bank has already agrees to give us the money.

Mr. Cracknell: It is only a \$100,000 job to finish this roadway. It might be in the Bank's interest to pay less and get the developer to finish the job per the conditions of approval.

Ms. Evangelista: We never did get the affordable unit on that development.

Mr. Cracknell: That was covered last week in Executive Session last meeting and I can't comment on that outside of Executive Session.

Mr. Cracknell: I hope there will be a new surety. We need a new document with new surety.

Mr. LaCortiglia: I would like to make a motion to have Town Counsel send the letter dated October 3, 2008 to Newburyport Savings Bank regarding Whispering Pines Subdivision.

Ms. Evangelista: Second  
All in favor? 3-0, Unam

### **Whispering Pines- 81U**

Mr. Cracknell: This came up this morning as a result of the probability of us receiving a check from the bank (Newburyport 5). The check would go into the general fund unless the Town has adopted Chapter 41, Section 81U of the state statute. (Which we have not adopted.) We adopted Subdivision Control in 1952. According to Town Counsel you have to adopt the statute, you don't pick it up as a trailer for a

future amendment.

Ms. Evangelista: Have you done a search on that to see if they voted?

Mr. Cracknell: I have searched it and so has Town Counsel. This is the Town Meeting warrant language that Jonathan drafted for the warrant. This will allow us to take monies, bonds or cash and deposit it into a separate account. The account is separate outside of the general fund. The money could be used for special purposes without a town meeting vote. The Board of Selectmen would have control up to \$100,000. Over \$100,000 it goes into the general fund.

Mr. LaCortiglia: I make a motion to the have the Town Counsel put together an article according to Mass General Laws Chapter 41, Section 81U, to add to the town warrant.

Ms. Evangelista: Second

All in favor? 3-0, Unam

Meeting adjourned at 9:32 p.m.