

MINUTES
GEORGETOWN PLANNING BOARD
Wednesday, December 10, 2008
7:00 p.m.

Board Business 7:00 p.m.

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

Absent: Mr. Christopher Rich arrived at 8:15PM

Minutes – None

Vouchers – Approve total amount of \$1,279.50

Mr. LaCortiglia- Motions to approve vouchers totaling \$1,279.50.

Mr. Howard- Second

All in favor? 4-0, Unam; Mr. Rich absent

Correspondence -

Parker River - Form J approval: Partial release of deposit

Mr. Carter- My opinion is that we have the Form J signed by Pulte Homes. This should be an established procedure.

Mr. Cracknell- Mark Mastroianni of Pulte said it had not signed the from before but I have advised that he strike the word “subdivision” from the Form J as it is necessary to keep this as a recorded document.

{Nick instructs the Planning Board Chairman, Mr. Hugh Carter, to sign the Form J to reduce the bond by \$505,000 to the amount of \$200,000 as approved at the Planning Board Meeting on December 3, 2008.}

Mr. Cracknell- He refers to Exhibit 1 of his Draft meeting comments regarding National Grid which is on file in the Planning office. I tried to make it clear to Pulte Homes why we held \$200,000. There are three items shown in Exhibit A and Exhibit B that represent the work that needs to be completed which are the berm, the blocks and the planting plan. It states the Board is also considering a cash payment to the town after 6 months of inactivity or removal of the blocks. The town would then use this cash payment to remove the blocks ourselves. Peter Durkee (Highway Surveyor) is not adverse to moving the blocks if we have money to move them. The blocks are what the focus is with National Grid. Our primary concern is a planting plan and getting the blocks out of there. Mark Mastroianni is under the impression that money being held by the Con Com is for the block removal which is not correct.

Mr. Howard- It is Pulte's problem to deal with National Grid. Let them spend the legal fees to resolve the matter.

Mr. Cracknell- The way we left it is that surety is there to be the last line of defense for the developer.

Mr. LaCortiglia- I would not have a problem with asking National Grid to give consideration for Pulte to remove those blocks.

Ms. Evangelista- Those cement blocks were placed there on the request of the ConCom.

Mr. LaCortiglia- Any Board that asks National Grid for their assistance gives a little more incentive for National Grid to grant the request for Pulte to remove the blocks.

Mr. Cracknell- It has never been discussed with me that National Grid has asked for a bridge to be constructed over the wetlands by the Town. This letter is for Mark to go back to Pulte and clear the air that states what we are intentions are and we hope it helps him with National Grid. Otherwise, we are holding \$200,000 to do what we need to do.

Mr. LaCortiglia- Motion to authorize Nick Cracknell, Town Planner, to send a memo (Exhibit 1) from the Town Planner comments packet to Mark Mastroianni of Pulte Homes dated December 8, 2008.

Mr. Howard- Second

All in favor? 4-0, Unam; Mr. Rich absent

Pillsbury Village: Form J signature

{Mr. Cracknell instructs Mr. Carter, Chairman, to sign the Form J for Pillsbury Village Landing to release the final surety \$15,276.}

Mr. LaCortiglia- Motion for final surety to be released for Pillsbury Village.

Ms. Evangelista- Second

All in favor? 4-0, Unam; Mr. Rich absent

Mr. LaCortiglia- There are other streets in town that require plowing and were developed at the same time. They would seem to be the next streets that should be accepted by the town.

Mr. Cracknell- I had a conversation with Jonathan Eichman on approaching other streets for acceptance. We don't actually hold the deed but we are maintaining the road and we didn't do the street acceptance. There are two ways to accept streets.

- 1) It is through a deed like we did at Pillsbury Lane.

- 2) When you have roads where the developer is long gone, the derelict fees gives ownership of the private way that the town is maintaining to the center line of that road for the width of the frontage of the lot, like at Chaplin Hills.

At the end of a project there is a deed and the attorney prepares the deed for acceptance a town meeting. In order to take that street we would have to get a deed from all the mortgage holders. Eminent domain is the preferred method. A deed is still written up from the subdivision plan. Each of the owners signs a waiver form and that's what we would take to town meeting. It saves us from getting a partial release. We have no ability to do any significant repairs on private ways. We are not authorized to do it. The friendly taking approach is the preferred method of taking the road. The attorney can guide us through a framework of accomplishing this. I would like authorization to have another meeting with Jonathan Eichman about this issue and prepare future streets for acceptance at Spring Town Meeting.

Mr. LaCortiglia- We could ask our MVPC planning representative, Tillie Evangelista, to ask MVPC to add the accepted roads to the town map. {Ms. Evangelista agrees to do so.}

Mr. LaCortiglia- Move to authorize Nick Cracknell to contact Town Counsel to facilitate the acceptance of certain town streets in Georgetown for acceptance as public ways.

Mr. Howard- Second

All in favor? 4-0, Unam (Mr. Rich absent)

Pillsbury Village – Form J approvals

The Planning Board approves and Mr. Carter signs the Form J for Pillsbury Village for street acceptance.

Pondview Estates – Extension of Time Form

Mr. Cracknell- Soil testing needs to be performed.

Mr. LaCortiglia- Move to extend the Form H time for decision to March 31, 2009 for Pondview Estates.

Mr. Howard- Second

All in favor? 4-0, Unam (Mr. Rich absent)

Deer Run – Final Inspection Report

Mr. Carter - They are all done with the work and we are just waiting for the request to reduce the surety.

Mr. Cracknell- The planning office is waiting for the final inspection report from the BSC Group. It is a private way so the HOA is responsible for plowing. We don't release

the surety until they have established a HOA and we've received the proper documentation.

Blarney Court – Form J approval

Mr. Crackenll informs the Board that the project is complete.

Board approves and Mr. Carter signs the Form J.

Other Business –

83 Baldpate Road ANR plan – Cont. discussion

Mr. Cracknell- They withdrew without prejudice and will come back in January to discuss conservation issues, housing balance bylaw and OSRD. Would anyone from the Board like to be involved in this meeting? Mr. Howard and Ms. Evangelista agree to attend the January meeting.

Mr. Carter- Requests a summary of what was done in the past detailing the overall historical picture from this project.

Mr. LaCortiglia- I would like to know their concepts for the future plans on this project.

Ms. Evangelista- The access to the lots is critical. Baldpate Road has a dangerous curve.

Mr. LaCortiglia- Motion to allow the applicant to withdraw without prejudice the ANR plan for 83 Baldpate Rd.

Mr. Howard- Second

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

Whispering Pines – Sign revised Tripartite Agreement

Ms. Jill Haley Murphy of Connolly & Connolly is present and represents Newburyport Five Cents Savings Bank.

Mr. Carter- There has been a suggestion by Chris [Rich] to add an addendum to the original agreement.

Ms. Murphy- Recommends the Planning Board execute the addendum that was given to the Board for review.

Mr. LaCortiglia- Motion to authorize the Chairman to execute the addendum to the original tripartite agreement for Whispering Pines dated December 10, 2008.

Mr. Howard- Second

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

Ms. Murphy- {Requests the Board to sign the agreement.} I will have the Bank and the developer sign the agreement and I will forward a fully executed copy to the Town. It does not need to be recorded at the Registry of Deeds.

34 Thurlow Street – Cont. discussion

Mr. Ogden (Applicant) - Shows the proposed OSRD plan to the Board for comment. We moved the open space line further on the OSRD plan as shown. We also met with Nick Cracknell and talked about garage and driveway layout to make in character with the neighborhood. We made some clarifications to the plans. Mr. Ogden reads the notes written on the proposed plan. There is one notable change in the written notes. The permanent open space shall be conveyed to the town. If the town doesn't accept, then it will be owned jointly with the HOA with an access easement granted to the town.

Mr. Cracknell- We will need to hear back from ConCom on whether the Town will keep the open space land. Our obligation is to provide formal feedback after receipt of the application. I think the other Boards (Board of Health, Con Com and Open Space Committee) looking at this will approve this OSRD alternative plan. I would encourage the Board to have the applicant prepare a formal application. I will provide comments from those 3 entities. There is a fee required for the special permit and we need to receive the application.

Mr. Rich- How many acres is the open space?

Mr. Ogden - The open space is 70% of the total so it is 3 ½ acres.

Mr. LaCortiglia- The town should accept the OSRD. I like the way it looks. I have a little trouble with the Board as a special permit granting authority. We are waiving frontage requirements on an existing street. I would have no problem waiving frontage on new roadways that we would create in an OSRD. The idea is that we are doing it on an existing street. I will be very sympathetic to the neighbors and the abutters on that street.

Mr. Rich- I believe septic wise the OSRD makes more sense.

Mr. Ogden- I have spoken so far to one abutter and he likes this plan. We will next go and talk with the other neighbors.

{The Planning Board authorizes the applicant to proceed with a formal OSRD application.}

Stone Row – Mylar endorsement

Mr. Cracknell- There is nine conditions in the Certificate of Vote for endorsement of the mylars. Mr. Cracknell refers to Exhibit 6 of his Draft comments dated 12-08-08 which is on file in the planning office. He reads the nine conditions and gives the status of each.

Prior to endorsement -

1a) Drainage revisions have been done and signed off by Larry Graham. It is completed.

1b) A draft of the homeowners agreement must be submitted to the planning board and accepted. I believe the new covenants that were submitted reflect the original covenants. Horses are not allowed on the 3 lots.

1c) This does not apply

1d) Form G is completed.

1e) Easement over the right of way for the 3 lot owners – they are in order.

1f) Form N is included – it is signed and executed.

Mr. Cracknell- The only outstanding items are:

Because they didn't meet the 30 and 60 day requirements in 1a, you can accept that the condition was met based on the fact that it was filed in time.

Last issue is in respect to the covenant which is referenced in the protective covenants section of the Draft Comments/ Exhibit 6. There is confusion between the draft language for those 3 lots. I reviewed the covenant submitted last week where it allowed for horses that was a mistake. Yesterday a revised covenant was brought to the Planning office by the applicant. He had taken out the horses from the agreement. Remaining issues that were brought to my attention by the homeowners are:

1. Minimum Square Footage - Homeowners believe there was agreement for a minimum square footage on the homes. I was told tonight that the original covenants had a minimum square footage requirement of 2,600 sq. ft. It would be reasonable that there be a minimum sq. footage on these three homes. I think it is fair to have the same number for everyone but I leave that up to the Planning Board. There was also a proposal put forward by the neighborhood over a year ago to create a Design Review Committee. Nine out of the existing 12 homes are under 3,000 sq ft. The average square footage would be 3,200 sq. ft. when you take into effect all the houses. I also checked the assessor's cards.

2. Design Review Committee – The committee would be made up of 3 existing neighbors and the developer for design review of the new homes. There would be a total of 4 members on the proposed Design Review Committee. Is this agreeable to the board? I have trouble seeing how practical this would be in determining what gets built.

I appreciate the concern by the neighbors but they need to enforce the covenants. In this phase, the Planning Board would have enforcement abilities which would include the HOA covenants and agreements and if there was a problem with the developer, the planning board would have an enforceable action. A design review committee would make it near impossible for future owners of these lots. You have a draft. The question remains whether this is the final draft and it sounds like it will need more discussion. This needs to be resolved before there is any work/construction in the subdivision.

Mr. LaCortiglia- The enforcement of this covenant is made up of 3 land owners. Was our original intent to mingle these 3 lots with the original HOA and become part of the overall association that currently exists?

Anthony Demotto, #11 Stone Row- What does that mean?

12 Stone Row resident– We have to assume the developers interest is the same as ours. What protection do we have?

Mr. Carter- I am never going to agree to item #6.

Mr. Cracknell- Asks for a copy of the original covenant from the 2 abutters as a comparison to the revised copy sent to the planning office for review by the applicant.

Mr. Demotto- The average sq. footage is actually 2,700 square ft. which was established back in the 1980's which is now 3,200 – 3,500 sq. ft. with inflation. TJ Conte, applicant, agreed to 4,500 sq ft. at our meeting which the board needs to consider since that is what they agreed to.

Mr. Carter- What it calls for is a draft to be submitted and accepted by the board.

Mr. Cracknell- There are 3 issues. Design review approval committee, minimum sq. footage and lastly, enforcement. Should there be a new association or a blended HOA?

12 Stone Row resident– I am concerned about the mechanism that is in place for enforcement.

Mr. Cracknell- I want to get all the issues defined. We need to have this applicant leave the room tonight and know what he needs to do to get over the finish line.

Mr. LaCortiglia- I would like to ask that we take the existing covenants and add in whatever it is the applicant agreed to.

Mr. Cracknell- This document is supposed to append itself to the original agreement, not create a new association with 3 members but be part of what's already in place. We all agree it is not to create a new entity. The issue is there is no enforcement mechanism in place that doesn't involve the town.

Mr. LaCortiglia- Can we just say we take the original HOA agreement and add in the changes that were agreed to by the current homeowners and the applicant?

Mr. LaCortiglia- Submit the original covenants first. We will not resolve anything tonight.

TJ Conte, applicant- We don't have a problem with the covenants themselves. We are just not in agreement with a 4 person board (3 homeowners + the developer). It is so restrictive that we will not be able to sell the lots.

Mr.Demotto- The problem is that the applicant agreed to the committee of 3 homeowners.

Mr. Rich- Your referee is a superior court judge. The threat to the two parties is you have to go to court if the developer and the homeowner can't work it out.

Mr.Conte- We want to keep the integrity within the neighborhood. We don't have a problem with that.

Mr. Tim Ruh, resident- The intent of the original covenant was to keep the character of the neighborhood and to have a minimum sq. footage.

Mr. Rich- Do away with the approval committee and instead add "to keep within the character of the neighborhood." I will not agree to #6 of the proposed covenant. Mr. Carter agrees. Anyone else should not be held under a more stringent covenant than what was originally written.

{Mr. Conte agrees to add a clause to the covenant that addresses the common drive.}

Mr. LaCortiglia- Motion to continue meeting until the Board receives the original recorded covenant and the proposed amendments at the next planning board meeting on January 14, 2009.

Mr. Howard- Second

All in favor? 5-0, Unam (Mr.Rich is present)

Mr. Rich- Move to waive the time restraint in Section 1A in the Certificate of Vote prior to plan endorsement.

Mr. Howard- Second

All in favor? 5-0, Unam (Mr. Rich is present)

Amendments to the Subdivision Regulations – Continued discussion

Mr. Carter- reopens the public hearing on the Georgetown subdivision regulation amendments.

Mr.Cracknell- I met with Harry and Tillie on Nov. 18. He refers to Exhibit 7 of his draft comments which are on file in the planning office.

1) The first amendment recommends the minimum sight distance at the intersection be changed from 120 ft. to 200 ft.

Mr. LaCortiglia- Motion to amend to change the minimum sight distance (Sec. 365-37) at the intersection from 120 ft to 200ft.

Mr. Howard- Second

All on favor? 5-0, Unam (Mr. Rich is present)

2)GIS wording change (Sec. 365-39J)-

Mr. Cracknell- The recommendation is to convert the roads and lots into our GIS. This the recommended wording change for new GIS standards.

Mr. LaCortiglia- What you see in front of you are Gerard's recommended changes from MVPC for digital submissions to the Town. We frequently waive the requirement. At the end of the year, the Assessors Dept. has to pay MVPC to do this.

Mr.LaCortiglia- Motion to replace existing language of 365-39J GIS submissions with the language on page 2 labeled Exhibit 7 of the Town Planner's packet and dated December 10, 2008.

Mr.Howard- Second

All in favor? 5-0, Unam (Mr. Rich is present)

Mr. LaCortiglia- Motion to strike "92% of the theoretical obtained density of the materials" and replace with the following wording, "not less than 95% of the density obtained from laboratory compaction of the mixture composed of the same materials in like proportions."

Ms. Evangelista- Second

All in favor? 5-0, Unam (Mr. Rich is present)

Mr.LaCortiglia- Motion to continue public hearing for amendments to the subdivision regulations to January 28th, 2009 for the items not covered in tonight's meeting.

Mr. Howard- Second

All in favor? 5-0, Unam (Mr. Rich is present)

Mr.Cracknell- Discusses 43D in promoting Economic Development. The town can designate the 43D site which will streamline the permitting process. It's mainly the planning board through site plan review or special permits, conservation commission with notices of intent and the ZBA for special permits.

Advantages to the community are: The state will provide technical assistance and provide financial assistance. There is \$60,000 available for development on projects like Carlton Drive. If we can get the money, it would be in our interest to get authorization from the 2 property owners and approval at town meeting. I am throwing it out there as an idea. We need to work on this, make a decision in January, and bring it to spring town meeting. If we don't act, that money will be gone.

Mr. Rich- Motion to continue with getting the grant application going and working with the Economic Development Committee to obtain the grant funds for 43D for that area as discussed.

Mr. Howard- Second

All in favor? 5-0, Unam (Mr.Rich present)

Mr.Crackenll- We need to think about any zoning amendments that we have in place for a 43D program. Can you all come up with your top five zoning issues/concerns that we could work on adopting for spring town meeting?

Mr.Carter- Motion to ajourn.9:50PM