

**MEETING MINUTES  
GEORGETOWN PLANNING BOARD  
Wednesday, July 9, 2008  
7:00 p.m.**

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

**Absent:** Mr. Christopher Rich

**Board Business 7:00 p.m.**

**Minutes – June 25, 2008**

Mr. LaCortiglia- Mr. LaCortiglia opens meeting at 7:18PM. {Mr. Carter is not yet present and Mr. Rich is absent}

Mr. Howard- Motion to accept the minutes of June 25, 2008 as amended.

Ms. Evangelista- Second

All in favor? 3-0; Unam (2 absent - Mr. Carter & Mr. Rich)

Ms. Evangelista- Were we to meet with the Affordable Housing Taskforce?

Mr. Cracknell- I have met with Paul Nelson and Steve Delaney. We did receive the document containing options for establishing the Affordable Housing Trust. There's about the \$80,000 in the Littles Hill Affordable Housing Account. There was a Town meeting appropriation in 2007 to authorize the Board of Selectmen to spend up to \$10,000 for legal services with the Planning Board relating to affordable housing issues for the Housing Balance Bylaw. I believe those funds are being used for the Whispering Pines/Raymonds Creek case. Paul was in the office today to schedule another discussion. I offered to draft up some revisions for the Fall Town Meeting that could be circulated to the Affordable Housing Taskforce, Selectmen and Planning Board when Paul and Barbara come back for the discussion. Evan Reilly is contacting the Affordable Housing taskforce.

**Vouchers –**

Mr. Howard- Motion to approve vouchers totaling \$1,654.43.

Ms. Evangelista- Second

All in favor? 3-0; Unam (2 absent - Mr. Carter & Mr. Rich)

**Correspondence - Sign FORM B's for approved ANR plans**

Planning Board signs Form B's for 218 Andover Street and 540 North Street.

**Other Business –**

**Chaplin Hills – Subdivision Permit expired 6/30/08**

Mr. Cracknell- The Subdivision Permit expired and the Board granted a 15 day extension of time which the applicant did not sign and return. He has been contacted but has not asked to come before the Board. We are waiting to get the cost estimate to complete the roadway from Dave Varga. The insurance company holding the bond requested a copy of the estimate from the construction engineer and then they will determine the next steps to complete the roadway. The bondholder could at some point in time get out of their obligation to finish the problems in the subdivision. We will send out correspondence to the applicant. Dave Varga will send an estimate of the work to be completed by July 23 and it will be evaluated by the insurance company.

Mr. LaCortiglia- Should we send certified mail to the applicant? Let's do that and get a green card receipt.

Mr. Cracknell- We will draft a letter and email to the Board for review once we have the estimate.

**Stone Row – Discussion of alternative plan**

Mr. TJ Conte and Mr. George Agganis (owner/applicant) are present.

Mr. Agganis- I want to put the neighbors at ease with our proposal. I want to read what I put together. George distributes a handout to the Board dated July 9<sup>th</sup> which is on file in the Planning office and reads the memo proposing four alternative options that they would like the Town to consider. The applicants are asking that the Board explore the possibility of increasing the number of lots or the usage of the land in exchange for giving financial considerations back to the Town.

Mr. Tony Demato, 11 Stone Row- Are they abandoning the previously approved plan?

Mr. LaCortiglia- The applicants have a valid subdivision permit.

{Mr. Carter, Chairman arrives at 7:50PM.}

Mr. TJ Conte- At the end of the last meeting, we wanted to put together a proposal to give something to the Town in order to receive some consideration for what we are looking at addressing. Mr. Conte distributes a second memo listing alternatives to the original plan.

Mr. Agganis reads the memo of considerations to the Planning Board.

{Memo on file in planning office.}

Mr. Tony Demato, 11 Stone Row- Regarding the original lot, what was the frontage?

Mr. LaCortiglia- As it stands, these two applicants have a decision that stands with a special permit for 3 lots. Each lot can not be further sub-divided. They have not registered the decision nor have they had the mylar signed. There is no time limit. They have every right to come before the Board and ask to modify the permit. This is not a formal request for a modification. A formal hearing would be the process if the applicant chooses to go in that direction.

6 Stone Row resident- If they don't file the necessary paperwork in time, would all those conditions disappear? Pertaining to the restricted land.

Mr. Cracknell- Yes

6 Stone Row resident- If they don't file the paperwork which makes it conservation restricted land, then they could come back with something else.

Mr. LaCortiglia- The decision has certain performances before release of lots. One of them is they have to have the conservation restriction.

Mr. Agganis- We are just asking the question. We believe it is a benefit to the Town but it is up to you guys.

11 Stone Row resident- Can we get a copy of the documents presented?

Mr. Cracknell- Yes

Mr. Carter- My personal opinion is that this request will not happen. In reviewing your memo, #2, #3 a #4 – I won't consider. I need to look further into #1. I don't know if this request to give the Town \$1 million is even legal. I understand the market has gone the wrong way. You have a dead end street and you have 50 ft of frontage which doesn't even allow you to have one lot. We have gone through 2 years of time to get to this point.

Mr. Bob Gray, 12 Stone Row resident – I feel that that we are all taking a beating. Was there a separate process for a special permit or was it bundled together with the decision? All our property values have gone down? How long is the common driveway?

Mr. LaCortiglia- There was a proposal, a public hearing was advertised and held and notification was sent to the abutters. There is a definitive subdivision decision and special permit decision that were both signed on the same night.

Mr. Cracknell- The common drive is several hundred feet long and it meets frontage for a road.

Mr. Carter- What we have is a proposal for alternatives to the approved plan.

Mr. LaCortiglia- We need to give this some thought. I am not wholly in favor of an offer of land or financial incentives to the Town. This Board said that 3 houses seem to fit in keeping with the neighborhood. Now 5 months later, you are making generous offers to the Town. I can't change my mind regardless of the financial situation of the Town. If it were a freely offered gift during the process, it might be a different situation.

Mr. Agganis- I made offers to the previous planner. We are trying to modify that plan by suggesting we give something back to the Town in exchange for the adding more units.

Mr. Carter- This is a sensitive project that took 2 years to get to. I thought it was a done deal when we gave you the approval.

Mr. Agganis- We appreciate that. I don't want to come across as the only person to make these requests. We went to the economic strategy meeting and listened intently.

Ms. Evangelista- I wasn't in on the first session. The earlier proposals weren't approved. The Board has been working with you all along. Why didn't you offer to pave Stone Row? It's badly needed. That's what other developers have done for other projects.

Mr. Conte- That's why we are here.

Mr. Agganis- We had mentioned North Street because at the time, that street was in trouble. We are talking more for the consideration of an additional lot.

Mr. Howard- By right, you had nothing when you came to us. At that time I said if its okay with residents who live on the road, I would consider approving the plan. The residents were willing to give you the 3 lots for fear of something worse later. They wanted assurance that there would never be more than 3 houses.

Mr. Agganis- We apologize for upsetting the Board.

### **Railroad Avenue – Lot Release request**

Mr. Cracknell- I spoke to Bob Grasso today. Bob presented a letter on July 7, 2008 to the Board requesting a release of Lot 3 (second lot on the left if coming in off Moulton). Mr. Cracknell refers to the memo dated 7/7/09 that responds to each of the 7 conditions of the Certificate of Vote. The eighth condition was added after the Certificate of Vote relating

to the rail trail. He presented at that time a Draft rail trail easement. John Eichman (Town Counsel) is reviewing it and I also spoke to some members of the rail trail committee. Mr. Eichman will be preparing an edited version of the rail trail easement and present it back to the Board as well as Mr. Grasso. We should have the final agreement by July 23. Town Counsel is recommending we complete a title exam prior to finalizing the agreement. The Board will need to consider how we will fund the title exam given it's a condition of the subdivision approval to provide this easement. The 53G Account could be utilized for the review of the Draft easement. The title exam is an insurance policy for the Town which may need to come from another revenue source. It could range from several hundred dollars to several thousand dollars. Bob Grasso thought the title exam is on file in the office which we will look into. There are some ongoing issues in the Certificate of Vote related to the rail trail that I am hoping we can formalize with the applicant in releasing these lots. The developer has not completed all eight items listed in the COV. The Board is not in the position to release any lots. Dave Varga needs to inspect the site and make sure the bond amount is correct before signing off on the lot release. There is a request to move from a Homeowners Association to be accepted as a public way. I need to make sure Peter Durke (Highway Surveyor) is also okay with the drainage. Peter is on vacation this week as I need to get his feedback once we are all back. That needs to be clarified in some sort of addendum. Bob Grasso has been very cooperative in coming back on the 23<sup>rd</sup> and having a recordable easement in place that is acceptable to everyone. We need to discuss some items with the rail trail committee to possibly change the language on the easement. There appears to be a mortgage on the lot so Town counsel is looking into that.

Mr. Cracknell- We need to prepare an addendum to the Certificate of Vote that will clarify the Board's intentions for the ownership structure of the street.

- 1) If Peter Durke is willing to take over the street and the drainage, there is no need for an association. Homeowner's Association – clarify acceptance as a public way.
- 2) Evergreen screen – was removed in the final plan and approved by the Board. If shade trees were the replacement, I can get feedback from Rob Hoover (former Chairman of the Planning Board). Per Bob Grasso, shade trees were supposed to be more appropriate. We need to strike Item B or replace it in the addendum.
- 3) Legal transfer of parcels A, B, and C to the Danelicki's as a condition of approval - I will check with Mr. Danilecki to confirm this.
- 4) Rail trail easement will need to be in final form given that the title exam will not be completed by the 23<sup>rd</sup> – I would recommend that the addendum modify the 10/24/07 Condition of Approval and that we agreed to release only Lot 1 once it is in a recordable form. Once they met the 8 conditions, all the lots could be released once they met the surety posted. I told Bob Grasso we will hold Lot 1 until the easement is in recordable form.

Mr. Howard- Would this be written as a addendum to the original COV?

Mr. Cracknell- We would do an actual modification to the Certificate of Vote through a public hearing. That might not be the only option available to us. Is the change a clarification or a change? If it's a change that requires a modification to the COV, I don't think they have the same legal standing. I think it is fair to say that at least there is a good deal of good faith that they have furnished a draft easement. We can't hold a Public Hearing by the 23<sup>rd</sup>. The applicant has made a good faith effort. The concerns we'd like to see addressed don't seem unreasonable to them.

Mr. Howard- Can we ask the attorney how he feels about it? I just want to get it right this time.

Mr. Cracknell- He [Mr. Eichman] is happy with the second option of not re-opening the public hearing if we make progress over the next two weeks. If we use the lot release process to make the applicants perform, they are showing all signs of doing so.

Mr. Paganelli- The law says, "If someone is building on the railroad bed, it has to get approval from the DOT." It was discussed as making it a public way as further incentive to make it come through.

{Mr. Cracknell reads Sarah Buck's handwritten note regarding the rail trail easement made on The Certificate of Vote 3 years after the original decision which is on file in the Planning office}

Mr. LaCortiglia- Isn't there a provision that we can re-open that decision as a Board?

Mr. Cracknell- The state statute allows you to reopen with an advertised Public Hearing. For instance, if the evergreen trees got changed to shade trees, that's a clarification in the COV. But if you insert something into the decision like a rail trail or a park that didn't exist, than that would be considered a significant change and would be a modification to the plan. That means a hearing would have to be re-opened.

Mr. LaCortiglia- On the 23<sup>rd</sup>, we will see where we are. Peter Durke may or may not like the idea of accepting the street as public. We also need to see where the mortgage company is with the title and the language of the easement for the rail trail.

Mr. Cracknell- There is a meeting tomorrow night with various Boards to discuss the rail trail. There will be discussion on whether the Town will take over the Deed of that parcel as part of the other proposal from Bob Grasso. There will be discussion about possibly donating that lot with the rail trail easement. As it stands, we have an applicant moving in the right direction. Town counsel is reviewing the easement. We have plenty of options. There is a benefit to the developer to have the street accepted and it is a marketing plus for the buyer that the street be a public way. There is cost savings to abort the homeowners' association tract and go the public way tract.

Mr. LaCortiglia- I have an issue with the release of the lot. I would like to see the whole easement issue resolved with a registry stamp before we release any lots.

Mr. Cracknell- Town meeting will have to accept that and the Board of Selectmen have to accept it before it goes to the Registry of Deeds.

Mr. Paganelli- There was a 2005 meeting where the Selectmen voted to accept agreements with National Grid.

Mr. Cracknell- The Town will have a deed in the department that holds the Deeds with certain liabilities that go with that property. The Board of Selectmen will have to accept any property that the Town wants to take as it's own.

Mr. Paganelli- Was Kathleen O'Donnel brought into this?

Mr. Cracknell- I did mention it to John Eichman that she was involved in the past.

Mr. LaCortiglia- Unless there's a huge delay on the applicant's part, I feel the Board could convince me to release Lot 3.

Mr. Cracknell- It is likely that we can't resolve the rail trail easement issue by the a 23<sup>rd</sup>. We need to be thinking if it is only Lot 3 that we release at this time or more. At tomorrow night's meeting with the Board of Selectmen, Bob Grasso is proposing building a single family house on Lot 3. He has proposed a total of 5 units. Lots 5 and 6 will have duplexes. I encourage you all to read the housing balance bylaw. It only applies to a special permit application. I don't think it's applicable to this. It only applies to variances and special permits.

Mr. Howard- Lot 1, which is the first lot on the left is what he's proposing to donate to either as a park, municipal or even sell it as a building lot.

Mr. Cracknell- Reads the zoning bylaw (Sec 165-71). ZBA was right in saying that 6 units under three separate special permit applications means segmentation.

Ms. Evangelista- What's the definition of a development, that's the issue? A development is more than one house.

Mr. Cracknell- That zoning bylaw of Sec 165-71 is authorized through a special permit or a variance. It applies to some developments but not all.

Mr. Howard- He had two waivers –one was the width of road and one was the radius of the entry of the roadway.

Mr. Cracknell- The Definitive Plan got waived down to the common drive design without a special permit for common drives. I will check in the file for more information.

Mr. Howard- It was not approved for a special permit.

### **Whispering Pines**

Mr. Cracknell- The Bond is tripartite. Dave Varga (Subdivision Inspector) will have a report on the 23<sup>rd</sup>. I forwarded the information following my meeting with Tillie and Harry to Joel Bard and John Eichman (Town Counsel). They are determining in the mortgage amount for all of those lots. I did mention there is one vacant lot that has not received notice that it's vacant. The attorneys are determining what are our options.

{Mr. LaCortiglia- Shows Board the map showing the vacant lots}

Mr. LaCortiglia- I hope Nick feels authorized to take any steps he feels necessary and knows the intent of the Board especially if it is something that is time sensitive.

Mr. Howard- Motion to adjourn meeting at 9:25PM.

Ms. Evangelista- Second

Discussion?

Mr. LaCortiglia- [To Mr. Cracknell] When you talk to Peter Durkee regarding the inspecting and maintaining of the subsurface infiltration chambers, he must need specialized equipment to do that. Please ask if he does have the equipment. If he doesn't have it, would he be interested in getting that in the future? The subsurface infiltrators are great for the first year, but if not maintained, can become a real problem.

Mr. Cracknell- I will check with Peter Durkee on that.

All in favor?

4-0; Unam (Mr. Rich absent)