

**Meeting Minutes**  
**Georgetown Planning Board**  
**Wednesday, October 22, 2008**  
**7:00 p. m.**

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

**Absent:**

**Board Business 7:00 pm:**

**Vouchers:**

No new vouchers. Added a missing signature to an earlier voucher.

**Correspondence:**

Nick and Tillie will attend the Economic Development course in November.

**Minutes:**

Mr. Rich: I make a motion to accept the minutes from Oct 8, 2008 with the changes.

Ms. Evangelista: Second

3-0, Mr. Howard abstains, Mr. Carter late

**Railroad Ave, Lot 3**

Paul Thibodeau: What we propose is to erect a wooden timber retaining wall 4', in the right corner 5.5-6 feet. We will be in a backfill position with less than a 1:1 slope. The no-cut zone will be restored.

Mr. LaCortiglia: There should be no more soil removal. You have to make sure it doesn't create a hazard.

Mr. Rich: Have you addressed the stabilization of the wall, the potential for erosion in the future? I would move that we allow the work to continue consistent with the plan from 10-21-08.

Ms. Evangelista: My impression was that it was not timber. Can we discuss this? The Building Inspector indicated it was cement.

Mr. Rich: The building inspector has to say it is okay. The 4 foot wall in your mock up is awful short.

Mr. Thibodeau- It is all glacial till. It is solid. The wall will be as high as the existing grade in the back corner.

Mr. Rich: The original plan was to have vegetation growth in the back. There should be no further touching of the no cut zone.

Mr. Thibodeau: I will make sure that will not happen.

Mr. Howard: We never could find any evidence of any evergreens being planted.

Mr. Rich: I make a motion for the work to continue, consistent with the 10/21/08 plan on file in the Planning Board office, for a timber wall.

Mr. LaCortiglia: Second

All in favor? 4-1, Tillie- No

### **ANR Bussing Plan, Lisa Lane and Searle Street**

Mr. LaCortiglia: This pertains to the renaming of the lots as per the Assessor: The former Map 16, Lot 92A (and former Map 16, Lot 92B as annotated on the plan previously endorsed by the board on 6-11-08 and recorded at the Salem Registry of deeds in plan book 414 plan 60 The 2 lots are to be given to the Park and Recreation Commission and the Conservation Commission. The Lot that is going to the Conservation Commission is now designated as Map 16, 92 . The Park and Recreation will receive what is designated as Lot 1, on the new Mylar being signed tonight.

Mr. Rich: I make a motion to accept the renaming of the lots, at the request of the Assessor, to Lot 1, and, Map 16, Lot 92. and to endorse the new Mylar

Mr. Howard: Second

All in favor? 5-0, Unam

### **Chaplin Hills**

Mr. Cracknell: Atty. Jonathan Eichman sent the letter of Bond Claim to the Bond company (Safeway). I spoke with Jonathan who had received a packet from Safeway with receipt of the notice of the Bond claim. They were reviewing the file and would be in touch with the Board within 45 days.

### **Whispering Pines:**

Mr. Cracknell: As voted by the Board, a letter withholding the Tri-Partite Agreement was sent out the Bank requesting that the Bank address the Board once we have finished our review of the costs to finish the roadway. The Bank was put on notice that we are preparing to make demand on the surety to finish the roadway. Dave Varga will be here tonight to address the roadway and what it will cost to finish it based on his recent inspection field report. The Bank (Newburyport 5) recently purchased the 5 lots at the foreclosure sale. The Bank would like to hold an informal meeting to resolve this and discussed options for working with a new developer. From the Town's perspective, if the developer were to finish the roadway it would be much cheaper, leaving us not paying prevailing wages. Accordingly to Mr. Varga's estimate the grand total is \$253,000 to finish the subdivision. There are 2 things I would like to see happen tonight: 1) The Board vote a final estimate of costs to finish the roadway, and 2) Have the Board make a final determination as to what is left in the Bond. If the Bank and the Planning Board can get to a final number that would be helpful. The Bank believes that there was \$140,000 left in the bond. In an email, Jack Moultrie thought that last November there was only \$140,000 worth of work remaining on the roadway. However, the Bond was never reduced in the fall as the Board was reluctant to release the surety.

Mr. Carter: The developer came in and we said no to reduce the surety.

Mr. Rich: I don't know if this is good news. I was reading over the tripartite agreement and found nothing in there that allows the reduction to carry out until the end. It looks like the Bank is on the hook

for \$431,000. The Bank sent the letter that you don't have to hold that much in surety.

Mr. Cracknell: There are three letters in the Whispering Pines file, two from Sarah and another from Jackie. There have been two or three reductions in the surety. We are down to \$213,000 and the last reduction I could find was \$59,150. I will discuss this 3<sup>rd</sup> paragraph of this letter with Town Counsel. I have the three letters in my office in the files showing that the Board had voted to reduce the surety 3 times. Exhibit 4B in your packet shows the 1<sup>st</sup> letter from the Bank indicating that the Board had voted to reduce surety 3 times. Perhaps, Chris and I can discuss this over the next 24 hours in order to get a clearer idea on the numbers.

### **Field Report: Whispering Pines**

Dave Varga: I have revised the as-built, highlighting the area where changes were made. There were a lot of items not included in the original report. The inflationary cost of oil is reflected in the cost of the pavement increases. This project was started in 2004, with the estimate created at that time of \$215,000 to complete the subdivision roadway when Jack Moultrie was here.

Mr. Carter: We are now looking at \$261,000 to complete it?

Mr. Varga: I am going on the basis of if there is a crack in the pavement that we cut it out and repave. In some spots, there is gravel in between the concrete and the bituminous binder.

Mr. Howard: Makes you question how thick the binder is?

Mr. Carter: Does the \$261,000 include a contingency?

Mr. Varga: It includes 15% contingency.

Mr. Cracknell: We received a letter from the Water Department for the water system out there. Are all those items included in your estimate?

Mr. Varga: All but \$150. There is a 15% contingency.

Mr. Cracknell: I want to make sure Glenn (Water Department) has been heard.

Mr. LaCortiglia: I move to accept \$261,104.01 as the amount to be requested from Newburyport 5 Savings Bank for the completion of the road for Whispering Pines

Mr. Howard: Second  
All in favor? 5-0, Unam

### **Public Hearing:**

#### **Housing Balance Bylaw**

Mr. Carter: Mr. Carter reads the Public Hearing notice for the Housing Balance Bylaw (Chapter 165-71). The Public Hearing notice is on file in the Planning office.

Mr. La Cortiglia: This has been discussed for over 2 months. It is just back from Town Counsel. I see no serious changes that I am concerned about. Let's open this up to the public.

Frank Puopolo: I have a few concerns. To make it acceptable under the LIP Program replace “to” and “by” with “under” the LIP requirement. Correct all amendments. The second issue is LIP Approval. That would be kicking off of another process. The LIP program has its own set of guidelines and procedures.

Mr. Cracknell: I would also find it odd that the LIP program would request that you go to every board in town. The burden is on the developer to get the unit on the SHI. Is the LIP program the only way to get those units on the SHI or do we start with the LIP program and if it fails then go to a 40B? This would be unwieldy to the marketplace. We may have created an administratively flawed process with this issue so let’s modify the language and have Town Counsel look at this again.

Mr. Puopolo: The whole idea of the LIP program is to go before the Board of Selectman, and then you need to go to the Boards that would be involved in the project and get their approval.

Mr. Rich: Why don't we put the burden on the developers that they have to get approval by the required parties to get on the SHI?

Mr. Cracknell: Pending the approval of the town, the language under LIP should be: The affordable units must be approved by the LIP Program or by the DHCD under some other programs that qualify for listing on the SHI.

Matthew Lewis, ZBA: Harry came to us with a draft and some of the clarification wasn't there. I work under HUD (Housing and Urban Development) and the BOH (Board of Health). There are a few questions that don't define a lot to me. There was a mention of a 5 member board to be created (he refers to the Affordable Housing Trust).

Mr. Cracknell: The town needs an entity to manage all of the Affordable Housing funding. The Trust is a Board of Selectman separate, legal entity.

Mr. Lewis: If a person that has lived in their home for about 5 years or so, lost their home and lost their job, could the person then qualify for Affordable Housing Trust funds?

Mr. Rich: Would it foster a home foreclosure to get the property on the Trust?

Mr. Lewis: Say you have a developer with 8 duplexes, 16 units (2 affordable units). The developer can't finish the project. What happens when this goes to the 5-member board?

Mr. Cracknell: There should be surety to make sure that the affordable units get built. If the units are on site, there will be surety if the developer fails to comply. Those funds would be received at the onset of the building permit (even with off site units). We want it on-site and we want it proportional. Money in lieu would be put in the Trust.

Mr. Cracknell: Also, Kopelman & Paige recommended that the Board that grants approval of the project be the Board that administers the Housing Balance Bylaw.

Mr. LaCortiglia: I would like to make a motion to approve the Housing Balance Bylaw with the 10.22.08 wording with the changes noted at this Public Hearing.

Mr. Rich: Second

All in favor? 5-0, Unam

Mr. Rich: I make a motion to have Hugh Carter present the Housing Balance Bylaw at the Town Meeting

Mr. Howard: Second

All in favor? 5-0, Unam

### **Whispering Pines:**

Ms. Evangelista: Nick and I discussed that we send a letter to the Bank requesting an Affordable Unit in the development since it is a bylaw.

Mr. Cracknell: We need to be in Executive Session to discuss this and we can come back to this at the end of the meeting.

### **Subdivision Regulations**

Mr. Carter: Reads the Public Hearing Notice to amend the following regulations: M.G.L. Ch.44, Section 53G; Ch. 365- 38; Ch. 365- 39(J); Ch. 365- 50, C (1-2); Ch. 365- 50 K; Ch. 365- 52 B; Ch. 365-38 B; and Ch. 365- 5. The Public Hearing Notice is on file in the Planning office.

Mr. Rich: I would like to recommend that the Board continue this to the next meeting.

Mr. Rich: I motion to continue the Subdivision Regulations Public Hearing to the next meeting.

Mr. Howard: Second

All in favor? 4-0, Harry absent (Left the meeting to check on Fin Com meeting decisions affecting the Planning Board)

### **Pondview Estates**

Mr. Cracknell: Soil testing and drainage issues still need to be resolved. A complete construction review still needs to be done by Larry Graham.

Mr. Rich: I make a motion to grant an Extension of Time Request for Pondview Estates to Dec 31, 2008

Mr. Howard: Second

All in favor? 4-0, Harry absent

### **Twisdenwood Farm**

Mr. Cracknell: I have had two meetings with the applicant. They are making great progress on their OSRD (Open Space Residential Development). They need to come in for a pre-application conference.

Ms. Evangelista: I make a motion to extend the Twisdenwood Farms Definitive Subdivision Plan to March 31, 2009.

Mr. Howard: Second

3-1, Chris abstains & Harry absent

## **Pillsbury Village**

Mr. Cracknell: I presented to the Board of Selectman, the three streets to be accepted by the town and release of the surety. The Form J, which dates back to 1972, should be used. We need more than a letter from the Bank to the Board showing release of the surety. I would like Chris look at this.

Mr. Rich: Everything that we do should be in recordable form with the Registry of Deeds.

Mr. Cracknell: We should sign off on the surety, the Form J, prior to the Town Meeting on the 17<sup>th</sup> of November.

Mr. Rich: I make a motion to go into Executive Session with the intention not to return to the meeting.

Ms. Evangelisa: Second

All in favor? 4-0, Harry absent

Roll Call:

Mr. Howard: Aye

Mr. Carter: Aye

Mr. Rich: Aye

Ms. Evangelista: Aye

4-0, Harry Absent (in Fin Com Meeting)

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**Absent:**

Roll Call:

Mr. Howard: Aye

Mr. Carter: Aye

Mr. Rich: Aye

Ms. Evangelista: Aye

4-0, Harry Absent (in Fin Com Meeting)

**Executive Session (Whispering Pines):**

Mr. Carter: Do we have a good case to get the affordable units for Whispering Pines now that the Bank (Newburyport Five) owns the 5 lots?

Mr. Cracknell: Accordingly to Town Counsel, we could go to court to get an attachment but it likely also means that it doesn't have a good payout for us as Mr. Longo appears insolvent.

Mr. Rich: The Bank is still liable under the Whispering Pines tripartite agreement. No matter who they sell those lots to the road has to be finished.

Mr. Cracknell: How can you do that?

Mr. Rich: You don't give them a building permit.

Mr. Cracknell: Those lots are not tied to the tripartite at all.

Ms. Evangelista: The Bank is now liable for those debts.

Mr. Rich: No, the foreclosure wipes out all of the debts.

Mr. Cracknell: All of those lots are released. According to Dave Varga's recent field report, we now need \$261,000 to finish the roadway. I see it as we have two questions to ask Jonathan Eichman. Question 1: Ask Town Counsel about the cost to complete the roadway and the best way to go about doing that in our best financial interest? Question 2: Since the Bank bought the property, how does it change our position according to Affordable Housing Unit in getting our affordable unit?

Mr. Rich: I make a motion to contact Jonathan Eichman regarding these two topics regarding Whispering Pines

Mr. Howard: Second  
All in favor?, 4-0, Harry absent

Mr. Rich: I make a motion to adjourn the meeting at 9:50 pm.

Mr. Howard: Second  
All in favor? 5-0, Unam