

GEORGETOWN PLANNING BOARD
Meeting Minutes - February 28, 2007

Present: Mr. Rob Hoover, Chairman; Mr. Tim Howard; Mr. Hugh Carter; Mr. Harry LaCortiglia; Mr. Larry Graham, Consulting Engineer; Ms. Sarah Buck, Town Planner; Ms. Michele Kottcamp, Assistant

Absent: Mr. Jack Moultrie

Board Business 7:00 p.m.

1. Mr. Ingraham – discussion

Mr. Ingraham is present to discuss Blueberry Lane. I have land adjacent to it. I will start by giving you a little background- I sold this land 4-5 years ago to Mr. Ford. It consisted of 10 acres. The owner said he would subdivide it. At that time, he said he would provide a 50 ft. right of way off a lot that he would build a home on. This was fine with me. The next thing was that there were meetings with the Planning Board to get things approved and under way. I had nothing to say about it because it was his subdivision. Next, he arrived with the approved plan and said that they could not provide the 50 ft. right of way because there was not enough frontage for the lots. He said not to worry and that I [Mr. Ingraham] could buy a lot and use that as the right of way.

Mr. Jim Ingraham (Son)- We then consulted with an engineer, Neve Morin. In showing them the plan, their question was, “Where is the 50ft. right of way that would be granted to you as the landowner behind the subdivision?”

Woman with Mr. Ingraham (Daughter)- We are here to ask for help to understand, “Why is the 50ft. right of way not required on Blueberry Lane yet it is was required for Tower Hill? Was this required and overlooked? What recourse do we have at this juncture?”

Ms. Buck- I explained to Mr. Ingraham that it is unfortunate that you took the word from this man. Ms. Buck reads from the Georgetown Code book. It usually is addressed at a Planning Board Meeting. When Blueberry Lane came up at that meeting, it was my first day as Town Planner. If you don’t like the Board’s decision, you then have a period of time (20 days) to appeal. In my opinion, I do not feel that there is recourse at this late date.

Mr. Ingraham- There was no need for me to come down at that time. Why was it not done?

Mr. Hoover- I think Sarah answered that quite clearly.

Mr. LaCortiglia- You sold the land to his gentleman. When you sold that land, in the deed did you mention the 50 ft. right of way? Are you saying that no one advised you then that you should have this 50 ft. right of way?

Mr. Ingraham- No.

Mr. Hoover- I feel bad that this happened. I don't know what the Board can do at this time. The appeal period is when you are given the opportunity to question or find these problems.

Mr. Jim Ingraham- Section 81W Chapter 41 of Mass. General Law says, "Modification amendment or rescission of approval of planned conditions, a Planning Board in its own motion or on the petition of any person interested, shall have power to modify, amend, or rescind its approval of a plan of a subdivision or to require a change in the plan as a condition of its retaining the status of an approved plan."

Ms. Buck- Modifications or rescissions of a subdivision are usually for failure to meet some condition that the Planning Board has imposed. They have not done anything wrong or violated the permit.

Mr. Hoover- What happened to the one lot deal?

Mr. Ingraham- The first offer was for Lot 3 or Lot 4. I was going to purchase it for retirement. The value of the lot was seen as a business opportunity by one of the Blueberry Lane partners. The further I looked into this with the engineer, he said I could get an additional 200 ft. maybe or the most would be 2 lots if I extended the road. At this point, I thought I made a terrible mistake. The point of this meeting is to see whether we could get any help from the Board.

Mr. Hoover- What you should have said at the original meeting is, "Where is the 50 ft. we were promised?" even if you didn't know all the laws or all the questions to ask if you are not experts.

Mr. Ingraham's daughter- We did not bring lawyers or engineers here. So who do we rely upon to help us understand Section 81, Chapter 41 further to what you [Ms. Buck] have explained to us? We just want more understanding to find out if we even have recourse on this matter.

Ms. Buck- I can research that for you- i.e. court cases where it shows that the applicant is not at fault after the appeal period has ended.

Mr. Hoover- In all fairness to the Board, we were challenged at that time with no Planner.

Mr. Jim Ingraham- When you get a project, do you review the plan and the abutters land?

Mr. Howard- The plan usually only shows property boundaries.

Mr. Hoover- At this point it is best for you to discuss this issue with a land use attorney.

2. Stone Row – decision due on OSRD Concept Plan.

Ms. Buck- We closed the Public Hearing at the conclusion of the Stone Row Hearing. The Board closed it to give the applicant and the residents time to discuss the number of

lots. It was then suggested to be 4 lots. We went on site visits. We have come up with a creative solution. It would be 3 lots off a common driveway. The Board may permit it as just a driveway. It would be a common driveway serving 3 lots. There would be 2 lots on the right with a large 10 acre lot on the left. We have before us the open space residential development concept plan. The developer does not have a yield on this plan. Therefore, my recommendation as Planner would be to deny the OSRD Concept Plan. Without a yield, you can not have a cluster subdivision. It would be my recommendation for them to come back with a 3 Lot Definitive Subdivision for extension of the road and request a waiver for the length of the road in return for providing substantial open space and fixing of the drainage that is now untreated. Jack can not be here tonight but he did say that fixing the drainage would be a benefit to the Town.

Mr. Hoover- I want to let everybody know that I met with the neighbors to answer questions and that I let the applicant know this once the meeting ended.

Mr. Howard- I don't see a substantial benefit to the Town to grant a waiver to the extension of that roadway. I have a real problem with the open space on the plan.

Ms. Buck- It didn't seem like much public open space with the lots being made bigger. It's not public open space. A 10 acre parcel that's not further developable is still open space.

Mr. Hoover- I think this is an excellent way to look at what is in the best interest of the Town. The existing neighborhood of Stone Row has a lot of concern for what could happen later. Five years down the road, something may change. With the improvements to the drainage and I see a big buffer with I-95, the compromise was given by both parties to make something happen.

Mr. Hoover- Can we ask the public for comment?

Mr. Tim Ruh- We worked with the developers. There are 14 homeowners. They are all in agreement that it be a 3 lot subdivision. We are a little concerned with the 10 acres. Our goal is to prevent it from connecting to Noyes Road. It will provide tax revenue to the Town. The land is valued at 400 – 500 thousand dollars. It provides closure to the property.

Mr. LaCortiglia- Question- The open space – The entryway is to be deeded to the town or will it be held privately to the homes?

Mr. George Agannis- What we were talking about doing- we would provide open space with a significant buffer. The only other issue is the boundary along Noyes Road. We anticipate having significant sized homes on those lots. The open space would be transferred to the Town. It would have a conservation restriction and be privately held. Yes, it could go to the Conservation Commission.

Mr. LaCortiglia- It is something that can be done.

Mr. Larry Graham- If not extending Stone Row into this right of way, what are the drawbacks to this turnaround or common driveway?

Mr. Hoover- What is the narrowest the common driveway can be?

Mr. Larry Graham- It should be 14-16 feet.

Mr. Hoover- With that cul-de-sac/ extension of the road, the goal is to keep it a driveway feel.

Mr. Tim Ruh- When you go 380 ft. and then put your house there, you are close to I-95.

Mr. Larry Graham- The right of way that is being proposed to give the frontage, it will not want to be owned by the Town. It will be owned by the 3 owners on the lots and they should maintain it. It is something to think about going forward.

Mr. Hoover- Let's get back to the general goal and not the design of the driveway. We have on the record Jack's support. We just need to hear from the Board members. This road extension is all about landscape design on this driveway.

Mr. Agannis- We will again work with the neighbors on the design.

Mr. LaCortiglia- Essentially this is an extension of Stone Row and is a common driveway?

Ms. Buck- Yes

Mr. LaCortiglia- Does this have drainage?

Mr. Agannis- It will also have drainage.

Mr. LaCortiglia- There is no route around the wetland. We are losing some of the natural trail that exists. You have great access to the open space but more than 60% is inaccessible because of the wetland.

Mr. Agganis- We will define what is the Open Space and what is best served.

Mr. LaCortiglia- Bear in mind that if it is privately held open space with conservation restrictions, the public is not allowed there anymore.

Mr. T.J. Conte - Would it be better to put building restrictions on the majority of the 3 lots?

Mr. LaCortiglia- Sometime there is tax benefit by putting a restriction on open space parcels. I would like to make a motion to deny the OSRD plan for Stone Row for lack of a yield plan.

Mr. Carter- Second

All in favor?

4-0; Unam (Mr. Moultrie absent)

Mr. Carter- The compromise on the table is to me in the best interest of the town.

Mr. Tim Howard- I am not convinced that there is reasonable benefit to the Town by what is on the table.

Mr. LaCortiglia- With tweeking of the Plan and repair of the drainage, I can see enough benefit until I see the actual plan.

Mr. Tim Ruh- Can there be something stating that the 10 acres can never be subdivided? Also, regarding the open space - Can it state that it can not be subdivided or turned into something else like 8 soccer fields?

Mr. Hoover- That will all be addressed and stated in the deeds.

3. Blueberry Lane – release of lots spreadsheet & deed restriction

The applicant is not present to provide information to the Board.

Public Hearing 8:00 p.m.

83 Baldpate Road Def Subdivision

Thomas Neve of The Neve-Morin Group– Civil Engineer and developer- I represent Ms. Lucille Batel that owns the land at 83 Baldpate Road. He points to her property for the 5 lot subdivision plan. The parcel below is non-usable and is wetland. The last parcel is the definitive subdivision land for three additional lots. Ms. Batel has asked Neve-Morin to help her develop her land into a subdivision. A year and half ago we developed preliminary sketches. We got stalled. There were changes in the zoning bylaws. If the applicant files a preliminary plan and it is approved, they have a right to use the property that is in effect under the zoning. The law affords us some opportunity. What I encourage the Board to do is that we want to move forward with the independent senior housing on the property. Perhaps we could develop a host of other alternatives. I want to give a small presentation of what our real intensions are with this property.

Mr. Hoover- I am uncomfortable with going into this for 10 minutes.

Mr. LaCortiglia- I am not clear on why are you proposing it to be subdivided into 4 parcels to then be developed at some other time.

Mr. Hoover- I would be comfortable with you going forward with this plan first.

Mr. Neve- He points to map/plan. The property is Lot 4-1. It will be around 35 acres on the northerly side. Lot 9 is 9.11 acres. Lot 10 is approximately 11 acres. It was thought out for future development. The hospital lot will be used as a hospital. It's a 2 lot subdivision in essence. Lot 9 and 10 will be used.

Mr. LaCortiglia- I see a lot of green on the map which looks like wetlands. Is there a major crossing of a wetland?

Mr. Neve- It will not be major crossing of a wetland. It was all approved by the ConCom. We have an approved delineation. The other green area shown on the plan is a stream which is about 4 ft wide.

Mr. LaCortiglia- Right now this is all one lot and now you want to subdivide the land into 4 parcels?

Mr. Neve- Yes, that is what we want to do. We are entitled to cross it. We will also work with Planning Board in determining if that is something you will allow. We can access all of this land without crossing wetlands if we go through the hospital site.

Mr. LaCortiglia- So right now you have access to all of the uplands behind the hospital. You are proposing to subdivide and potentially limit your access and require a wetland crossing.

Mr. Neve- Points to the road access - It was designed with a full standard roadway with no waivers. What you see is what is needed to get to what we really want to do. I read Larry's report and Sarah's report. It is a lot of work to move forward.

Mr. Hoover- I want to let Larry and Sarah speak. Then you can have a chance to respond.

Mr. Larry Graham- You are suggesting this would not have to be approved. The requirement is that the zoning protection is linked to a subdivision plan and it does need to be approved. The 8 year zoning protection that was in effect at the time of submission has to be connected to an approved subdivision plan. Why are you diving this into 4 lots instead of 2?

Mr. Neve- Some form of subdivision needs to be approved. We intend to use Lot 9 and 10 for the independent senior housing. I thought originally that 50 units fit very well on all this land. I divided the land into 2 pieces at 25 units each. I am starting with the most conservative 25 unit maximum. The wet piece of land is shown further down the road. Lot 10 A is a 10 acre lot. Lot 9A is just below Lot 10A. Lot 9 and 10 are the largest parcels.

Mr. Graham- I have many other technical questions that can wait until another meeting. The only other thing is – it will not be easy for the Board to review the application. This

is really positioning for another project. You, the Board, either have to deny it or stay with it and keep making corrections to this proposed plan.

Mr. Neve- I was asked by Sarah from the very beginning that she wanted to see a Master Plan.

Mr. Hoover- We have the opportunity to deny it or wade through it all.

Ms. Buck- There are quite a few issues I want to address. Pointing to the plans, Lot 4-1 is being proposed to be divided into 4 sections. I believe the Town did not want high density senior housing subdivisions. I would like to clarify that the applicant has not worked with the Conservation Agent or myself to reach this design. The top of Baldpate Hill at first looked like Parker River Landing on top of Baldpate Hill. I don't think this is what the Town had in mind when they think of Independent Senior Housing. This does not strike me as providing any public benefit to the town. When I looked at the road for the subdivision, I see a road with a y-access to the hospital - half of it will be taken off by the proposed new road. Suddenly the hospital has no frontage on Baldpate Road. The Preliminary Plan was denied due to slope of road. This plan shows 16ft. retaining walls all along the frontage to the hospital. This does not meet the intent of our subdivision control laws. This plan is not an adequate submission. The conservation agent and myself have not given any guidance. It seems like a manipulation of the rules, so as to avoid the 25 unit maximum.

Mr. Hoover- The Conservation Agent says in his letter that he has not reviewed the wetland delineation. Have you talked with the Conservation Agent about the Georgetown wetland bylaws?

Mr. Graham- I think what Tom has presented tonight, although the Board and I don't particularly like Lots 9 and 10, are being subdivided so that they can come back at another time to develop 25+ units. I think the Board can use that to deny it.

Mr. Hoover- What about the concept of this approach?

Mr. Graham- One thing is to send him to Conservation Commission prior to you endorsing the Plan. He will probably be denied there. Or you could have these lots restricted as non-building lots until proved otherwise.

Mr. Neve- Freezing zoning is never well-received by any town. I have been involved in a lot of towns where changes in laws will dramatically change the use of the land. It is hard to come before you with this use of the law. We have no intention to get this plan filed. We have been working on this project for over a year before you saw the plan. Lucille has been good landowner of this town. I am just trying to move forward without conflict. I have never appealed a subdivision plan. I won't waste your time or your money. I have not even made a submission to this board. I think this hill is very similar to the one in Topsfield. There are 60 units on that hill. One way up which is a steep slope.

Mr. LaCortiglia- What is the smallest lot you have?

Mr. Neve- 9 acres. There are 57 total acres.

Mr. LaCortiglia- Then there are 3 OSRD potentials. Is it a non-conforming lot?

Ms. Buck- yes

Mr. LaCortiglia- The applicant has a right to subdivide their land. Would this Board be able to deny that request with the basis to create a more non-conforming use of that land?

Mr. Hoover- The ZBA is the enforcer.

Ms. Buck- I would have to ask the ZBA and the Building Inspector.

Mr. Hoover- I believe that requires a variance from the ZBA.

Mr. Neve- It is important for you to understand that the lots we are creating are conforming. They are large enough and have enough frontage. The use of one of the lots is currently the hospital which is a non-conforming use. As long as we don't create a lot with setback issues, your entire continuous frontage does not need to be accessible. You need to have access. I am not changing the access. We are proposing to eliminate one of the entrances to the hospital. We have a right to appeal to the Zoning Board of Appeals. You need to apply for a variance or you need to be denied by the Building Inspector.

Mr. Hoover- We not agreeing on this.

Mr. LaCortiglia- Can we get an opinion from the Building Inspector?

Mr. Graham- Not right now at this point.

Mr. LaCortiglia- I would like to have the benefit of the Building Inspector's opinion at the next meeting when this is continued.

Mr. Hoover- Would it be fair to say, a part of this is good faith extension of what the Board is being asked? What we are seeing is not really what will happen.

Mr. Neve- Over the next 6 months, we may have a different project or subdivision plan. That would be the plan you endorse, not this Plan.

Mr. Hoover- We just finished this process with your previous subdivision of the hospital site. I go by experience, and a track record of good faith is not there. That's what you are up against.

Mr. LaCortiglia- I will make a motion to continue.

Ms. Buck- Asks Mr. Neve, What kind of direction are you looking for?

Mr. Neve- We want to rebut and work on the reports from Larry and Sarah. I want to ask the Board to continue this for one month. I want to come back in 2 weeks for a pre-application conference to show you what I envision this plan to be.

Mr. LaCortiglia- Tower Hill is at a Definitive stage?

Mr. Neve- We are in the concept phase. We haven't submitted it.

Mr. Larry Graham- You have to either deny or continue it?

Mr. Neve- I have no problem to give you a longer extension. I want to get started with the pre-application process for the ISH.

Ms. Buck- My recommendation is to ask for an extension until June 30th. The first meeting in May will be a pre-application hearing for the Independent Senior Housing.

Mr. LaCortiglia- I make a motion to continue this Public Hearing to May 23rd

Mr. Carter- Second

All in favor?

4-0: Unam (Mr. Moultrie absent)

Mr. LaCortiglia- I motion to extend the length of time for the Definitive Subdivision of 83 Baldpate Road to June 30th, 2007.

Mr. Carter- Second

All in favor?

4-0, Unam; (Mr. Moultrie absent)

Continued Public Hearings 9:00 p.m.

Whistlestop Estates – request for continuance to 4/11/07

Mr. LaCortiglia- Motion to continue Public Hearing to April 11th

Mr. Carter- Second

All in favor?

4-0, Unam; (Mr. Moultrie absent)

Harmony Lane – request for continuance to 3/28/07

Mr. LaCortiglia- I move to continue Harmony Lane to March 28th, 2007

Mr. Carter- Second

All in favor?

4-0, Unam; (Mr. Moultrie absent)

34 Thurlow Street – request for continuance to 4/11/07

Mr. LaCortiglia- Move to continue definitive subdivision for 34 Thurlow Street to April 11, 2007.

Mr. Carter- Second
All in favor?
4-0, Unam; (Mr. Moultrie absent)

Continued Board Business 9:00 p.m.

4. Minutes: 11/8/06, 12/20/06, and 1/10/07.

Mr. LaCortiglia-Motion to approve the November 8 meeting minutes with corrections.
Mr. Howard- Second
All in favor?
4-0, Uam; (Mr. Moultrie absent)

Mr. LaCortiglia- Motion to accept the December 20th, 2006 meeting minutes as corrected.
Mr. Carter- Second
All in favor?
4-0, Unam; (Mr. Moultrie absent)

Mr. LaCortiglia- Motion to approve the January 10th, 2007 meeting minutes as corrected.
Mr. Carter- Second
All in favor?
4-0, Unam; (Mr. Moultrie absent)

Mr. LaCortiglia- Motion to approve the December 4th, 2006 meeting minutes as written.
Mr. Carter- Second
All in favor?
3-0, Mr. Howard abstains; (Mr. Moultrie absent)

5. Correspondence– note new Border to Boston Rail Trail plan

Ms. Buck mentions memo on Border to Boston Rail Trail Plan in the Correspondence folder for the Board to review.

6. Vouchers

Mr. LaCortiglia- Motion to approve the vouchers.
Mr. Carter- Second
All in favor?
4-0, Unam; (Mr. Moultrie absent)

7. Other Business – revised meeting dates, other.

Ms. Buck- Master Plan- Daylor Consulting is working on the Economic Development piece now. Draft recommendations are due in March.

Mr. LaCortiglia- Shows large map done by MVPC with help from the Assessors' Office. Harry mentions that it is the map the Board had promised for Daylor which is the existing land use map. He says to the Board, I don't want to move it forward without your input.

Mr. Carter- Motion to adjourn meeting at 10:00pm. Mr. Hoover- Second
All in favor? 4-0, Unam; (Mr. Moultrie absent)