

**MEETING  
GEORGETOWN PLANNING BOARD  
Memorial Town Hall  
Third Floor Meeting Room  
April 18, 2007  
7:30 P.M.**

**Special Meeting: for Town Meeting Warrant Articles**

**Present:** Mr. Robert Hoover, Chairman; Mr. Harry LaCortiglia; Mr. Tim Howard; Ms. Sarah Buck, Town Planner; Ms. Melanie Buck, Recorder

**Absent:** Mr. Hugh Carter; Mr. Jack Moultrie

**Street Acceptances:**

Mr. Hoover opens the meeting that is to discuss street acceptances and the warrant article.

Ms. Buck asks the board for permission to have Melanie Buck fill in as temporary minute taker.

Motion for Melanie Buck to take the minutes. Mr. LaCortiglia/ Mr. Howard. 3-0, 2 absent.

Ms. Buck says that the selectmen have votes to lay out the streets. Larry Graham has reviewed and approved the Street Lay-out Plans. The As-built Plans are on file. Water Department issues held up the approval last time, and have now been satisfied. The Conservation Commission issued a memo that planning board members have that outlines the last of the problems. She thinks that the planning board is close to accepting the streets.

Mr. Symes introduces himself. He is the representative for the developer. He is working with Seekamp Environmental to meet the last of the Conservation Commission's requirements. He has a proposal for ongoing monitoring that he is going to send to the Homeowners Association. The wetlands will be certified next week. He believes that all requests are being answered.

Ms. Buck spoke with the Conservation Agent this morning and he said that the remaining items are not major problems. She asked if the board could accept the streets subject to him signing off prior to Town Meeting. She also suggests having the Board make any recommendation for street acceptance subject to having the temporary license recorded for the storage shed on the drainage easement at 22 Pillsbury Lane.

Mr. Symes says that he has spoken with the Quigleys [owners of 22 Pillsbury Lane] but if they will not sign the document, Symes has little control so having them as a condition is difficult.

Ms. Buck says that they have seemed cooperative and the town needs that condition.

Mr. Hoover asked what the outstanding items are.

Ms. Buck clarifies that the outstanding items are: conservation signature, and recording of temporary license at the registry of deeds. She would like the board to accept the streets based on agent submitting a letter that says his conditions have been met.

Mr. LaCortiglia says that they have had 3 years to do everything that is necessary.

Ms. Buck says that the new agent came in the middle of many projects and it took him a lot of time to sort through the projects.

Mr. Symes says that they have asked numerous times for a list of outstanding issues. He has only received the final list two and a half weeks ago.

Ms. Buck thinks that it is a giant project that has been left outstanding and that should just be finished. She thinks that all the town's interests have been covered.

Mr. LaCortiglia asked if the remaining things will be finished by the end of the summer.

Mr. Symes says that they should be done much sooner than that, like within the next two or three weeks.

Mr. LaCortiglia asks if this would be more appropriate at a special town meeting held in the fall so that everything could be completed.

Mr. Hoover is under the opinion that with the two conditions, he would like to move things along.

Mr. Howard says that the conditions may or may not be fulfilled.

Ms. Buck says that she will check that the conditions have been met in the future.

Mr. Howard thinks that Concom needs to have signed in order for the planning board to pass the acceptances.

Ms. Buck says that the Concom agent has already given the developer a list.

Mr. Nelson says that it's strange because he has gone through a checklist last fall and the agent went out with some people from Symes and inspected everything. Two years ago he went out and created a punchlist. Vernal pools have nothing to do with cocs.

Mr. LaCortiglia says that he thinks that one of the conditions was that the vernal pools in the area would be certified along the roadway.

Mr. Nelson says that he was only concerned with the cocs on the houses.

Ms. Buck feels that we have come along way with the project and she thinks that the last four items are important but are not affecting the functioning of the wetlands. She recommends that the board approve it subject to the two conditions.

Mr. Howard asks about the changing of the “no cut” area that Mr. LaCortiglia referenced in the packet.

Ms. Buck says that those issues have been addressed. She says that the issue has been sitting on the board for three years, since none of the current board members were members. She says that there are good plans, everything is functioning, and there is no reason that these streets should not be town streets.

Mr. Howard wants the turnaround addressed.

Mr. Hoover suggests writing that in as a third condition.

Mr. Howard says that once it is signed off, the board won't have any power. He thinks that the turn around easement could turn into an issue of ownership.

Mr. Hoover would like to write it in as a condition since it couldn't hurt.

Mr. Shreder, Chairman of the Concom, says it's strange for the board to approve something without an approved order of conditions from Concom.

Mr. Hoover says that the mechanism is still in place if it's subject to the three items being addressed.

Ms. Buck asks why they are not okay with the agent recommending that the board accept the street. The form J would need the agent's signature anyway, so it is definitely coming to Concom. The form J is the planning board's form that Concom is in compliance. She asks if Mr. Shreder thinks that the streets should not be accepted due to the fact that Concom isn't having a meeting. She says that she loves working with Concom and that she doesn't usually push for the applicant, but she feels that the item was brought to town meeting last year and it was stopped because of Concom.

Mr. Howard says that he is uncomfortable signing without Concom's approval.

Mr. Nelson asks if there is a way for the developer to put money into a pot that could be held accountable if something went wrong with the vernal pool.

Mr. Symes believes that Concom already has their money for another project that hasn't been refunded yet so they could use that.

Ms. Buck thinks it's safe for the town to accept the street.

Mr. Hoover agrees with Ms. Buck and thinks it's ridiculous that it has gone on this long.

Mr. LaCortiglia thinks that if the roads are accepted, there's no incentive for the developer to do what they have to.

Mr. Symes thinks that there's a way to ensure that he's doing what he's supposed to.

Mr. LaCortiglia wants the signature before signing off.

Mr. Howard makes a motion to accept the street acceptance for Pillsbury Village streets.

Mr. LaCortiglia seconds.

1 in favor (Mr. Hoover), 2 against. 2 absent.

Mr. Hoover wants to track this down for a new town meeting in the fall.

Ms. Buck says that it is a big project.

Ms. Buck says that Longview Way is going to be postponed.

### **Public Hearings:**

Mr. Hoover opens up Public Hearings. The first one is major development review.

Ms. Buck contacted the planner in Greenville, MA, and she said that they had legal review and it said that it simplified the zoning ordinance if the standards for impact statements were under the rules and regulations. Therefore, what goes to town meeting is the umbrella regulation. Article 29 is the proposed bylaw amendment. It is substantially what was there before except now the numbers refer to Georgetown. She says there are also the Rules and Regulations governing Impact Statements in each member's packet. They go together. Article 29 goes into zoning, but the Rules and Regulations get added to Subdivision Regulations. The legal staff for Greenville figured out the separation. You have seen the pieces before except they weren't separated.

Mr. LaCortiglia thought that regulations are stronger if they are incorporated directly into a bylaw.

Ms. Buck says that it is being incorporated directly into the bylaw with direct reference to the standards for the impact statements. The zoning amendment directly states that the board may set standards for the impact statements that are required.

Mr. LaCortiglia says that if the bylaw passed in its current form, would we adopt these at a later meeting?

Ms. Buck says yes. In Article 29 on E3, that's how the regulations are incorporated into bylaws,

Mr. LaCortiglia says that the full version is slightly different from the original. He asks if they could change anything or it would have to be done on the floor.

Ms. Buck says yes. It is how it is unless done on the floor.

Mr. LaCortiglia asks in reference C, Article 29, is it referring to groundwater protection district?

Ms. Buck says that it was kept the same as in Greenville. She did not want to alter jurisdiction between ZBA and Planning Board if it might be governed with state law.

Mr. LaCortiglia is concerned because in certain districts, if the project is in the groundwater protection district, it would remove the board from the district. This would be giving up the planning board review with inclusion of C2.

Ms. Buck agrees that she would like clarification. She thinks it's okay as is, but she wants to make sure.

Mr. Howard thinks it's confusing who has jurisdiction over what. The water department definitely has a say, and so does Concom. It's not well-defined.

Mr. LaCortiglia wants to be clear about not giving up the planning board's jurisdiction.

Ms. Buck looks in the zoning book and clarifies that the Special Permit Granting Authority (SPGA) in Groundwater Protection Districts is the Planning Board, but in the Water Resource District is the ZBA. She wants someone to check it to make sure that it is not customized to Greenville. The zoning part though is part of MA law. There is an umbrella to local zoning laws and what's ZBA specific.

Mr. Hoover asks what Ms. Buck wants done.

Ms. Buck would like it looked over by legal counsel and brought up at the May meeting.

Mr. LaCortiglia asks clarification for where it says 100,000 square feet. He thinks it's too big.

Mr. Howard agrees: it was 40,000 square feet originally.

Mr. LaCortiglia thinks it would be easier to make a blanket: 30,000 square feet, per se, that would trigger the review and cause it to be looked at.

Mr. Howard talks about how an area could be different if it started out industrial then became commercial. He wants to change the 100,000 square feet.

Mr. LaCortiglia wants a statement of the square feet that covers all buildings.

Ms. Buck says that it was, but now it is different. She apologizes.

Mr. Hoover wants it how it was before.

Ms. Buck says that she will change it. It will be changed to be 30,000 square feet everywhere, for all districts.

Mr. Howard says that that was what was agreed upon at the last meeting.

Mr. LaCortiglia would like it to be smaller.

The board likes 30,000 and does not want to change it.

Mr. LaCortiglia wants to strike C2. He wonders if that would clarify everything. It seems redundant, and is covered in other parts of the bylaw.

Ms. Buck and Mr. Howard agree with that.

Ms. Buck makes a small change to C1: the planning board is the reviewing authority.

Ms. Buck asks to move along to the next item: independent senior housing.

Mr. Nelson would like to move to the article that affects Concom: continuous building area.

Mr. Hoover agrees.

Ms. Buck received a letter from the Concom agent regarding article 35 that the board is looking to amend. She reads the letter aloud. The agent changes the 50 foot buffer zone to 100 foot.

Mr. Howard and Mr. LaCortiglia agree with the change.

Mr. Hoover asks if the Concom people want to comment.

Mr. Shreder, Chairman of the Conservation Commission, says that their bylaw regulations change that number based on certain conditions. He doesn't think that the board wants to enact regulations that are in conflict with Concom's definition of conservation areas.

Mr. LaCortiglia is not comfortable going to 200 feet.

Mr. Nelson agrees. 50 sounded good to him.

Mr. Shreder thinks that the bylaws should be referenced and perhaps there should not be a specific number.

Ms. Buck states that the number is for the calculations not for where they can build. The 50 foot was used because it is the final "do not disturb". You can give it to the town or not, but you

cannot do anything with it anyway. Outside of the 50 foot zone it is land that they could be using for their yard. The amendment does not make jurisdictional changes.

Mr. Hoover says that he doesn't like the label: continuous building area. It's just a calculation for up-front, not where they can build.

Ms. Buck says that it is just a tool for how much usable open space they're giving to the town.

Mr. Howard says that it is also used for calculating housing units.

Mr. Nelson says that the Concom bylaws need to be referenced. Fifty is good as a reference point, but the Concom bylaws may change it.

The Concom people expand on how their bylaws change everything based on wells, vernal pools, water bodies, and that variances are needed.

Mr. Shreder says that if the applicant is looking to maximize his yield, it would mislead him if he calculated based on the 50.

Ms. Buck says that right now, nothing is excluded except the wetland itself. The idea was to make it more clear and restrictive.

Mr. Nelson wants Concom bylaws referenced to get absolute yield.

Mr. Howard is in favor of making developers going before Concom before coming before planning board, but the change has to be done on the floor. He says that the 50 is a huge improvement.

Mr. Hoover says that the new change is more restrictive and will, at the least, take out an additional 50 feet.

Mr. Howard says that if they want to put a building there, they need to go before Concom.

Ms. Buck says that developers know the risk they're taking when they go to planning board and try to get building lots that won't be permitted under conservation regulations.

Mr. Shreder says that if the regulations are the same as Concom's, it makes the process clearer.

Ms. Buck says that they cannot legally tell developers to go to Concom before coming to planning board.

Mr. LaCortiglia asks if it would be possible to change it to 100 feet on the floor.

Mr. Hoover doesn't think it's a fair response. That land should be able to be used for a developer's calculations. If he can, by right, grade up to the 50 foot, he should be able to count it.

Ms. Buck suggests that if they changed it to the “do not disturb buffer zone” it would then be consistent with Concom.

Mr. Hoover says that recognizing a small step forward is better than not recognizing any at all. He knows that the bounce-back exists. He wants to stay the course and, next time, maybe change it. It’s not perfect, but he doesn’t want to bring it to the floor.

Mr. LaCortiglia says that the board needs to show that the changes went to print before the hearing was held, it went out in its raw form.

Ms. Buck wants to keep the motions on the floor to the minimum. The 50 foot is always a no-disturb zone, but the 100 is variable and subject to change, and she isn’t comfortable with that.

Mr. Hoover says that nothing can be changed anyway, so this is just talk.

Mr. Nelson asks if it’s possible to consider a motion to change the fifty to the known “do-not-disturb”. He thinks that most people could understand that.

Mr. Hoover asks if that forces an applicant to do some work in terms of delineations or surveying.

Mr. Shreder says that they have to do that anyway.

Mr. Howard agrees.

Mr. Hoover is attracted to the simplicity.

Mr. Senior said that before doing anything that might be considered expanding the restriction, check with your town counsel. It’s not legal to go beyond the scope of what the public is aware of. Any amendment needs to be already included in the amendment, or it can be challenged on the fact that the public was not aware of it.

Mr. Hoover appreciates that. He also likes Mr. Nelson’s wording.

Ms. Buck says that the planning board can give its final wording on May 9<sup>th</sup>. She will check with the town counsel and if it’s legal to be changed, the planning board will change it to “do not disturb”.

Mr. LaCortiglia motions to change the wording to “do not disturb” if agreed to by town counsel.

Mr. Howard seconds the motion.

All are in favor except the two absentees.



Ms. Buck moves on to article 30, which is clarifying the independent senior housing density. The current wording is not clear enough according to town counsel.

Mr. LaCortiglia moves to accept article 30 as written.

Mr. Howard seconds.

All are in favor except the two absentees.

Ms. Buck moves on to Article 31, which is lot width. There are increasing applications for “dumbbell-shaped lots”. We have proposed to introduce a definition of lot width and to amend the intensity of use scheduled to give a minimum lot width. The lot width has to no less than half of his frontage.

Mr. Hoover thinks the change is better and he wants to go with it.

Mr. LaCortiglia motions to approve article 31 as written, as submitted.

Mr. Howard seconds.

All are in favor except the two absentees.

Ms. Buck moves on to article 32, exterior lighting. Nothing is new. It’s just deleting sections that were irrelevant to Georgetown.

Mr. LaCortiglia moves to approve article 32 as submitted.

Mr. Howard seconds.

All are in favor except the two absentees.

Ms. Buck moves on to public tree replacement, article 33. It is what the planning board approved in the initial meeting except it referenced some standards that she could not access (National Arbor Day Foundation Article) so she deleted the references.

Mr. LaCortiglia wants the article to clarify it on town meeting floor.

Ms. Buck asks if there’s a national standard.

Mr. Hoover says not that he’s aware of. He’ll get the article to Ms. Buck so that she can extract the formula that the foundation used.

Ms. Buck says that it’s nice to reference national standards.

Mr. Hoover says that he doesn’t think it’s possible.

Mr. LaCortiglia also wants to take in account that there are no fines or anything so there is no punishment for if they failed to follow the regulations. He doesn't think the planning board has any recourse if they didn't do what they were supposed to.

Mr. Hoover says he'll summarize it and bring it to the May 9<sup>th</sup> meeting.

Mr. LaCortiglia says that it doesn't work since the town meeting is May 7<sup>th</sup>.

The planning board seems to think that the spirit of "wood-to-wood" is good.

Mr. Hoover wants to stay with it.

Mr. LaCortiglia moves to approve article 33 as submitted.

Mr. Howard seconds.

All in favor accept the two absentees.

Mr. LaCortiglia would like a handout of changes to hand out to the voters.

Mr. Hoover says that in a perfect world, yes, but he doesn't think that anyone has time to do it.

Ms. Buck moves on to septic and reserve areas, article 34. It was proposed to increase the setback of septic systems from public rights of ways to better protect public trees. Right now it is only 10 feet. The members all have a letter from Deborah Rogers, Health Agent. Their concern was that many systems would not be about to fulfill a 20 foot setback. She e-mailed them asking if they would feel differently if it was about new systems, but has not had a reply.

Mr. Hoover says that it is about new systems and new construction.

Ms. Buck wants to add an asterisk that says "excepting all current systems".

Mr. Hoover says that he agrees with the health agent and it needs to be clarified.

Mr. LaCortiglia wants to change the wording to "for new construction only".

Mr. Howard says that it's possible that construction could be misconstrued to mean any additions to existing houses.

Ms. Buck agrees and is worried that people won't be able to afford changing the septic system.

Mr. Howard says that it's a great idea but too tough to enforce.

Mr. Hoover disagrees. He asks if it addresses "new development". It's a law that concerns public rights of ways only.

Mr. LaCortiglia likes the wording of “new development”.

Mr. Hoover says that you could add, “all existing single-family homes are excluded”. He rephrases, “all new development not including any existing single-family homes”.

Mr. LaCortiglia moves to include the rephrasing to article 34.

Mr. Howard seconds it.

All are in favor except the two absentees.

Ms. Buck moves on to article 36: affordable housing special revenue account. Nothing has been changed.

Mr. Howard moves to accept article 36 as written.

Mr. LaCortiglia seconds.

All are in favor except the two absentees.

Ms. Buck moves to Heather Road: request to add to Town Map.

Mr. Senior passes documents around the table. The first document is a letter from him that says that there’s an official map that was accepted in 1984 that governs the adoption of an official map that says private roads need to be included if already existing with two or more homeowners living on it. He says that Heather Road had four houses living on it prior to the map. The two homes on 1 Heather Road were built in 1975 and 1940. Number 20 Heather Road was built in 1944. In terms of the users, there were six users as of the date of the adoption of the official map. It is mandatory that roads where six users are is on the map. They want properties on Heather Road to not be disqualified for getting building permits. It will not make the town an owner of Heather Road or make them responsible. It merely shows the road that should have existed. He gives everyone an affidavit that demonstrates that there are rights of easement on the beginning portion. It is meant to show that the Hancock’s owned the road and deeded out properties in which they mentioned Heather Road as a “roadway” as early as 1939. There are three deeds and all show that there was a roadway from 1939 to 1944. The fourth deed is dated 1946 and also recognizes Heather Road. The fifth deed is the current deed to Ms. Kramer and again recognizes Heather Road. Heather Road does not need or want to be a public road; it just wants to be recognized on the map. There is ample evidence that it existed prior to the adoption of the official map. He asks only that the town acknowledge Heather Road as it should have done in 1984.

Ms. Buck reminds the board that Mr. Senior’s request is based on how the official map is said to, in MA General Law, “...show all private roads that were existing and used in common by more than two owners”. She says that the assessor’s records provided by Mr. Senior are very accurate.

Mr. Howard asks if the law reads “two or more” or “more than two.”

Ms. Buck clarifies that it says “more than two”.

Mr. Senior clarifies that there were, in any event, six people using the road. You cannot get a building permit unless the roadway is on the official map or on an approved subdivision plan. People on Heather Road may want building permits in the future. They do not want to be disqualified. It should have been on the map in the first place. He agrees with the letter from Mr. Arsenault that Ms. Buck forwarded to him.

Mr. Howard asks what would happen if new homes were going to be built.

Mr. Senior says that placing the road on the map does not give or take rights from anyone. It doesn't allow anyone to go on the road if they didn't already have the right. It does not change the relationships between anyone concerned with the roadway.

Mr. Howard says, for argument, if someone had land big enough for five lots and rights to pass and repossess, would each of the lot owners then get permission to pass and repossess.

Mr. Senior says the answer is probably, but doesn't make any difference to this question.

Ms. Buck says it can depend on the original deed because some are more restrictive than others. Mr. Arsenault was basically saying that if the use were to substantially increase, there may be a problem with that, but it's a legality that would have to go to court.

Mr. Senior states that the technical term for that is “overburdening the easement.”

Mr. Senior says that the planning board has jurisdiction over the subdivision process whether it is on the map or not. It being listed on the map doesn't change that. All it does is recognize that this road was a private way that existed in 1984. It removes a disqualification from being able to get a building permit but does not allow them to get a building permit.

Ms. Buck mentions that there is a letter from another abutter, the Sullivans, in the planning board's packet. Also, there is a section in MA law about how to revise an official map. There cannot be a change without a report from the planning board. Tonight they are making a report from the board which is necessary.

Mr. Hoover asks if it is the same as a recommendation.

Mr. Senior says that it is the same. The board would need to submit a statement saying whether they agree or disagree and a summary of their reasons why.

Mr. Hoover asks the public if they want to speak.

Nobody does.

Mr. Hoover asks Ms. Buck if she has a recommendation.

Ms. Buck says it seems clear that Heather Road was in use by more than two owners in 1984 and therefore should be shown on the Town Map.

Mr. LaCortiglia moves that the planning board recommend approval of article 27 to place Heather Road on the map.

Mr. Howard seconds.

All are in favor except the two absentees.

Mr. LaCortiglia motions to close the public hearing.

Mr. Howard seconds.

All in favor accept the two absentees.

### **Vouchers**

Mr. LaCortiglia moves to accept the vouchers in the amount of \$5922.88.

Mr. Howard seconds.

All are in favor except the two absentees.

Mr. LaCortiglia moves to adjourn.

Mr. Howard seconds.

All in favor.

Meeting adjourned at 9:55.