

**Meeting**  
**GEORGETOWN PLANNING BOARD**  
**Meeting Minutes**  
**December 20, 2006**  
**7:00P.M.**

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

**Absent:** Hugh Carter – for a portion of the meeting.

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

Mr. Hoover opens the meeting at 7:07 p.m.

**1. Minutes – August 23, 2006 and October 25, 2006**

Motion to accept the minutes from August 23, 2006 and October 25, 2006 as corrected. Mr. LaCortiglia/ Mr. Moultrie 4-0 in favor; 1 Absent – Mr. Carter

**2. Caribou Court - Extension of subdivision permit**

Ms. Buck- I recommend that the board extend the subdivision.

Mr. LaCortiglia- I read the opinion of the counsel. He makes it clear he is not involved. He might have advised us in a different way. I don't believe it should continue. My motion is to deny the subdivision extension on the grounds that part of the lands shown on the plan are not under the ownership of the applicant nor does the applicant have permission from the owners of the land to proceed with the development of those lands because they are in fact, town owned.

Ms. Buck- If the town was to be successful in establishing ownership of the land, the applicant will not be able to use that land. This permit will keep the issue open until the court decides.

Mr. LaCortiglia- Once the appeal is done, the subdivision will no longer exist. But the mylar was signed for this subdivision, and now the town map has changed.

Mr. LaCortiglia- If the town allows any conversion of use for open space land, and uses it for anything else, then EOEIA may not give grants for the open space plans. Because of this subdivision approval, our new open space map will be different from the 2001 map.

Mr. LaCortiglia- I want to show EOE that we are not party (privity) to the change of use through a mistake that happened through no mistake of this board.

Mr. Tidd- This is part of the process. The court decided. It is at one phase and at a point where the case isn't over. We haven't decided that we will continue on – it is not complete. We intend to exhaust our appeals. The town admitted they took the land by mistake. It was a surveying error and the town admitted the mistake. We are appealing it that they didn't take it legally. They were not notified that the land was taken by mistake.

Mr. Moultrie- There is an appeal process if you're not satisfied with for compensation – it's a two or three year time period you can take back.

Mr. Tidd- The land was taken away from Oscar Tidd. My grandfather didn't know the land had been taken. It was back in 2004 that we discovered that the land was taken.

Mr. Hoover- Can the Planning Board draft a memo to set the record straight or state the situation in the minutes to grant the continuance?

Mr. Moultrie- I have a difficult time going against the counsel's advice.

Ms. Buck- I can draft a brief memo that states these lot lines are clearly under litigation.

Mr. LaCortiglia- Perhaps we can discuss this at another meeting.

Mr. Hoover- Let's do the extension and come back with a draft memo.

Mr. LaCortiglia- Will it remain in the record? I want to withdraw the motion.

Mr. Moultrie- A two year extension is a little excessive - better to have 6 months.

Mr. Tidd- It will take at least a year by advisement.

Mr. Moultrie- Two years is too far out.

Mr. Hoover- It can stay open for a long time.

Mr. Moultrie- Motion to extend subdivision permit for Caribou Court subdivision for one year beginning 12/20/06.

Mr. Howard- Second

3 – 1 in favor; opposed by Mr. LaCortiglia. (Motion to deny the subdivision extension on file) Mr. Carter absent.

### **3. Little's Hill Request for Extension of Subdivision Permit**

Ms. Buck- You have reviews from our Construction Inspector (Millenium) and a letter from Thompson Construction. We did contact the Homeowners Association of Littles Hill with their thanks and appreciation from David Slomsky. Ms. Buck reads letter from Mr. Slomsky. All indicated in the letter that the sign is acceptable.

Mr. Moultrie- Who certifies that is structurally sound?

Mr. Howard- There is a disclaimer in the letter from Thompson Construction.

Mr. Hoover- I respect the residents' opinions and the licensed professional feedback from Millenium. The letter from HOA is acceptable but I need a signature on the letter, the last page of Todd's letter. Rob reads from Millenium's letter that the sign is capable of a long lifespan.

Mr. Moultrie- I agree that Todd certifies it.

Ms. Buck- If it renews tonight, the subdivision approval will be good for two years.

Mr. LaCortiglia- If this were to fall down tomorrow, is the HOA responsible for repairing the sign?

Planning Board members respond "yes."

Ms. Buck- Mr. Slomsky emailed me today and is experienced in construction.

Mr. Hoover- Did you actually talk with him?

Ms. Buck- No, but I feel comfortable that that is what he said. I had spoken with him on a previous occasion, and he had indicated that if we needed it in writing to just let him know.

Mr. LaCortiglia- I want to make a motion to extend the subdivision permit for Little's Hill for 2 years from today, December 20, 2006.

Mr. Moultrie- Second.

Mr. Hoover-It has been motioned to extend the Littles Hill subdivision permit for two years from 12/20/06.

All in favor? Unam 4-0; 1 absent, Mr. Carter

### **4. Sign Decision for Tower Hill**

The Planning Board had previously voted on the Tower Hill OSRD. Tonight is just the signing of that written vote. Members were given a copy of the written vote in their packets. Planning Board members sign the Tower Hill OSRD decision.

**5. BankNorth – request for release, home equity loan (Affordable Housing Consultant)**

Ms. Buck- We have a request for town approval so this applicant can have a mortgage on their property that has an affordable housing deed restriction. The Town's interest needs to be protected. However, I have a recommendation for a conservative approach that would protect the town but still let the applicant move forward with her desire for a first mortgage on her property.

Mr. Moultrie- This is a legal matter. Shouldn't the Housing Task Force handle this? I'm not an expert at dealing with this type of issue.

Ms. Buck- The Affordable Housing Task Force has been inactive and the chairperson resigned. Should I talk to affordable housing experts? I don't want to be charged the money to consult with the lawyers. The deed rider says the Town will approve any re-finance.

Mr. LaCortiglia- In the short time I've been on the Board, this is the second request. I spoke to the Affordable Housing Chairperson and they don't meet anymore. I believe the Board should establish the policy of not approving any requests because the Town should protect and preserve its interests.

Mr. Moultrie- The bank still can't sell this without the deed restriction

Ms. Buck- If it can't be sold at the affordable price, there are clauses that allow the units to become market rate.

Mr. Moultrie- For a limited time, we should pass this over.

Mr. LaCortiglia- I would like to take this to another meeting.

Mr. Hoover- Is there a way to recommend to the attorney some direction from the Board?

Ms. Buck- I don't want to hold up this woman.

Mr. LaCortiglia- It is a dangerous slope of approving mortgages on the Affordable Housing.

Mr. Moultrie- There was never a mortgage on this house.

Mr. Hoover- For both reasons, we should get legal counsel. Does this Board have the authority to make this decision and if not, who does? Is this setting a precedent?

Mr. LaCortiglia- Can we exclude this in the future?

Mr. Moultrie- Who determines how this is handled in the Town and how is the Town's interest protected?

Ms. Buck- And what would they recommend in this case?

Mr. Howard- This shouldn't endanger the Town. Anybody could default on a mortgage. This is unusual when someone pays cash.

Mr. Hoover- Let's move it along and bring it back to the next meeting.

Ms. Buck- Yes, in the interest of helping this person.

## **6. Slideshow: Current Activity: Rock Pond, RR Avenue, and Heather Road.**

Powerpoint presentation by Ms. Buck

(Mr. Hugh Carter arrives 8:15 p.m)

### **19 Heather Road**

Ms. Buck- Mr. Senior, attorney and the applicant are here.

Mr. Senior- We were here in August. Heather Road doesn't appear on the map and the slope may be too steep. These two issues are both of our concerns. The road does not have these steep grades. The letter I sent shows that the road is required to be on the map. We also submitted records from the Assessors Office that a building permit was issued for this road. We ask that you consider this Form A plan. We are requesting that the Board endorse this plan even though the map does not show this road on the map. It is the town's responsibility to put this road on the map.

Mr. Moultrie- Shouldn't the road be put on the map before coming here?

Mr. Senior- It is not the applicant's responsibility to do this.

Mr. LaCortiglia- At Town Meeting on May 7, 1984, the Town adopted the official map in which case the applicant could have appealed the vote.

Mr. Moultrie- It could have happened without people being aware. I assumed you would have filed to get something put on the map.

Mr. Senior- The town could amend the official town map.

Mr. Moultrie- Is there any further subdivision planned for this land?

Mr. Anthony Franciosa, Applicant- no.

Mr. Moultrie- This is an RA district - 125 ft is required frontage.

Mr. Hoover- RA according to chart requires 15,000 s.f. lot area.

Mr. Anthony Franciosa- The improved area stops 138 ft. shy of the pond.

Ms. Buck- They didn't give us a measurement of the stipled area. It's just enough frontage to meet the requirement.

Mr. Senior- It states that Lot A would have 211 ft. and Lot B would have 126 ft. It came to 150.

Mr. Moultrie- May I ask why you are not asking the town to put this street back on the map? Isn't the timing right with it being a slow time of year?

Mr. LaCortiglia- Couldn't this be bypassed with a simple subdivision? There's no drainage and no catch basins.

Mr. Senior- I agree that if the road were improved, that would be better.

Mr. Anthony Franciosa- It wouldn't show that on a Form A plan. In addition to the time it would take to bring the issue to town meeting, the existing home will be moved away from the pond.

Mr. Hoover- I am not an attorney. I am not comfortable with going ahead with it.

Mr. Moultrie- I agree with you.

Mr. LaCortiglia- The ANR process is just an expedited process, is that correct?

Ms. Buck- No. The ANR endorsement by the board means they have a road that gets them to their lot. If they have the frontage and area, the board can only endorse it not condition it.

Mr. LaCortiglia- Can the Board refuse to endorse it?

Mr. Moultrie- The actual layout of the street is only 25ft. You don't have frontage on an accepted town street.

Mr. Howard- Do we have to consider safety in our decision for this?

Mr. Moultrie- A fire truck could not turn around there.

Ms. Buck- The frontage must be passable and usable. I hate to see this ANR grapple with it. Our jurisdiction is, "Can you drive on it with real frontage?"

Mr. Moultrie- This is not a pre-existing non-conforming lot?

Mr. Hoover- Isn't there somewhere that it talks about safety issues? It's not just frontage issues.

Mr. LaCortiglia- We are saying that this road has suitable grades and for the installation of municipal services.

Mr. Moultrie- With the last home constructed there, there was already a building on it. They went to the board of appeals. There has been nothing else constructed there.

Mr. Senior- It doesn't say the municipal services have to be done. It is not a subdivision procedure. Would the Planning Board consider amending the map?

Mr. Moultrie- I have no issue with that.

Mr. Hoover- I agree with the attorney to look at it.

Mr. Anthony Franciosa- Could the Planning Board submit the article to the attorney?

Mr. Hoover- I would endorse that.

Mr. Moultrie- It would be to the benefit of the town to have the street put on the map. If it was wrongly done, the people have a right to have their road on the map.

\* It is a consensus by the members of the Board that the burden of proof is on the applicant. The intent of the Board was not to bear the burden of the cost. The Board agreed that they would support the applicant at Town Meeting but the applicant needs to bring proof.

Mr. Hoover- If the applicant can withdraw without prejudice, then we can move on this.

Mr. Anthony Franciosa- Something concerns me- If there is an article for a zoning change, now they don't have a lot there anymore. It is the duty of the Planning Board to assess the plan and get it endorsed and seek legal counsel.

Mr. Moultrie- You can't get a building permit.

Mr. Anthony Franciosa- I just want to see this road on the town map. If timing is an issue, I would prefer to get it endorsed, go to ZBA and then Town Meeting. Conservation will also want to look at the plan.

Mr. Senior- Can you look at whether you can endorse the plan? We want to go the Board of Appeals for a building permit. We want to request an opinion from Town Counsel. We will request to withdraw without prejudice.

Mr. LaCortiglia- I move to allow the applicant to withdraw without prejudice and waive the filing fee upon re-application.

Mr. Moultrie- Second.

Ms. Buck- It will cost money to us to request an opinion from Town Counsel.

Mr. Hoover- It has been motioned and seconded.  
All in favor? 5-0 in favor (Mr. Carter present.)

### **38 Bailey Lane ANR**

Ms. Buck- The applicant believes he should get an ANR endorsement. I looked at the deeds from the Assessors Office. Even though the 2 lots were held together in 1950, the woman sold one to a woman in E. Boston. In 1971, both lots were bought by the same person. They were no longer grandfathered. Parcel A is not showing the lot line being removed. The applicant came in with a Form A.

Mr. Howard- These lots still don't conform even when combined? He doesn't have to get our approval.

Ms. Buck- Zoning passed in 1954. When they were sold in 1955, they are no longer grandfathered.

Attorney- We are here under request of the Assessors Office. We also talked to the Building Inspector. In 1975 – any lots came under common ownership. Grandfather rights were protected. These lots do meet. In case law, we do meet the common law. We have 11,000 sq ft. On the question of frontage, we're governed under Mass General Law. Frontage is set at 75 ft.

Mr. Moultrie- Do you have something in writing?

Ms. Buck- He's given us pages of legal information. I don't know where to go with this.

Mr. Hoover- If the applicant is willing to accept the cost, then they should withdraw without prejudice and we can request legal counsel.

Attorney- It is a grey area with the grandfather rights. We have a buildable lot.

Mr. LaCortiglia- Motion to allow applicant to withdraw without prejudice and waive filing fees.



Mr. Moultrie- Second

Attorney- Applicant wishes to withdraw at this time.

Mr. Hoover- Motioned and accepted to allow applicant to withdraw and re-file 38 Bailey Lane without filing fees.

5-0 in favor, 0 opposed.

**Parish Road ISH – request to withdraw received.**

Mr. LaCortiglia- Motion to allow withdrawal of Parish Road ISH application.

Mr. Carter- Second.

5-0 in favor.

**Stone Row OSRD**

Ms. Buck- We received a brief review from Larry Graham. We are in receipt of two letters. Letters are on record for everyone to review. A letter from the Diliberto's at 6 Stone Row Lane. states that they would support the 4 lots. Mr. Diliberto is here. The 13 Stone Row Lane resident sent us a letter as they are not able to attend this meeting.

Sarah reads from letter, "We are direct abutters to the land. We should not be bullied into allowing this happen ... 1-2 lots only should be allowed."

8 Stone Row Lane Resident- There is not a unanimous consensus from neighbors on this street. I have changed my mind to agree to 1-2 lots. Please don't deny this variance unless you can guarantee that worse options will not happen. I urge you to vote for the 4- lot extension on this plan.

6 Stone Row Lane Resident- I want to add a few comments. The length of the street extension could result in increased noise. Decrease the lot size or the number of lots from four to three. This would lessen the noise impact. If recreational fields are developed, this will decrease the value of the existing homes. This is the first proposal that has a chance of being workable with some changes.

11 Stone Row Lane Resident- I am in favor of one home. My concern is financial hardship to us.

5 Stone Row Lane Resident- Has letter and paraphrases. Letter focuses on issue of extending the street. "We understood there would be 1-2 houses at end of street. Where does the accountability lie?"

9 Stone Row Lane Resident– Submits letter to be put on file.

12 Stone Row Lane Resident- Direct abutter. My understanding was there would be 1-2 houses. Four houses will impact my children. I agree with the Echols. I support what the Comunale's have said.

Neighbor to 12 Stone Row Lane- I am concerned with the noise level. Our understanding was there would be 1-2 houses to finish off the cul-de-sac. I don't want 4 but 2-3 homes – that I can live with. I don't want to be forced into anything.

Mr. Hoover- Can we modify this plan?

Ms. Buck- Since this is not a subdivision by right, when granting a waiver, you can condition it any way you need to.

Mr. Moultrie- Before we go farther, we need to address the issue of extending the road. I think we need to address the waiver issue before going any farther with this.

Mr. George Agganis, Applicant- Not only would we follow the neighborhood covenants, but someone could act as a liaison. There is quite a bit of buffer still there and the drainage issue still needs to be addressed. We are more than willing to do that.

Mr. Howard- Can we restrict the cutting of trees?

Mr. Agganis– We will do what the Board recommends. We have been careful not to cut anything down.

Mr. Hoover- I believe it is possible that we can restrict and help control the quality of the development. I think we have the ability to control it that way.

Mr. LaCortiglia- The applicant made an investment. It's a question that does granting a waiver for the road extension benefit the town? It's a difficult decision for me to make. I've looked at other developments over the last 10 years. I wasn't talking about the West St. soccer fields. I was actually talking about a park to be put there.

Mr. Hoover- Another way is to look at what benefits the town in a global sense is perhaps the town can be satisfied with the satisfaction of the neighbors. If there was a true pedestrian path system on the open space, I could get behind it.

Mr. LaCortiglia- If this weren't to add to the park system, but to Conservation, I believe that Con Com would protect it.

Mr. Carter- The Board denied this before. If we deny it, who is to say that the next Board won't grant something that is worse. We can deny, but something else may happen worse in the future.

Mr. Moultrie- There are many difficult scenarios. They can re-file a new plan in two years.

Jim Dimento- We only looked at parcels over 20 acres for Georgetown Park and Recreation.

Mr. Agganis- There is still a drainage issue that needs to be corrected. We will do that. We think we are giving a large amount of open space to the town. Which direction should I head in?

Mr. Hoover- I have seen what happens 5-10 years down the road. If I had control, I would grab it.

Mr. Agganis- We are at a point now that the break-even point is 3 lots.

Mr. Hoover- We need to vote before Jack leaves.

Mr. LaCortiglia- This is a concept OSRD application. I move to close the concept OSRD Hearing for Stone Row Lane

Mr. Moultrie- Second

5-0, Unam

Mr. Hoover- Public Hearing is closed.

Mr. Howard- I feel I can't vote.

Mr. LaCortiglia- Forget this plan or bring us a definitive OSRD plan.

Mr. Hoover- Other option would be to withdraw without prejudice.

Ms. Buck- You will have to make a decision within 90 days.

Mr. Moultrie- I am really torn about the situation. It is a tough situation. I would feel the same if it were me. My advice would be to withdraw without prejudice.

Mr. Hoover- I agree with Jack. You stand the best chance to withdraw without prejudice and eliminate one more lot. Please meet with the residents. Please note on the plan the size of the lots.

Mr. Agganis- Implementing no-cut zones is good for everyone.

Ms. Buck- What I found helpful is showing a stake where each house will be. There is a value in seeing it staked out on the ground.

5 Stone Row Lane Resident- We were told there had to be 4 houses. There has to be give and take on both sides. I would be a lot more comfortable if you could do 3 lots, but listen to our concerns and take them into consideration.

Mr. LaCortiglia- They could come back with an OSRD.

Mr. Agganis- I didn't know there was an opportunity to reduce the size and come in with something that fits with what the majority is happy with.

Ms. Buck- Do you want to withdraw?

Mr. Tim Ruh- Let's leave as is and we will come back within 90 days to withdraw.

Ms. Buck- Feb. 28<sup>th</sup> we will make a decision.

Mr. Hoover- Feb. 28<sup>th</sup> is the Board's date to make a vote.

## **7. Blueberry Lane – Revision to lot numbers**

Ms. Buck- The Board just needs to sign and vote to approve the lot numbers for Blueberry Lane.

Mr. LaCortiglia- I move to accept the December 11, 2006 revision of lot numbers for Blueberry Lane per request of the applicant.

Mr. Carter- Second

All in favor? 4-0 Unam, Mr. Moultrie is not present to vote and is now absent for the remainder of the meeting.

## **8. Bond releases – Acorn Way/Forest Street**

Ms. Buck- We need a release of security for Acorn Way and Forest Street.

Mr. LaCortiglia- I move to release all outstanding amounts of security for Acorn Way less any construction review inspector fees.

Mr. Carter-Second

Mr. Hoover- All in favor? 3-0, 1 recused, Mr. Tim Howard, 1 absent, Mr. Moultrie.

Mr. Carter- I move to release all outstanding amounts of security for Forest Street less any construction review inspector fees.

Mr. Howard- Second

4-0 in favor; 1 absent, Mr. Moultrie

### **9. Construction Review Inspector discussion/Vouchers**

Mr. LaCortiglia- I move to accept the payment of the Millenium invoices from Sept 27<sup>th</sup> in the amounts of \$390.00, \$1,235.00, 130.00, 260.00.

Mr. Carter- Second

Mr. Hoover- All in favor? 4-0; 1 absent, Mr. Moultrie

Mr. LaCortiglia- I move to approve the vouchers from December 20<sup>th</sup> in the amounts \$426.32, \$5,090.00,\$657.50, \$180.00, \$832.50, \$982.50, \$387.50, \$505.00, \$747.50, \$65.00, \$162.50, \$1,820.00, \$238.75.

Mr. Carter- Second

4-0 in favor; 1 absent, Mr. Moultrie

Mr. Hoover- Just a reminder that January is zoning updates. Bring no more than 3 each. It may have to be a completely separate meeting.

Mr. Carter- Motion to adjourn the meeting.

Mr. LaCortiglia- Second

4-0 in favor; 1 absent, Mr. Moultrie

10:02 meeting adjourned