

MEETING
GEORGETOWN PLANNING BOARD
PUBLIC SAFETY BUILDING
February 20, 2002
7:30 P.M.

Present: Peter Sarno, Chairman; Christopher Hopkins, Vice Chairman; Alex Evangelista; Jack Moultrie, Clerk; Dan Kostura; Tim Gerraughty, Associate Member; Kathleen Bradley Colwell, Town Planner

Meeting called to order at 7:30 p.m.

Board Business:

Green Neighborhoods – Presentation by Merrimack Valley Planning Commission

Alan Macintosh, Assistant Director of the Merrimack Valley Planning Commission and Tim Purinten, Mass Audubon Society presented a slide show to the Board on the concept of Open Space Residential Design as developed by the Green Neighborhoods Alliance. The Alliance is comprised of planners, developers, environmentalists, realtors, engineers, open spaces committees. There is a dwindling amount of open space in Essex County. This group looked at how to develop housing while preserving open space.

Open Space Residential Design bylaw is another tool for planners to use. Technical assistance is available from MVPC and Mass Audubon to provide technical assistance to town in drafting the bylaw for their community and to assist in having the bylaw passed at town meeting.

Mr. Sarno asked if the bylaw included an affordable component.

Mr. Macintosh stated that that could be included in the bylaw. Some communities have chosen to give the developer a density bonus if affordable units are provided.

He stated that the model has joint design stage where the develop and the Planning Board would work together to create a concept plan. The concept plan was then approved as part of a special permit. The definitive stage came after the special permit was issued on the concept. The development community supports this as the special permit which is generally more difficult to obtain is received up front.

Mr. Purinten stated that each town could craft the model bylaw to meet their own needs. There is a give and take in the special permit process as to the level of detail that is required at stage. It may also depend on the property as well.

Mr. Macintosh stated that 50% of the site would be set aside as open space but as open space that is actually serving a function and is not the leftover space. This bylaw differs from older cluster bylaws in that the open space is identified first.

Mr. Kostura asked if there would be issues with the Board of Health if smaller lots are authorized.

Mr. Macintosh stated that the lots would still be subject to title 5 and DEP storm water management requirements and that a shared system may be required in some circumstances.

Ms. Kathy Sachs, Board of Selectmen, stated that she thought that this was a good idea for the Town. It was a good thing to try new ideas.

Public Hearings:

Warrant Articles:

Mr. Moultrie read the legal notice to open the public hearing on the warrant articles.

Earth Transit:

Ms. Colwell stated that as the bylaw now includes the import as well as the removal of earth she suggested the name change to earth transit.

Mr. Sarno stated that this is a complicated bylaw and expressed concern that it will be difficult to explain at town meeting.

Mr. Moultrie stated that the board is simply redoing the original one, it is not a new concept.

Mr. Sarno asked who would be able to explain it town meeting? Who will answer the specific questions that will be asked? A handout with an explanation will need to be distributed in advance.

Ms. Sachs stated that if publication is a concern it could be distributed widely and publicized in the newspapers.

Mr. Moultrie stated that most of the saleable gravel is gone from the town, the bylaw is needed to cover FORM A lots, not substantial earth removal.

Mr. Sarno expressed concern again about being able to adequately explain the bylaw.

Ms. Sachs asked how this bylaw differs from the current bylaw.

Mr. Hopkins stated that the current bylaw covers any severance of soil. A permit with a public hearing is required to move a shovel full of dirt. It is not enforceable.

Mr. Sarno stated that there is no enforcement because the bylaw is too prohibitive. It does not make common sense.

Mr. Moultrie stated that an ANR lot should need a permit if the earth to be removed is beyond that needed for house construction. The truck loads of earth impact the roads.

Mr. Sarno stated that the advantage to the new bylaw is that it gives specific amount of soil to be removed.

Ms. Colwell outlined when a permit would be required. The Board discussed if a permit would be required in a subdivision. Is the language in the subdivision regulations sufficient?

Mr. Moultrie asked about the origin of dirt to be imported. Information should be required about where the dirt is coming from. Who would inspect the dirt? If it were under the Planning Board's control it would be the Planning Board inspector.

The Board reviewed the specific language of the draft bylaw. Paragraph 3(d) should be changed to import 100 cubic feet. Need to add in requirement to provide information of the point of origin of the material and determine that the fill is clean. Discussion of the definition of the term importation.

Tilly Evangelista, 10 Baldpate Road, asked if there were specific reference to the Earth Transit Bylaw in the subdivision reg. and the Special Permit reg. Mr. Evangelista suggested adding a sentence that earth transit be dealt with under the existing regulations. Mr. Moultrie stated that at Town Meeting it could be explained that earth transit is already dealt with.

Mr. Sarno asked about the appeal process. No appeal process is required to be stated in the bylaw.

Mr. Moultrie asked about the enforcement of the bylaw. It is currently and will continue to be enforced under the non-criminal disposition act.

Mr. Hopkins made a motion to support the warrant article as amended with final language to be reviewed at the next meeting. Mr. Kostura seconded the motion. All were in favor 5-0.

Mr. Gerraughty reminded the Board that final language was due on March 11, 2002.

Open Space Definition – ISH

Mr. Sarno stated that he is concerned that this is something to work on but that the definition is not ready for town meeting.

Mr. Evangelista read the definition of open space from the Conservation Commission Handbook.

Mr. Hopkins suggested increasing the required amount of open space and leave it simple. If more open space is required, more of the type of open space the Board is looking for will ultimately be preserved.

Mr. Kostura suggested increasing the required percentage of open space and not build upon areas used for detention ponds and unusable buffers/thin strips of land.

Mr. Gerraughty was concerned that increasing the percentage will just force the developer to spread everything out and will reduce the amount of quality open space.

Mr. Evangelista suggested replacing the definition of Open Space in the definition section of Zoning, not the ISH.

Ms. Colwell reminded the Board that the public hearing was advertised for ISH only.

Mr. Hopkins made a motion to pass over this article for this warrant and to work on it for the fall town meeting. Mr. Moultrie seconded the motion. The motion passed 3-2 with Mr. Hopkins, Mr. Moultrie and Mr. Sarno in favor and Mr. Kostura and Mr. Evangelista opposed.

Use Variance

Ms. Colwell discussed Use Variances in general.

Mr. Evangelista stated that the use variance allows four people on the ZBA to change zoning that would normally take a 2/3 vote at town meeting. He used the tower on Baldpate Hill as an example. He stated that a change in zoning should come before town meeting. Georgetown is one of the few towns in the state that allow use variances.

Ms. Evangelista, 10 Baldpate Road, stated that 90% of the variances granted are not legal and would be struck down in court.

Ms. Kathy Sachs, Selectmen, asked if the ZBA has been specifically notified of the proposed change.

Mr. Evangelista stated that they had not.

Mr. Moultrie asked for specific examples of where the zoning board has granted variances.

Mr. Kostura made a motion to send this article to the Selectmen for inclusion in the warrant. Mr. Evangelista seconded the motion. The motion passed unanimously 5-0.

Ms. Kathy Sachs, Selectmen, suggested that the ZBA be informed.

Ms. Colwell to send a copy of the proposed language to the ZBA.

Definition of an Acre

Mr. Evangelista stated that all future acres should be defined as 43,560 SF, not 40,000. Discussion that a true acre not a “builders” acre should be used. Discussion as to why this is necessary and what effect it will have on existing lots.

Mr. Hopkins made a motion to pass over this article for this town meeting. Mr. Moultrie seconded the motion. The motion passed with a 3-2 vote with Mr. Hopkins, Mr. Sarno, and Mr. Moultrie voting in favor and Mr. Kostura and Mr. Evangelista opposed.

Mr. Moultrie suggested sending this to town counsel for review on the grandfathering effect on existing lots.

Mr. Moultrie made a motion to reconsider the vote to pass over the warrant article. Mr. Evangelista seconded the motion. The motion passed 3-2 with Mr. Moultrie, Mr. Evangelista, and Mr. Kostura voting in favor and Mr. Sarno and Mr. Hopkins opposed.

Mr. Hopkins asked what the point was in changing the definition at this time. How many other towns use 40,000 SF?

Mr. Moultrie stated that he was not necessarily supporting the article but would support review by town counsel.

Mr. Kostura made a motion to submit this article to the Selectmen to be placed on the warrant. Mr. Evangelista seconded the motion. The motion passed 3-2 with Mr. Moultrie, Mr. Evangelista, and Mr. Kostura voting in favor and Mr. Sarno and Mr. Hopkins opposed.

Mr. Moultrie made a motion to send the article to town counsel for review on the effect on existing lots. Mr. Evangelista seconded the motion. The motion passed unanimously 5-0.

Mr. Hopkins made a motion to adjourn. Mr. Evangelista seconded the motion.

The meeting adjourned at 10:30 p.m.

Minutes transcribed by Kathleen Bradley Colwell, Town Planner.