

MEETING MINUTES
GEORGETOWN PLANNING BOARD
Wednesday, October 28, 2009
7:00 p.m.

Present: Mr. Harry LaCortiglia; Mrs. Matilda Evangelista; Mr. Chris Rich; Mr. Tim Howard; Mr. Nicholas Cracknell, Town Planner; Ms. Michele Kottcamp, Asst.

Absent: Mr. Hugh Carter (arrives at 8:10PM)

Board Business 7:00 p.m.

Mr. LaCortiglia- Harry opens the meeting at 7:10pm. Missing are Tim Howard and Hugh Carter.

Vouchers – \$5,042.30 Total

Mr. Rich motions to pay vouchers and Ms. Evangelista seconds.

All in favor? 3-0; Unam (Mr. Howard and Mr. Carter are absent)

Other Business –

Harris Way – Affordable Housing Component Documents

Peter Confalone and Nancy McCann, Attorney, are present for Harris Way.

Ms. McCann- We are here on a delivery mission. We were last here back in June with an Affordable Housing agreement. The Board accepted the agreement subject to Town Counsel review and agreement. Town Counsel made some changes but no changes to the terms. One change is that the town has a Trust to hold the mortgage and receive the money. I have tonight the Affordable Housing Component Agreement as drafted by me with Town Counsel's revisions and signed by Peter Confalone the applicant. The rest of the documentation is a mortgage document that grants the mortgage to the Trust for the remaining lots not sold. That mortgage has been signed by Mr. Confalone. The Subordination Agreement has been signed by Danvers Savings Bank. After tonight's meeting they will execute the agreement. Finally I have here the Release of Covenant for your signature together with the Affordable Housing Agreement. The agreement has to be signed by the Trust, Board of Selectmen and Planning Board. I will put the mortgage on record. The partial releases of mortgage I will prepare for each of the lots to be signed by the Trust. They will be held in escrow by the town so that closing is not held up.

Mr. Rich- Who should hold the mortgage?

Mr. LaCortiglia- The Town Clerk should probably hold the mortgage. Perhaps we should ask the trustees of the Trust who should hold the mortgage.

Mr. Rich- My recommendation is for the Trust to hold it. They should put them in a safe deposit box at the bank and note in their file where the originals are being held.

Ms. McCann- You need four signatures from the Planning Board.

Mr. LaCortiglia- We should take the documents and forward to Town Counsel for final review. Then send to the Trust and then to the Board of Selectmen. The Planning Board will receive the signed documents last for signatures.

Mr. Rich- After Town Counsel's review, we need a letter from the Town Planner to accompany the documents stating that the Planning Board has accepted and is ready to sign. [To Mr. Cracknell] Ask Town Counsel to return it in 48 hours and the attorney for Mr. Confalone needs to record it at the end. The documents are as follows:

- Mortgage Agreement
- Release of Covenant
- Affordable Housing Agreement
- Subordination Agreement

Mr. Rich- The Planning office is to send all documents to Town Counsel for them to sign and return in 48hrs. Mr. Cracknell is to send original documents to all three Boards with a letter stating Planning Board's approval. Mr. Cracknell is to request that the boards approve and sign at their next meeting and return immediately to the Planning Board. The Planning Board is to be the final signature for execution of the agreement.

Ms. Evangelista- Makes motion as stated above to send to Town Counsel for review. After review, they are to be forwarded to the Trust and Board of Selectmen for signature and return to the Planning Board to be signed and executed.

Mr. Rich- It will be recorded once Planning Board provides Ms. McCann with the executed documents. We will then receive payment. Once recorded, the Planning board will then hand over the check to the Town Treasurer. The check is to be made payable to the Affordable Housing Trust Fund, Town of Georgetown.

Ms. McCann- When everything is all signed, I will bring a check , the mortgage, and the subordination agreement. I will expect from the town an Affordable Housing Agreement and the Release of Covenant. Mr. Cracknell is then to turn in the check to Town Clerk.

Mr. Rich- Second

All in favor? 3-0; Unam (1 abstention – Tim Howard, Hugh Carter absent)

**Correspondence –
11 Martel Way – request for extension to minor modification
(Mr. Tim Howard arrives to meeting)**

Mr. Cracknell- Mr. Constantine Ricci, applicant, got sight plan approval in 2005 and an Order of Conditions was given to him by the Con Com. In 2007 he was given sight plan approval and it lapsed in August 2008. I received correspondence that the applicant is requesting an extension of a time period yet to be determined. The construction is expected to start this year. I do think it is possible for the Board to grant a modification extension to a site plan approval. He has to get it started within the year or he will have to go back to ConCom for an extension.

Mr. Ricci- I would like to have my building permit by March 31, 2010.

Mr. Rich- When this was before the Planning Board, was there any opposition?

Mr. Howard- No, I was on the Board then.

Mr. Rich- At some point in time when a permit lapses, you have to start over. Many things can change. As a Board, that is something we need to discuss as a regulation in the future.

Mr. Cracknell- The bylaw doesn't provide any provision for an extension of a site plan review. Our bylaw states it lapses after a year. The phrase "good cause" does come into play here. We need to clear up the language in the future.

Mr. Rich- I have no problem with the request.

Mr. Howard- Under the "Special Conditions," the 12" diameter and the greater existing trees clause located more than 5' beyond the new retaining walls - I want that to be very carefully monitored before, during and after. There was some tree cutting going on prior to your application which makes it confusing. Trees of significance were to me marked. I think your request is reasonable.

Mr. Ricci- I have made no modifications to the plan.

Ms. Evangelista- Have you been communicating with the Water Dept. since their approval goes back to 2007 and lists special conditions?

Mr. Ricci- They have to sign off on the building permit. If they have any changes or requests, I will make them.

Mr. Rich-Motion to extend the site plan approval date to March 31, 2010 at which time construction should commence any further request for extension of time and this Board should be given at least 30 days notice prior to March 31, 2010.

Mr. Howard- Second

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

Ms. Evangelista- I would like to see something happen in December.

Stone Row Update-Amendment to Homeowner's Covenant & Draft Conservation Restriction

Mr. Tim Ruh, applicant - We were provided a draft conservation restriction. I would like to pass that over tonight as it is not ready. Under the Certificate of Vote, the stone bounds were waived in Sec. F-2 except in section 6 under "Prior to Certificate of Occupancy," the developer is to put in granite markers at the Conservation boundaries. My question – Dave Varga, inspection engineer, is requesting stone monuments at the corners of the lot lines in his inspection review. Dave requested in the preconference checklist stone bounds at the lot lines along the common drive. I would like to just be able to go by what Dave Varga is requesting. The stone bounds are being used to mark the property line and will eventually have granite markers.

Mr. Rich- Motion to go with Dave Varga's recommendation as presented to add the stone bounds along the common drive as stated in Dave Varga's memo (punchlist dated Sept 23, 2009; pg. 6 of 7. Item 33-b.) The developer is to install the markers as recommended by Dave Varga.

Ms. Evangelista- Second

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

Mr. Ruh- Last item is the Amendment to the Protective Covenants. You have a letter written by the neighborhood to Mr. Carter dated Sept. 26, 2009 and a First Amendment to the Protective Covenant. I am asking for approval of this amendment to allow for up to 4 horses and one horse trailer on Lot 2, the largest lot of 19 acres.

Mr. Howard- Was there anyone not in favor of this?

Mr. Ruh- I did not originally get support of the Dimatto family. The stable would be 1,000 ft. from his property which I showed him. He then verbally gave me his approval. The Malstead family objected because they have a concern for the noise that might be created from I-95. She is the only one that did not sign. She is not a direct abutter. The direct abutters all supported this change.

Mr. LaCortiglia- Horse stable is to be a minimum of 600 ft from common drive. Where does that leave the owner to put it?

Mr. Ruh- Shows location of house and stable on plan for the Board. I will be going to the Conservation Board to approve the language of the Conservation Restriction. It is private land.

Ms. Evangelista – Questions the Conservation Restriction.

Mr. Cracknell- If someone wanted to put the stable within the 100ft buffer, but outside the Conservation Restriction, they would have to go before the ConCom to deal with that. However, it is not likely they will do that because they have so many options.

Mr. LaCortiglia- Did the Conservation Commission agree to hold the conservation restriction?

Mr. Ruh- No. They do not hold any conservation restrictions.

Mr. LaCortiglia- Because the town is the owner of the land, they can not also hold the Conservation Restriction. We use Essex County Greenbelt for holding the C.R.

Mr. Cracknell- Let's defer this discussion for another time. It would be better for the town to hold it due to the cost of \$15,000 for the Essex County Greenbelt to hold it.

Mr. Howard- Motion to accept Tim Ruh's request to amend the Protective Covenants and to accept the amendment for "up to 4 horses" as submitted and add the words "private horse stable only" as stated.

Mr. Rich- Second

Discussion?

Mr. Rich- Do we have definition for private horse stable?

Mr. Cracknell- Yes and reads definition from bylaw that states it is not for commercial uses.

Mr. Ruh- [To Ms. Evangelista] The actual covenant prohibits running a business on any of the properties on Stone Row Lane extension.

All in favor? 4-0; Unam. (Mr. Carter not present)

Whispering Pine Update – Street Acceptance (Mr. Tom O'Connell and his attorney, Jill McMann are present)

Mr. Cracknell- We were hoping to get the Form J signed which is a pre-requisite to Town Meeting for street acceptance.. What arrived yesterday from Dave Varga, engineer, was

a release and a requisition. The applicant is here to give an update on the Deeds fro the right of way.

{Mr. Hugh Carter arrives at 8:10PM}

{The Form J is passed to Mr. Tom O’Connell of Whispering Pines to sign. Dave Varga has already approved and signed the form}

Motion to sign Form J and release the amount of \$77,421.16 from the tripartite agreement which leaves a balance of \$14, 320.

Mr. Howard- Second

All in favor? 5-0; Unam

Mr. Rich- [To Atty. Mann] If you could do a blanket waiver and have each property owner sign off on it describing each parcel by their book and page, each portion of the agreement then would constitute it’s own document.

Ms. Jill Mann- I have done this before and it will clearly state that an error was made and it was never the intent to have the road private. This pertains to 15 Deeds/Lots and most lot owners will immediately sign.

Ms. Evangelista- What process could prevent this from happening?

Mr. Cracknell- I spoke with town counsel today. The summary I got was that developers and the town should be going after easements. Every one gets a non-exclusive use to pass but the developer retains an easement interest and the right to transfer it to the town. The only other way is by eminent domain. The easement is recommended as the better way to handle it.

Ms. Jill Mann- I do not believe we will have a problem getting approval.

Mr. Cracknell- I will forward to Ms. Mann what I received from Town Counsel. Town Counsel did not have a full proof mechanism to protect against this. It is up to the developer.

Mr. LaCortiglia- Do we have a proposed timeline?

Ms. Jill Mann, attorney - A couple months it should take to get the deeds done.

Little’s Hill Update- Craig Spear, applicant

Mr. Craig Spear- I have several discussion items:

- 1) Progress Report – We are paving tomorrow Londonderry Lane. Curbing is in. Most of the grass and loam is in. Driveways have been trimmed. We met with Dave Varga yesterday and will again tomorrow.
- 2) Minor Modification of Special Permit request- It originally called for two open space signs to be located at Londonderry Lane. However, the Definitive Plan shows one on Londonderry and one on Little's Hill Lane. I'm requesting the paperwork to be corrected.

Mr. LaCortiglia- Motion to make a minor modification to Section 6 of the Special Permit dated February 17, 1998 to reflect that the signs should be located on Londonderry Lane and Little's Hill Lane and description and construction of the signs need to be consistent with specifications issued by Con Com.

Tim Howard - Second

All in favor? 4-0; 1 abstention (Ms. Evangelista-abutter)

3) Sign Installation- I have a request from an abutter closest to the sign that asked that it be moved slightly and put at end of 10' sidewalk closest to the woods.

4) Control Points of bounds- The bounds were supposed to be in but I could not find them. I have asked Hayes Engineering to locate them. There were 5 missing on Baldpate and they are being put in next week. Lot 37 on Londonderry is missing bounds and will put in after construction. The other bounds are at the end of Little's Hill Lane where there is house construction.

Mr. LaCortiglia- I don't have a problem moving the sign away from the house and a maximum of 11' from the road on Londonderry.

Mr. Spear- The Board agreed to relocate the sidewalk about 3 years ago and the access to the open space.

Mr. LaCortiglia states that he is not familiar with making those changes.

Mr. Cracknell- Makes a recommendation to the Board of sign placement on the plan by marking it with an "X."

Mr. Spear- Having the sign near the entrance to the open space is my recommendation. Having it near the tree line better draws you into the path.

Mr. LaCortiglia- The sign should be relatively close to the street. Having the bounds and the signs installed correctly is so important and done before the lots are sold. I like 10' from the edge of the curb and as close to the sidewalk as possible.

{All Board members agree and Nick Cracknell requests that Mr. Spear amend the plan}

Mr. LaCortiglia- Motion to make an amendment to the plan to relocate the conservation sign on Londonderry Lane to be placed no more than 10' from the edge of curb and as far as possible from the house and on the open space access.

Mr. Rich- Second

All in favor? 4-0; 1 abstention (Ms. Evangelista-abutter)

Mr. Cracknell- Makes request about the relocation of other sign in question.

Mr. Rich- I would like to see the sign put in but it can be easily moved on Little's Hill Lane. I think no more than 10' back like the other sign would be sufficient and consistent with the other sign.

Mr. Rich - Motion as above to install the second conservation sign on Little's Hill Lane in a manner consistent with the sign on Londonderry Lane which is no more than 10' back from the curb

Mr. Howard- Second

All in favor? 4-0; Unam (1 abstention - Ms. Evangelista-abutter)

Mr. Spear- My subdivision permit expires on 12/31/09.

Mr. Cracknell- I would grant the extension to June 30, 2010.

Mr. LaCortiglia- Motion to extend the subdivision permit until June 30, 2010 for Little's Hill Subdivision.

Mr. Rich- Second

All in favor? 4-0; Unam (1 abstention – Ms. Evangelista)

Mr. Spear- I will be coming to talk with you in the Spring because I can't have all the houses done.

Mr.LaCortiglia- Asks if the roads will be finished by next spring.

Mr. Spears answers that it may not happen by spring.

Mr. Spear- I would also like to get a status of the Affordable Housing Fund. Since then we have fulfilled all our obligations.

Mr. Cracknell- There is approximately \$80,000 in the account. It is the charge of the Affordable Housing Trust to decide how to expend those funds. Nick requests Craig Spear to come meet with him at another time.

Blueberry Lane (Fred Thompson and Bill Ford are present)

Mr. Fred Thompson- The final coat of paving was done 6 weeks ago. We are working on the as built plans now.

Mr. Cracknell- I requested a new set of as-builts since the previous set were done in error. Dave received a revised set today. He no longer has an issue with the drainage system that was originally brought up. Dave Varga is all set. He just needs the Blueberry Lane Engineer to complete the as built plans for the detention basin on Lot 1. This issue is still on the warrant and moving forward at Town Meeting. We have the deed, the easement for drainage and the street acceptance plan. I spoke with Town Counsel and Jon Eichman does have some questions. The board needs to just support this for Town meeting. I want these guys to know that Peter Durkee and the town will support their infrastructure.

Mr. LaCortiglia- Who owns the last three undeveloped lots?

Mr. Fred Thompson- In July 2007 it was certified to be designed as specified. We are asking to release with our current Form J all but Lot 2 to be held as security.

Mr. Fred Thompson- Our Order of Conditions encompasses the whole project. We have one Order of Conditions.

Mr. Rich- Is there a mortgage on that Lot 2?

Mr. Fred Thompson- Yes. In the Covenant that mortgagee subordinates to that recorded covenant.

Mr. Rich- That would put the town in second position. We need to stand in a position that the town will recoup enough to preserve what should have been done.

Mr. Fred Thompson - The Form G is on record. It's subordinate to the Form G.

Mr. LaCortiglia- Is the drainage easement on what Lot?

Mr. Thompson- There is a 15' foot easement on either side of Lot 1 and Lot 3. We are here to get your approval to advance this street and easement to Town Meeting for street acceptance.

Mr. Rich- I motion that subject to the petitioners meeting the full recommendations raised by Dave Varga's communication that this Board vote to recommend at town meeting the acceptance of Blueberry Lane as a public way in Georgetown.

Mr. Rich makes an amendment to the above motion- Further, the petitioner shall obtain the Form J sign off by the conservation agent as required by the Planning Board. The Planning Board approval is strictly contingent upon the two issues stated above.

Mr. LaCortiglia- Second

Discussion?

Mr. LaCortiglia- We still have a covenant on Lot 2. What about the other lots?

Mr. Thompson- There are two covenants. One is the security/surety. The others are restrictive covenants towards the construction that occurs. We still have private restrictive covenants.

All in favor? 5-0; Unam

Mr. Cracknell- The Form J will release all lots except Lot 2. Dave has signed the Form J as submitted which was not for sign off of the street. Dave said today he is still all set with this project. However, one more condition to be added to the Vote – it should be in full accordance with Dave Varga's recommendation because of the outstanding drainage issue. ConCom has also not yet signed the Form J. To cover everyone you should tack on the condition that Dave's full recommendations must be met and a signature of approval must be included from the ConCom agent.

Mr. Rich makes motion as stated above from Mr. Cracknell.

Mr. LaCortiglia- Second

All in favor? 5-0, Unam

{Mr. Rich leaves meeting at break }

Cont. Public Hearing(s): Pondview Estates

Mr. LaCortiglia- Motion to open the continued Public Hearing for Pondview Estates. Rick Salvo, engineer for applicant is present with Scott Green, applicant.

Mr. Howard- Second

All in favor? 4-0; Unam (Mr. Rich absent)

Mr. Cracknell- They are here to discuss the drainage issues.

Larry Graham- We have been trying to work through the technical details of the drainage issues. There are some issues- the parking area for conservation going back to the easement for the Fish and Game is shown as 20' wide by 20' long. I recommend that the Board have this paved. Another detail is the construction material for the cul-de-sac at Catch basin 5. I am suggesting the material be crushed stone so it is as maintenance free as you can get there. Rick will present a planting plan for that on the sloped embankment.

Rick Salvo, engineer- We need to come up with two planting plans - one for the drainage area and one for the street. Speaking with Nick, there is a committee that will provide a list of species and those will be added to the plan.

Mr. Cracknell- Tells the applicant that he will forward a list of tree species to the applicant.

Mr. LaCortiglia- Suggests a planting change to the applicant at the back of the development to the Fish and Wildlife area.

Mr. Cracknell- It doesn't seem to be a big deal to provide a spot to walk by putting placards on the trees on both sides of the right of way to direct people and mark the trail.

Mr. Graham- The Board may not be aware of the recent change to shift the off-site curb and sidewalk improvement from the westerly side to the easterly side of the road. Those plans have not been developed because they don't have the surveys yet. This will put the sidewalk on the correct side of the road. The sidewalk will be constructed to the Mill Street intersection. I think this is a better overall solution to address drainage and getting the sidewalk on the correct side. The sidewalk will be done on the developed side of the road instead and this was favorable to the Highway Surveyor. I think we are close for Nick to start preparing a Certificate of Vote for next meeting.

Mr. LaCortiglia- Reads all the waivers currently listed on the plan.

Mr. Cracknell- Questions the curbing listed on the waiver.

Mr. Graham- I recommend going with the vertical granite curbing. If rejected at Con Com, they must come back to the Planning board for a modification in the detail.

Mr. Rick Salvo- It is only involving the last 150' where it can transition. We will delineate the area that is in the ConCom jurisdiction. We will propose vertical on the outside and slope granite curbing on the inside. A light is being relocated and a note will be added to the waiver.

Mr. Cracknell- Makes recommendation regarding the no cut zone area – the problem is they don't adequately protect the trees that are on the edge of the no cut zone. The trees

need to be flagged that they are in a “no disturb zone” so they are protected when trucks start moving the earth.

Mr. Graham- Agrees with Nick and requests that it be included in the Certificate of Vote.

Mr. LaCortiglia- Motion to have the Town Planner draft a Certificate of Vote for the November meeting and continue the Public Hearing to November 17th, 2009.

Mr. Howard- Second

All in favor? 4-0, Unam (Mr. Rich absent)

Chaplin Hills Update – HOA/Punch List Discussion

Mr. Cracknell- Gives summary. I received late today a draft settlement agreement from Paul Gardner. The modifications were regarding lights and tree changes. Tomorrow I will send the agreement to Dave Varga and our town counsel once we have the final executed document from Bond Safeguard. The bond company is currently bidding out the work to six contractors.

Mr. LaCortiglia- Motion to authorize the chair to sign the settlement agreement for Chaplin Hills once town counsel approves the final executed document.

Mr. Howard- Second

All in favor 4-0; Unam (Mr. Rich absent)

Parker River Landing Update – Mitigation Measures

Mr. Cracknell- I finally received a message from Steve Toole with National Grid who had some questions. Because we are requiring Pulte to make “remedial changes” they feel there may a drainage issue. I let Steve know that I forwarded his email questions to Larry Graham for comment. My understanding is this is not a drainage or engineering problem. To me this is an issue between two private companies and we (Town of Georgetown) are caught in the middle. Mr. Cracknell refers to a letter received by National Grid granting a permit to install the blocks and indicated to Steve that National Grid never expressed in writing any drainage concern until now.

Mr. Larry Graham, Town Engineer- Shows a drainage report done in 2002 to the board. (Report is on file in the planning office)

In summary this report says that the proposed development did not create any more drainage in volume in peak rate runoff to that design point. The as built plan shows the contours around the detention basin. All of the elevations checked out and are built according to plan. There were four 2” orifices in the bottom of the basin not shown on the plan and one 4” orifice in the front also not called for in the plan. I recommend they be closed. My recommendation is based on what I saw in the basin and not on the

calculations. What's important is that post discharge is less than what existed there before.

Ms. Evangelista- Every time we discussed this with Mark at Pulte he implied that the ground was very saturated by the Sand and Gravel Co. that was previously there.

Mr. Graham- I think in the spring, there is a very high water table and it is preventing the overflow. They did do a soils test in that area.

Mr. Cracknell- I am waiting to hear back from Mark at Pulte.

Minutes – August 26, 2009

Mr. LaCortiglia- Motion to accept with changes.

Ms. Evangelista- Second

All in favor? 4-0; Unam (Mr. Rich absent)

Mr. LaCortiglia- Motion to adjourn the meeting at 10:57pm.

Mr. Howard- Second

All in favor? 4-0; Unam (Mr. Rich absent)