

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
December 8, 2004

Present: Bill Hudnut, Mayor; Mier Wolf, Vice Mayor; Rob Enelow, Treasurer; Scott Orbach, Secretary; Linna Barnes, Community Liaison; Todd Hoffman, Town Manger; Marty Hutt, Town Attorney; and Andi Silverstone, Town Clerk. Residents and guests: M. Armstrong, 7605 Meadow Lane; Tom and Gretchen Bonner, 6918 Maple Avenue; Ann Marie and Don Duggan, 4306 Rosemary Street; Rich and Pat Fabrizio, 4232 Leland Street; Carlos Fernandes, 6803 East Avenue; Mark Giarraputo; John Gross, 7307 Oakridge Avenue; Patrick Keating, 4229 Leland Street; Dawn and Noel Kesterman, 7303 Oakridge Avenue; Bennett Lavenstein, 4210 Rosemary Street; Jules Lichtenstein, 4209 Rosemary Street; Peter Mannon, 3921 Aspen Street; Julia Miller, 4212 Oakridge Lane; Eric Murtagh, 4117 Leland Street; Joe Rubin, 4409 Ridge Street; David Schek, 7105 44th Street; and Cornelius Wood, 4229 Leland Street.

I. General Business

A. Call to order – 7:30 p.m.

Mayor Bill Hudnut called the meeting to order at 7:35p.m.

B. Pledge Allegiance to the Flag

The Mayor led those in attendance in the pledge of allegiance to the flag.

C. Comments, questions, suggestions from residents

Don Duggan, 4306 Rosemary Street, had a comment about the proposed ordinance concerning side yard setback requirements and shared driveways. The Mayor explained to Mr. Duggan that a public hearing on the ordinance would be scheduled after the Town Council has introduced it. At that time, the Council would be asking for comments from residents on the ordinance.

D. Approval of Minutes of November Council Meeting

Councilmember Wolf made a motion to approve the minutes of the November Council meeting. Councilmember Barnes seconded the motion, and it passed unanimously.

E. Acceptance of Financial Report for November

Council Treasurer Rob Enelow presented the financial report for November. He reported that income tax revenues are exceeding expectations. Treasurer Enelow

made a motion to accept the financial report for November. Councilmember Wolf seconded the motion, and it passed unanimously.

II. Action

A. Variance, 3921 Aspen Street, Front Yard Fence

Peter and Roslyn Mannon, 3921 Aspen Street, applied for a variance from Town building regulations to reconstruct and extend a front yard fence. The Town code prohibits fences from extending into the front yard, that is beyond the house line.

Town Manager Todd Hoffman framed the issues for the Council. The applicants described the hardships to support their variance application. Included among the hardships are that the property is a corner lot with two front yards and has no functional rear or east side yard. The property has a slope that further restricts the applicants' usable yard. Much of the proposed new fence will actually replace an existing fence that is deteriorated.

Discussion followed about where any plantings would be installed to buffer the fence. After discussion, Councilmember Wolf made a motion to grant the variance request, including the installation of a botanical buffer to be approved by the Town Manager. Councilmember Enelow seconded the motion. The motion passed with Mayor Hudnut and Councilmembers Wolf and Enelow voting in favor of the motion, Councilmember Orbach abstaining, and Councilmember Barnes opposing. At a later point, Councilmember Orbach made a motion for reconsideration of the variance vote with the same conditions. Councilmember Enelow seconded the motion, and it passed unanimously. Councilmember Enelow made a motion to grant the variance. Councilmember Wolf seconded the motion, and it passed unanimously.

B. Introduction of an Ordinance Amending Article I, Section 4-4 (b) (2) of Chapter 4 of the Town of Chevy Chase Town Code, Entitled "Building location requirements; prohibitions" To Set More Restrictive Side Yard Setback Requirements for New Residential Construction

Councilmember Barnes, Council liaison to the Construction Committee, explained the provisions of an ordinance amending the Town Code to set more restrictive side yard setback requirements for new residential construction in the Town. The proposed change to the code was recommended by the Construction Committee to help control the effects of residential redevelopment in Town, especially with respect to the massing and scale of new homes. The new ordinance will make uniform all side yard setbacks for new construction in the Town by requiring a minimum of 8 feet on one side and a minimum sum of 18 feet for both side yards. For additions to existing houses, one side yard setback may be the same as the established building line setback of the existing house; however, the sum of both side yards for the addition must equal 18 feet. The only projection that would be allowed closer than five feet to the property line would be eaves on additions that follow the eaves of the existing house. It was the sense of the Construction Committee that the ordinance would create more uniformity throughout the Town.

Discussion followed about the process of introducing the ordinance and scheduling a public hearing. The Council considered when the ordinance would be effective and how to apply the new ordinance to any permits that are pending during the process. It was pointed out that the ordinance is being considered for introduction. Public comment would not be heard until the public hearing.

Councilmember Barnes made a motion to introduce the ordinance that amends side yard setback requirements. Councilmember Orbach seconded the motion, and it passed unanimously. Councilmember Barnes pointed out that the committee is still considering amending rear yard setbacks, but has no plans to recommend changes to front yard setbacks.

III. Discussion

A. Subdivision Application for 4229 Leland Street

Town Attorney Marty Hutt briefed the Council on the preliminary plan of proposed subdivision of 4229 Leland Street. The proposed subdivision plan would create two residential lots from an existing single parcel of land. The Maryland-National Park and Planning Commission (M-NPPC) is reviewing the proposed plan. The Town attorney explained that the criteria for a subdivision are that the proposed lots meet minimum zoning development standards. The Town is considered as an abutting and confronting neighbor to the property, and therefore, can support, oppose or remain neutral on the application for subdivision.

Discussion followed about the effect of subdivisions, in general and with 4229 Leland Street, on the Town's tree canopy. Julia Miller, 4212 Oakridge Lane, expressed concerns about the loss of trees in cases where homes are torn down and larger ones are built on the property.

Bennett Lavenstein, 4210 Rosemary Street, expressed concerns about the preservation of the character of the Town. Mr. Lavenstein and Jules Lichtenstein, 4209 Rosemary Street, described a request for a resubdivision on Rosemary Street many years ago that was not approved due to neighbor opposition.

Gretchen Bonner, 6918 Maple Avenue, expressed concerns about the destruction of trees when a new house is built and asked for clarification of the provisions of the Tree Ordinance. Julia Miller, 4212 Oakridge Lane, spoke, again, about the need to protect the tree canopy. She wanted to know how many people chose the option of contributing to the tree replacement fund rather than replacing a tree.

There was discussion about the less restrictive criteria for a subdivision when compared to a resubdivision. It was the sense of the Council to invite a representative from Park and Planning to a Council meeting to explain subdivisions and resubdivisions to residents.

It was the sense of the Council to develop a letter to the Planning Board about the Town's interest in reforestation and tree save concerns regarding resubdivision and subdivision applications, including the concerns of the Town about the loss of tree canopy.

Town resident Joe Rubin, 4409 Ridge Street, suggested making a Town building permit conditional upon adherence to the Tree Ordinance, thereby controlling preservation through the building permit process rather than through the resubdivision/subdivision process.

Patrick Keating, the prospective purchaser/developer of the property at 4229 Leland Street, explained that he had worked closely with the Town arborist on properties he had developed in Town and that he appreciates that trees add value to properties.

Discussion followed about what position the Town would take regarding the application for subdivision of the property at 4229 Leland Street. Councilmember Enelow made a motion to support the application to Park and Planning for the subdivision of 4229 Leland Street with the condition that the developer submit a tree conservation development plan. Councilmember Wolf seconded the motion. Discussion followed about the motion. Councilmember Barnes expressed hesitation about the Town supporting any resubdivision or subdivision and said the Town should remain neutral unless there was a reason to oppose it. Councilmember Barnes made a substitute motion that the Town remain neutral in this case but express concerns about the loss of tree canopy. Councilmember Wolf seconded Councilmember Barnes' motion. Councilmember Enelow made a motion to withdraw his original motion. Councilmember Wolf seconded Councilmember Enelow's motion to withdraw. Discussion followed. Councilmember Orbach expressed concerns that if the Town remained neutral, it would ruin chances of having any input with the Planning Board. Councilmember Barnes pointed out that the Planning Board will not change their process, based on any input from the Town, and that since this subdivision meets all of the criteria, it will be approved. Councilmember Wolf expressed support for sending a letter to Park and Planning about subdivisions and the Town's concerns about tree loss.

Councilmember Wolf made a substitute motion that the Council contact Park and Planning by letter, indicating that the Town is aware of the existing subdivision request but is concerned about preserving trees for this subdivision and all other subdivisions and resubdivisions that come before Park and Planning. Councilmember Barnes seconded the motion. Councilmember Barnes withdrew her substitute motion. Councilmember Wolf withdrew his second to her motion. Councilmember Wolf's substitute motion passed with Councilmembers Wolf, Barnes, and Enelow in support and Councilmembers Hudnut and Orbach opposed.

B. Traffic Committee Prioritized Recommendations

Councilmember Enelow, liaison to the Traffic Committee, reported on recommendations approved by members of the Traffic Committee. There were three major geographic areas of concern to the committee: the Leland Center parking lot, the Leland Street/Oakridge Avenue intersection, and the Leland Street/Oak Lane intersection. Although the Town doesn't own the parking lot at the Leland Center, the committee recommends the installation of large speed humps to slow down cut-through traffic. Park and Planning would have to agree to the installation. The Council will make a decision at a future date on this recommendation.

The committee recommended that a study be done of the crosswalks at Leland and Oakridge and Leland and Maple to determine the best way to create pedestrian

crossings and to find out the costs of various options. The committee also recommended the permanent closure of southbound Leland Street at Oak Lane in order to create safer pedestrian and traffic conditions at that intersection, which is heavily used by children as a bus stop. If closure is not feasible, the committee recommends installation of a partial diverter to prevent southbound Leland Street traffic from traveling through that intersection. Traffic Committee member Vicky Taplin will explore this option with residents affected by the plan. A public hearing would be required.

It was the sense of the Council to get a study done for the Leland Street /Oakridge Avenue intersection. The Council directed the Town Manager and Town Attorney to develop a contract for traffic engineering services and use the contractor to study the Leland/Oakridge Avenue intersection.

The committee also unanimously voted to recommend that two additional speed humps be installed in the 3900 block of Leland Street, although the traffic counts do not justify the additional speed humps. A public hearing would be required.

More generally, the committee considered recommending reducing the speed limit Town-wide to 20 m.p.h. and making all crosswalks more visible. It was the sense of the Council to possibly consider the recommendation to lower the speed limit in the next few months. A public hearing would not be required.

IV. Reports

A. Mayor: Mayor Hudnut briefed Councilmembers on the status of the Li property on Meadow Lane. He also gave a brief report on the National League of Cities (NLC) convention and urged all Councilmembers to try to attend the NLC meeting that is scheduled in March and will be held in Washington, DC.

B. Town Manager: Town Manager Todd Hoffman reported that Code Enforcement Manager Larry Plummer will have citation authority and will be able to issue civil penalties after he has been certified, if the Council supports it. Mr. Plummer has been effective in getting compliance. It was the sense of the Council that Mr. Plummer should have the authority, which he may or may not use.

The Town Manager reported that the sublease agreement with Montgomery County had been ratified and signed.

C. Committee Reports

1. Construction Committee: Councilmember Barnes, liaison to the Construction Committee, asked Councilmembers to agree to change the format of pre-construction meetings so that residents' expectations of the purpose of the meetings would be more accurate. The meetings would be more informal, with Code Enforcement Officer Larry Plummer acting as a resource rather than leading the meeting. Either Councilmember Wolf or Councilmember Barnes would attend every pre-construction meeting. If neither were available, each would ask another Councilmember to attend.

2. Tree Committee: Councilmember Orbach, liaison to the Tree Committee, reported on a meeting that was held to revise the Tree Ordinance. There

were no recommendations to change the fines, but there were some adjustments made to some of the provisions. The changes included notification to the Town and posting of an intention to remove a tree. There is consideration of adopting a policy about re-planting a tree in the Town right-of-way.

The proposed revised Tree Ordinance will be introduced at the February or March Council meeting.

There being no further business, the meeting was adjourned at 10:50 p.m.

Respectfully submitted,

Scott Orbach
Secretary

Transcribed by Andi Silverstone