

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
November 9, 2005

Present: Bill Hudnut, Mayor; Linna Barnes, Vice Mayor; Scott Orbach, Secretary, Rob Enelow, Treasurer; Mier Wolf, Community Liaison (in at 7:50 p.m.); Marty Hutt, Town Attorney; and Andi Silverstone, Town Clerk. Residents and guests: Beth Barnett, 4315 Elm Street; Don MacGlashan, 4114 Woodbine Street; Erika Gordon, 7001 Hillcrest Place; Barry Hager, 4300 Willow Lane; Lees Hartman, 7214 Ridgewood Avenue; Frank Heselton, 4309 Bradley Lane; Sue Hiatt, 7410 Ridgewood Avenue; Lance Hoffman, 7104 44th Street; Peter Mannon, 3921 Aspen Street; Carol and Alexander Miller, 4121 Aspen Street; Rose and William Miller, 7000 Valley Place; Ketch Ryan, 6904 Oakridge Avenue; Kathy Strom, 7212 Ridgewood Avenue; and Chris Wright, 7101 Ridgewood Avenue.

Absent: Todd Hoffman, Town Manager

I. General Business

A. Call to order – 7:30 p.m.

Mayor Hudnut called the meeting to order at 7:30 p.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

There were no residents in attendance who wanted to speak on any non-agenda items.

D. Approval of Minutes of November 1, 2005 Executive Session

Councilmember Barnes made a motion to approve the minutes of the Executive Session of November 1, 2005. Councilmember Enelow seconded the motion, and it passed unanimously.

E. Acceptance of Financial Report for October

Councilmember Orbach made a motion to accept the financial report for October. Councilmember Barnes seconded the motion, and it passed unanimously.

F. Moratorium Implementation Steering Committee Report – Barry Hager/Jane Lawton

Barry Hager, co-chair of the Steering Committee, gave an update on the progress being made by the committees working on issues related to the moratorium. He pointed out that there is a development proposal on setbacks and a new tree ordinance. The sub-committees and Steering Committee met last week to review the setback proposal and tree ordinance. The members of the Steering Committee were in support of both subcommittee proposals.

II. Public Hearings

Note: Moratorium Waiver requests were transcribed by a court reporter. Copies of the transcripts are available in the Town office.

A. Moratorium Waiver Request, 4121 Aspen Street (Miller)

Rusty Miller, 4121 Aspen Street, came before the Council to request a waiver from the provisions of the moratorium, as he would like to construct an addition that will exceed the 500 square foot limit by 110 square feet. The plans for his addition were prepared prior to the moratorium. The addition will take the place of an existing deck. Mr. Miller explained that the purpose of the addition is to ensure that the house will support his family's needs into the future, which included a single-floor living capability. There will be no change to the original property as viewed from the street. There will be no removal of trees or shrubs.

Mayor Hudnut asked Mr. Miller why he couldn't have waited until after the moratorium is over on February 10, 2006. Mr. Miller explained that his waiver request was supposed to be on the agenda for the October Council meeting, but it got postponed. In addition he still needs to get his Montgomery County permit. One e-mail in support of the waiver application was received in the Town office.

Councilmember Barnes made a motion to grant the waiver request to the property at 4121 Aspen Street. Councilmember Wolf seconded the motion. Councilmember Orbach proposed an amendment to the motion that would make approval of the waiver contingent upon a permit being issued by Montgomery County. Discussion followed, and it was the sense of the Council that the Town requires residents to have a County permit, anyway, before beginning any construction. Councilmember Orbach withdrew his amendment. The vote was called and all Councilmembers were in favor except Mayor Hudnut. Mayor Hudnut objected to the process where approval is being granted by the Town before a County permit is issued and because the moratorium was supposed to give the Town some time to consider what to do about development in the Town.

B. Moratorium Waiver Request, 4309 Bradley Lane (Heselton)

Frank Heselton, 4309 Bradley Lane, came before the Council to request a waiver from the provisions of the moratorium, as he would like to construct a two-story addition that will exceed the 500 square foot limit by 625 square feet. He described his

home, which is an original 1928 house and retains most of the original features. The total lot coverage of the new project will be 26%.

Mr. Heselton described the hardships that included the configuration of the lot, and his wife's chronic medical condition that limits her ability to walk and her stamina. Mr. Heselton reported that they need additional space for his home office and closer proximity to their garage. Mr. Heselton indicated that his driveway will be a permeable surface of "treated turf."

Councilmember Barnes pointed out that Mr. Heselton's project would be able to go forward as presented under the proposed new setbacks ordinance. Councilmember Orbach acknowledged that the lot is difficult to build on because it is long and narrow. Councilmember Enelow noted that what Mr. Heselton proposed for his property was a more difficult process than tearing down the house and building a new one. When asked if he had obtained his County permit, Mr. Heselton explained that he believed he had "higher hurdles" to overcome with the Town, and therefore, wanted to be sure that the Town would issue him a permit before going through the County process.

The Town office received two letters in support of Mr. Heselton's project and one in opposition. Councilmember Barnes made a motion to grant the waiver request with the provision that the driveway be done in a supportable turf. Councilmember Wolf seconded the motion, and it passed unanimously.

C. Variance, 7001 Hillcrest Place, Rear Yard Setback (Gordon)

Erika Gordon 7001 Hillcrest Place, came before the Council to apply for a variance from the Town building regulations that require fences on private property to be set back two feet from the public right-of-way. Ms. Gordon would like to construct a fence on the rear property line adjoining Sycamore Alley. The fence has been constructed without a Town permit, because the applicant's contractor claimed to be unaware of the need to obtain a Town fence permit. The fence is 6 feet high and is constructed of a board-on-board material. It abuts the public right-of-way for a distance of approximately 25 feet. All but 2 fences on other residents' properties along the alley in the same location abut the alley.

Ms. Gordon apologized for not getting the Town permit before starting work. She explained that she wanted the fence to enclose her yard to keep in her dogs. Rose Miller, 7000 Valley Place, presented Councilmembers with pictures showing water draining down onto her property from the vicinity of the alley. She expressed concern that the drainage problems on her property have been exacerbated by the fence installed by the Gordons. Ms. Miller described a path that begins where the alley ends and goes down a hill and around a corner to her steps. She raised the question as to whether or not the path was public right-of-way. Discussion followed about whether or not the path was public property. It was the sense of the Council that Councilmembers arrange to meet together on site to look at the properties and the path.

Mayor Hudnut made a motion to defer a decision on the variance request until Councilmembers could meet on site with the Town Attorney and the Town's Code Enforcement Officer, given the complicated and complex issues surrounding the properties and drainage issues. Councilmember Orbach seconded the motion, and it passed unanimously. Councilmember Wolf recommended that the Council try to make a

decision before the December Council meeting to accommodate the resident's need to enclose her yard. A notice will be sent to surrounding households when the Council has scheduled a time to meet on site.

D. Variance, 3921 Aspen Street, Side/Rear Yard Setbacks for Addition (Mannon)

Peter Mannon, 3921 Aspen Street, came before the Council to request a variance from the Town building code to enclose a rear porch. The proposed construction requires a 1.3 foot variance as it is within 5.7 feet of the side lot line. The required side yard setback is 7 feet. In addition, a 15 foot variance is required as the proposed construction is within 5 feet of the rear lot line. The required rear yard setback is 20 feet. The porch is approximately 24 square feet. Montgomery County has granted both variances.

Mr. Mannon explained that the proposed construction follows the existing footprint of the house and will not have any impact on the appearance to adjoining neighbors. The hardships he cited, among other things, are that the lot is small and shallow and that they need to expand their kitchen.

Councilmember Wolf made a motion to approve the variance as requested. Councilmember Barnes seconded the motion, and it passed unanimously.

III. Discussion

A. Setbacks Committee Ordinance

Kathy Strom, chair of the Setbacks subcommittee, presented a report to the Council, detailing the new provisions of a proposed ordinance regulating setbacks. She reported that the members of the subcommittee consisted of builders, architects, engineers, real estate agents, lawyers, and citizens. They met weekly to consider alternate proposals. Ms. Strom noted that some members of the committee withdrew support for the rear setback recommendations. The goals for the setback rules included maintaining privacy, light, adequate space and safe passageways between properties.

Ms. Strom summarized the provisions of the ordinance and provided Councilmembers with drawings to illustrate the proposed rules. The proposed ordinance will not require existing property owners to make changes to their properties. It will only apply to new work.

The committee decided to keep the same setbacks as Montgomery County for front yards. Ms. Strom explained the rules for side setbacks, rear setbacks, bay windows, and accessory buildings.

Councilmember Barnes made a motion to introduce amendments to Chapter 4 of the Town Code as recommended by the Setbacks Committee. Councilmember Orbach seconded the motion, and it passed unanimously.

B. Tree Committee Ordinance

Chris Wright, chair of the Tree ordinance subcommittee, reported on the progress of the committee. He described provisions of the new Tree ordinance. The new

ordinance is a complete replacement of the current tree protection chapter (Chapter 29). Committee members reviewed 14 drafts before completing the final one. The final draft being submitted has the approval of all members of the subcommittee. It has been reviewed and approved for legal sufficiency by legal counsel.

Some of the provisions include obtaining a Tree Removal permit before removing or destroying any canopy tree, establishing a Tree Ordinance Board to hear appeals when a Tree Removal Permit is denied by the Town Manager, and requiring property owners to file a Tree Protection Plan when doing construction. Mr. Wright submitted a summary of the ordinance as well as a complete copy of the ordinance.

Councilmember Enelow made a motion to introduce the Tree ordinance. Councilmember Barnes seconded the motion, and it passed unanimously.

C. Supplemental Appropriation for Legal Counsel

Staff presented the Council with a request for a supplemental appropriation of \$28,100 to cover legal expenses for October. Councilmember Wolf made a motion to approve the appropriation. Councilmember Barnes seconded the motion, and it passed unanimously.

IV. Reports

A. Mayor – No report

B. Town Manager – No report

Councilmember Wolf asked for Council approval to purchase a table at the Committee for Montgomery breakfast on December 12, 2005. It provides an opportunity for networking. Councilmember Barnes is in charge of the event. Councilmember Wolf made a motion to buy a table at the event for a cost of \$750.00. Councilmember Enelow seconded the motion, and it passed with all in favor, except Councilmember Barnes, who abstained. Councilmember Barnes will invite guests of the Town to fill the table.

Mayor Hudnut encouraged Councilmembers to try to attend the National League of Cities meeting in Charlotte, NC.

There being no further business, the meeting was adjourned at 9:30 p.m. The Council reconvened in Executive Session with the Town Attorney to discuss pending legal issues.

Respectfully submitted,

Scott Orbach
Secretary

Transcribed by Andi Silverstone