

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
November 8, 2006

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Kathy Strom, Secretary; Lance Hoffman, Treasurer; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; David Podolsky and Ronald Bolt, Town Attorneys; and Andi Silverstone, Town Clerk.
Residents and guests: Alan Beal, consultant to staff; Hans Boehmer, 4505 Leland Street; Tom Brault, 6912 Woodside Place; Pat Burda, 4108 Woodbine Street; Robert Jennings, 6809 Florida Street; Patrick Keating, 4400 Elm Street; S. C. Keeble, 4414 Walsh Street; Veronique Kessler, 7204 44th Street; Don MacGlashan, 4114 Woodbine Street; Eric Murtagh, 4117 Leland Street; Ted Pochter, 3703 Curtis Court; William Pritchard, 7211 Ridgewood Avenue; Joe Rubin, 4409 Ridge Street; Bruce Russell, 7107 Oakridge Avenue; and Basha White, 4409 Stanford Street.

I. General Business

A. Call to order – 7:00 p.m.

Mayor Barnes called the meeting to order at 7:10 p.m.

B. Pledge Allegiance to the Flag

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

C. Public Comments

Don MacGlashan, 4114 Woodbine Street, came before the Council to complain about noise from leaf blowers. He reported that professional lawn services often use more than one blower on a property, creating excessive noise. Mr. MacGlashan indicated that his family experiences the disruptive noise five to six times a week. He requested that the Town take a closer look at this problem and create a task force to alleviate the situation.

Bruce Russell, 7107 Oakridge Avenue, Chair of the Regulatory Review and Enforcement Committee, gave Councilmembers a status report on the work of his committee. The committee is working with Town Attorney David Podolsky on site management regulations. A draft of standard operating procedures for enforcement is being circulated among committee members and will be ready to be presented to the Council at the December meeting. His committee is also working on noise issues and will address the concerns raised by Mr. MacGlashan about leaf blowers.

Mr. Russell also came before the Council as a Town resident with concerns about a sidewalk and retaining wall that were installed at 4303 Curtis Road. He raised the question as to why no variance had been required for the retaining wall. He mentioned that he and his neighbors had presented a letter to the Town Council in 2002 expressing opposition to sidewalks being installed in front of their homes. He stated that residents had received a letter from former Mayor Dennis Wood assuring them that there would be no sidewalks installed near their homes on Oakridge. In addition, the neighbors had requested a stop sign at the intersection of Curtis Road and Oakridge Avenue. They also asked for increased enforcement of the stop sign at Thornapple and Oakridge. Mr. Russell also raised the question as to whether or not the Town has the authority to install retaining walls. He asked that the process for Town sidewalks and Town variances be examined.

The Council asked staff to prepare a memo on the issues raised by Mr. Russell concerning the Town's authority to install retaining walls without a variance procedure, and why a sidewalk was installed on Oakridge Avenue at Curtis Road.

II. Variance Requests – (Note: All variance requests were recorded. A transcript may be made available.)

A. Front Yard Wall, 4400 Elm Street (Keating)

Town Manager Todd Hoffman presented the staff report to the Council. This hearing was a continuation of the October 11 variance hearing, at which the Council asked the applicant to adjust the height and front setback of a newly constructed front yard stone wall. The Town building code prohibits front yard walls.

The applicant proposes to lower to 1' the height of the wall that is constructed parallel to 44th Street. The applicant also proposes to move this wall back 2' from the public right-of-way, as required by Town regulations. The wall would gradually increase in height to approximately 2' as it turns perpendicular to 44th Street and extends towards the house line. The wall would extend approximately 19' into the front yard along 44th Street.

The property is located at the southwest intersection of Elm Street and 44th Street. The property is a corner lot with two front yards. Several residents spoke against the original variance request at the October 11 hearing.

Veronique Kessler, 7204 44th Street, came before the Council to express concerns about the wall and how it changes the landscape. She discussed how she enjoys looking at neighbors' yards and how they are landscaped. The wall detracts from that opportunity. She asked if it could be moved back further from the sidewalk. Discussion followed about drainage provisions on the property. Mr. Keating described how he graded the property and created a swale between the sidewalk and the house. There is drain tile under the wall. Mr. Keating asserted that the lot slopes over 10' from rear to front, and the wall is necessary to achieve proper grading for drainage. He also asserted that the wall helps save existing trees. There was discussion about other options. Councilmember Strom noted that the Council wants to deal with walls and other issues before a project starts. In Mr. Keating's case, because the grading is already done, she feels that the wall is needed.

Councilmember Wolf made a motion to approve the variance request as modified for reasons of demonstrated need for water drainage, topographical features and aesthetics. Councilmember Strom seconded the motion, and it passed with four Councilmembers in favor and Councilmember Enelow opposed.

B. Front Yard Fence, 6912 Woodside Place (Brault)

Town Manager Todd Hoffman presented Tom and Bethann Brault's request for a variance from Town building regulations to construct a front yard fence at 6912 Woodside Place. The proposed fence would be set back at least 2' from the public right-of-way. The Town code prohibits front yard fences and requires any fence to be set back 2' from the public right-of-way. The applicants propose to construct a 5' (maximum) cedar picket fence. The fence would enclose approximately 800 square feet of front yard on the south side of the property. The property is a corner lot with two front yards and is oddly shaped with no functional rear yard. The Town has received one phone call and three e-mails in support of the variance application.

Mr. Brault explained that he has three young daughters who like to play in the yard, but, without a fence, they could easily run across Meadow Lane. The previous owner had a higher stockade fence around the property.

It was the sense of the Council that due to the odd shape of the lot, the fence was needed. There was also discussion about the height of the fence. It was the sense of the Council that a height should be specified. After discussion the Council agreed that the height of the fence should not exceed 4 feet 6 inches.

Councilmember Strom made a motion to approve the variance application for a front yard fence as presented and that the height of the fence should be the same as shown in the drawing, but not to exceed 4 feet 6 inches at any point. Councilmember Enelow seconded the motion, and it passed unanimously.

C. Front Yard Setback, 4505 Leland Street (Boehmer/Johnson)

Alan Beal, consultant to staff, presented the staff report to the Council. Hans Boehmer and Julie Johnson, 4505 Leland Street, have applied for a front yard setback variance from Town building regulations to construct a covered front porch onto their existing home. The front yard setback for the home is 25'. The applicants propose to construct a new front porch with a covering that will project 6.6' into the front setback. The Town building code allows a covered projection to extend no more than 3' into a front yard setback; therefore a variance of 3.6' is requested.

Mr. Boehmer presented a letter from neighbors who support his variance request. The existing covered porch on the home extends 9.75' into the front yard setback restriction. The applicants wish to construct a new front porch with a covering that will extend 6.6' into the front setback restriction.

Among the hardships and existing conditions claimed by the applicant is that all of the homes and porches on this block are currently non-conforming. Any modifications to these homes along the front would require the removal of a significant portion of the structure in order to comply with the town's building code. The proposed modification conforms to the neighboring properties; in fact the design reduces the overall encroachment of the porch. The request is the minimum necessary to maintain a front

porch while trying to conform to the town's building restrictions. Bringing the porch into compliance with the Town's regulation would sacrifice the functionality of the porch.

Councilmember Hoffman made a motion to grant the variance.

Councilmember Strom seconded the motion, and it passed unanimously. Mayor Barnes informed all applicants for variances that they cannot begin work on their projects until they receive the legal opinion.

D. Front and Side Yard Setback, 4409 Stanford Street (White)

Basha White, 4909 Stanford Street, has applied for a front yard setback variance and a side yard setback variance from town building regulations to construct a second story addition to her existing home. The front yard setback for this property is 36.08'. The proposed second story addition would encroach 2.45' into the front yard setback (over an existing front porch). The Town Code does not allow main buildings to encroach into front setbacks; therefore, a front yard setback variance of 2.45' is requested. The side yard setback for this property is 8'. The proposed second story addition would encroach 1.58' into the side yard setback. The Town Code does not allow main buildings to encroach into a side yard setback; therefore a side yard variance of 1.58' is requested. The house is currently non-conforming to the Town's side yard setback requirements. It is constructed 6.42' from the side property line. The proposed addition would be in line with the existing house. Town resident Joe Rubin, 4409 Ridge Street, spoke in support of Ms. White's variance application.

The applicant is requesting the variance in order for the new addition to match the aesthetics of the existing homes on the street. She asserts that the variance requests are the minimum necessary to achieve the applicant's needs, while still allowing the house to fit in with other houses on the street. The front addition would result in an interesting façade. Denying the variance would result in a flat front house line that would not match the existing multidimensional roof lines of the neighborhood. The current side wall of the house is legally non-conforming to the Town's setback requirements. The existing side wall will be continued upward with the addition. The addition does not increase the

footprint or lot coverage of the property. Denying the variances would make it virtually impossible for the homeowner to add a second floor.

Councilmember Strom pointed out that the side setback of the property is consistent with the spirit of the new setback ordinance. She also pointed out the unusual existing feature of the front yard and supports the applicant's effort to do the minimum necessary.

Councilmember Strom made a motion to grant the variance request. Councilmember Wolf seconded the motion, and it passed unanimously.

III. Council Actions

A. Introduction of an Ordinance to Amend Chapter 4 of the Town of Chevy Chase Municipal Code to Clarify and Codify a Permit Process and Standards for Driveways in the Public Right-of-Way

Town Manager Todd Hoffman described the provisions of the proposed ordinance to clarify and codify a permit process and establish standards for driveways in the public right-of-way. He explained the history of the development of the ordinance.

Mayor Barnes reported that the Chair of the Land Use Committee would like for the placement of the driveway to be in line with an existing garage or side yard for an interior lot. There was discussion about how to handle the placement of driveways on corner lots.

Councilmember Wolf suggested making the changes to the ordinance before it is introduced. The Mayor preferred to introduce the ordinance as is since there could be additional changes proposed at the public hearing. Councilmember Strom suggested introducing the ordinance as is and letting residents know that the Council will be hearing comments on the proposed ordinance and will be considering regulating the location of driveways.

Councilmember Strom made a motion to introduce the driveway ordinance. Mayor Barnes seconded the motion, and it was defeated with a vote of three to two. Councilmembers Enelow, Hoffman, and Wolf voted in opposition to the motion. The

ordinance will be introduced at the December meeting and will include language about regulating locations of driveways.

B. Council Action on an Ordinance to Adopt a New Chapter 28 of the Town of Chevy Chase Municipal Code to Implement a Water Drainage Management Program

Councilmember Hoffman made a motion to adopt the ordinance for a Water Drainage Management Program. Councilmember Enelow seconded the motion, and it passed unanimously. Councilmember Hoffman gave a history of the development of the ordinance. Councilmember Strom noted that it was a good first step, but the Council still needs to address issues with impervious surfaces, enforcement, and education. A review is needed to ensure that the water ordinance is consistent with the goals of other ordinances.

Councilmembers praised the efforts of the committee and thanked the members for their work. Councilmember Hoffman thanked many individuals who had helped in the development of the ordinance: Former Bill Hudnut, Councilmember Enelow, Chair of the Environment Committee Ketch Ryan and the Steering Committee members. In addition, he thanked all of the committee members: Keith Blizzard, Shelley Lowenstein, Jim Mich, Mike Gravitz, Arthur Schatzkin, Jean Shorett (Russell), and Don MacGlashan.

IV. Discussions

A. Town Committees

i. Rules and Procedures

There was discussion about the need for good coordination among all of the committees and the Council. Each committee will have agendas for their meetings, keep minutes of each meeting, and make committee reports to the Council.

Committee minutes will be kept in committee files in the Town office and will be posted on-line. Councilmember Wolf requested that committee reports be put on the Council agendas earlier. Councilmember Strom pointed out that there are long-term and short-term projects that each committee will be working on.

ii. Assignments

There was discussion about the committees' use of consultants and staff. Committees would develop policy recommendations and staff would be consulted about the administration of the recommended policies. A consultant would be used to work with the committees and staff. Councilmember Enelow will be the Council liaison to the Environment Committee.

iii. Former Traffic Committee Recommendations

Bill Pritchard, 7211 Ridgewood Avenue, and former traffic committee member, described Phase 1 of the Traffic Study conducted by Street Traffic Studies. He gave a history of the work of the Traffic Committee. They were trying to develop a coordinated, coherent traffic control plan for the entire Town. One of the conclusions was that there was a need to address sidewalks and crosswalks.

Councilmember Wolf expressed reluctance in returning the study to a committee. He recommended that the Council act as a committee and proceed to the items mentioned in Phase 1 of the study. Any work on sidewalks would wait for recommendations from the Public Services Committee.

It was the sense of the Council to put one or two items recommended in the Traffic Study on the agenda for December for discussion and possible action. Residents will be notified in the Forecast about which items will be on the agenda.

B. Permit Information on Town Website

Councilmembers asked that options about posting permit information on the Town's website be presented at the December Council meeting.

VIII. Reports

A. Mayor's Report

Mayor Barnes reported that Councilmember Hoffman has been asked to be on a committee for the National League of Cities (NLC) Steering Committee. There will be travel involved for him as a member of the committee. It has been the practice of the Town to pay for expenses for Councilmembers that are connected with their role as Councilmembers. It was the sense of the Council to approve travel expenses for Councilmember Hoffman for his work on the NLC committee.

Mayor Barnes presented a problem with an inconsistency between Town practice concerning front yard retaining walls and the Town ordinance. Mayor Barnes suggested stopping the current practice of exempting walls 1-foot or under from the variance process be stopped until a decision is made to change the wall to match the practice or stop the practice. It was the sense of the Council that a definition of wall would be needed to establish a threshold for requiring variances. The issue was referred to the Land Use Committee for recommendations.

B. Town Manager's Report

Town Manager Todd Hoffman informed Councilmembers of a request from two off-duty Montgomery County police officers to allow them to re-direct traffic at the Honeybake Ham store onto West Avenue to exit onto Bradley Lane. Councilmember Barnes made a motion to give discretion to the off-duty officers to re-direct traffic at the "Do Not Enter" signs at Honeybake Ham during the holidays. Councilmember Wolf seconded the motion. Discussion followed about the impact on the residents who live on West Avenue. Councilmembers Wolf and Enelow suggested that the officers direct the

traffic onto West Avenue. It was the sense of the Council that the request was not well-thought out. The Town Manager will tell the officers that their request is denied.

Town Manager Todd Hoffman told Councilmembers about development at the intersection of Woodmont Avenue and Bethesda Avenue. The Town Manager spoke with Mr. Mangum and Carl Starkey of the County Department of Public Works and Transportation to discuss pedestrian safety issues. It was the sense of the Council that Councilmembers should lobby County Councilmembers Nancy Floreen and Marilyn Praisner to ensure that the pedestrian safety issues are addressed.

The Town Manager, along with Mayor Barnes, Councilmember Strom, and Bill Pritchard will be meeting with Kim Watson to try to resolve the power outages that are experienced by Town residents.

There being no further business, the meeting was adjourned at 10:20 p.m.

Respectfully submitted,

Kathy Strom
Secretary

Transcribed by Andi Silverstone