

I-D

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
December 13, 2006

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Kathy Strom, Secretary; Lance Hoffman, Treasurer; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; Ted Pochter, Assistant Town Manager; David Podolsky and Ronald Bolt, Town Attorneys; Andi Silverstone, Town Clerk; and Alan Beal, consultant to Town staff.

Residents and guests: W.B. and Susan Blacklow, 6912 Oakridge Avenue; Pat Burda, 4108 Woodside Place; Jon Burrell, Local Government Insurance Trust (LGIT); Virginia Ceaser, 3919 Virgilia Street; Lees and Bridget Hartman, 7214 Ridgewood Avenue; Frank Heselton, 4309 Bradley Lane; Dedun Ingram, 4411 Elm Street; Christopher Jakubiak, Jakubiak & Associates; Julia Miller, 4212 Oakridge Lane; Suzanne Parmet, 4318 Curtis Road; Joe Rubin, 4409 Ridge Street; Bruce Russell, 7107 Oakridge Avenue; and Phil and Helene Tucker, 7200 Meadow Lane.

I. General Business

A. Call to order – 7:00 p.m.

Mayor Barnes called the meeting to order at 7:05 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

Susan Blacklow, 6912 Oakridge Avenue, came before the Council to express her concerns about educating the residents about the new regulations and changes in the permitting process. She asked about the status of a booklet that is supposed to be developed to inform and educate residents on these topics.

Willie Blacklow, 6912 Oakridge Avenue, came before the Council to request that the Council ask the Maryland State Highway Administration to install a left-turn light on northbound Connecticut Avenue at Rosemary Street, like the one at Bradley Lane, to facilitate entering the Town. It was the sense of the Council to make the request.

D. Approval of Minutes of November Regular Meeting and Executive Session

Councilmember Strom made a motion to approve the minutes. Councilmember Enelow seconded the motion. One correction was made on page 5 of the

minutes to add one word. The motion to approve the minutes was approved unanimously.

E. Acceptance of November Financial Report

Council Treasurer Lance Hoffman gave an overview of the Town's sound financial condition. The financial report for November was accepted unanimously.

F. Presentation of LGIT's 15-Year Anniversary Award – Jon Burrell

Jon Burrell, President of LGIT, gave a brief history and statistics about the insurance trust. He presented the Town Council with an award for belonging to LGIT for 15 years.

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

A. Front Yard Wall, 4318 Curtis Road (Parmet)

Town Manager Todd Hoffman presented the staff report to the Council. The applicant, Suzanne Parmet, 4318 Curtis Road, applied for a variance from Town regulations to construct a series of front yard walls.

Two of the proposed walls would frame a new driveway that extends onto the property from the existing curb cut located on Leland Street. Both walls would extend a linear distance of approximately 25' from the front of the house towards Leland Street. The wall on the south side of the driveway would be approximately 37' long, as it curves to conform to the new driveway.

A third proposed wall would extend approximately 32' along Leland Street from the driveway towards the property corner of Leland Street and Curtis Road. The wall would turn and continue along Curtis Road for a length of approximately 38'. The wall would then break for an 8' wide set of stairs leading to the front door and then continue along Curtis Road approximately 44' to the northeast property line.

The walls would be constructed of either 6" x 6" timbers or interconnecting blocks and would not exceed 4' in height. The walls would be set back 2' from the Town right-of-way as required by Town building regulations. The property is located at the southwest corner of Leland Street and Curtis Road.

The hardships claimed by the applicant are as follows: There is a large berm, which is an unusual topographical feature, along Curtis Road and Leland Street that should be evened out; the berm makes mowing the yard dangerous, due to its steepness; the yard and house would be much more attractive with the retaining walls and most of the houses on the block have similar walls; and the wall would not be detrimental to the use and enjoyment of neighboring properties and is the minimum necessary to overcome the exceptional topographical hardship.

The Town has received one letter in support of the variance request from Haig Ellian at 4319 Curtis Road. Town resident, Steve McConnell, 4309 Leland Street, spoke in favor of the variance for Ms. Parmet. Dedun Ingram, 4411 Elm Street, raised

questions about the walls closing in Ms. Parmet's yard and not giving a feeling of openness.

Councilmembers discussed the need to protect all tree roots and discussed the need to establish a maximum height for the walls. Councilmember Enelow mentioned visibility issues if Ms. Parmet plans to plant anything on top of the wall. Discussion followed about the need to restrict plantings on the wall. There was also discussion about the use of timber for the walls.

Councilmember Hoffman asked to defer the hearing until the next Council meeting so that the applicant could develop a well thought out plan to present to the Council. He encouraged applicants not to make changes at the last minute.

Mayor Barnes made a motion to grant the variance request for a 3-foot wall with the condition that there are no plantings, other than grass and ground cover, within a 15-foot radius from the corner. Councilmember Enelow seconded the motion, and it passed with Councilmembers Barnes, Enelow, Wolf and Strom in favor. Councilmember Hoffman abstained.

B. Side and Rear Yard Setback, 4309 Bradley Lane (Heselton)

Alan Beal, consultant to staff, made the staff presentation to the Council. Frank Heselton, 4309 Bradley Lane, has applied for a side yard setback variance and a rear yard setback variance from Town building regulations to construct an addition to his existing home. The property has a minimum side yard setback requirement of 8'. The proposed addition would be located 7' from the east side property line. The Town Code does not allow main buildings to encroach into a side yard setback; therefore, a 1' variance is requested. The property has a minimum rear yard setback requirement of 97.2'. The proposed addition would be located 91.5' from the rear property line. The Town Code does not allow main buildings to encroach into a rear yard setback; therefore, a 5.7' variance is requested. The property is located on Bradley Lane between Maple Avenue and East Avenue. The lot is narrow and deep, with a width that narrows from 61' at the front lot line to 42' at the rear lot line, and an average depth of 246'. The rear of the existing home is located only 2.8' from the east side property line. The Town has not received any letters in support or opposition to the variance request.

Some of the claims made by the applicant include the following: the narrowness of the lot and the non-conforming location of the existing house limit the ability to expand to the rear and side; the extraordinary depth of the lot results in a very large rear yard setback requirement; the proposed addition was reviewed by the Council during the Town's building moratorium, and the Town issued a moratorium waiver for this project; the proposed addition conforms to the County setback requirements; conforming to the Town's new setback requirements limits the homeowner's ability to improve the home to accommodate the owner's unique physical limitations; and granting the variance allows the applicant to restore and preserve the original appearance of the home thus preserving the historic look of the Town.

Councilmembers asked questions of the applicant, including the specific dimensions of the lot. In response to the applicant's request to begin work the next day, it was the sense of the Council that he must wait until the opinion is written.

Councilmember Strom noted that Mr. Heselton's lot was unusually shaped and narrow, which made a compelling case for supporting his request.

Councilmember Hoffman made a motion to approve the request for the variance with the proviso that no work be done that is not legally to be done until the variance is approved and the opinion is written. Councilmember Enelow seconded the motion, and it passed unanimously.

III. Council Actions

A. Consideration of a Resolution Granting a Franchise to Verizon Maryland, Inc. to Provide Cable Television Service in the Town of Chevy Chase

Town Attorney David Podolsky briefed Councilmembers on the provisions of the resolution to grant a franchise to Verizon Maryland, Inc. The County has ratified its franchise agreement, but the Town controls the Town right-of-way and, therefore, needs to ratify its own agreement. There were a few typographical errors identified. The Town Attorney was directed to correct them.

Councilmember Enelow made a motion to adopt the Verizon franchise. Councilmember Strom seconded the motion, and it passed unanimously.

B. Consideration of a “County-Municipal Agreement” Authorizing Montgomery County to Administer the Verizon Franchise on Behalf of the Town of Chevy Chase

Councilmember Hoffman made a motion to adopt the agreement to authorize Montgomery County to administer the Verizon franchise on behalf of the Town. Councilmember Strom seconded the motion, and it passed unanimously.

C. 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

The Town Attorney briefed Councilmembers on the provisions of the driveway ordinance, which will be incorporated into the building code. He described some additions that were made since the draft ordinance was considered. The ordinance provides standards for driveways constructed or expanded in the Town right-of-way. There will be a public hearing on the ordinance.

Councilmember Strom made a motion to introduce the driveway ordinance. Mayor Barnes seconded the motion, and it passed unanimously.

IV. Discussion

A. Jakubiak & Associates Presentation

Chris Jakubiak, consultant hired to study the Town’s new zoning authority, spoke to the Council regarding the tasks involved in the study. As part of the background of the project, they are reviewing the Town’s ordinances, recent experiences and reports and conducting site visits and interviews. He described the three additional tasks

remaining: Professional Planning and Zoning Evaluation (new setback ordinance); Professional Planning and Zoning Evaluation (new zoning authority); and Recommendations-Practical, Customized, and Reviewed by Town.

B. Visioning Committee

Bridget Hartman, Chair of the Visioning Committee, thanked all committee members, Councilmembers Enelow and Strom, and the Town Manager for their work on the Town's Strategic Plan. She presented a final plan to the Council, which she said charts the Town's future for the next ten years.

The Council accepted the plan, and the Mayor said that the Council will schedule a work session at the end of January.

C. Regulatory Review and Enforcement Committee Presentation

i. Enforcement and Administrative SOP

Bruce Russell, Chair of the Regulatory Review and Enforcement Committee, thanked the members of his committee for their work in developing enforcement and administrative standard operating procedures for aspects of the Town's implementation of its building and inspection-related ordinances and rules.

ii. Noise Ordinance and Related Site Management Regulations

Bruce Russell and committee member Dedun Ingram presented Councilmembers with a proposal for a Town noise ordinance, noise site management regulations and increased compliance assurance programs. The proposed noise ordinance will be discussed by the Council in a work session. Input from Town residents will be requested.

Councilmembers thanked Mr. Russell and Ms. Ingram. Councilmember Strom pointed out that there is some urgency to preparing the handbook "Construction and You" to educate residents on current building requirements.

D. Retaining Wall Terracing Policy

In response to past direction from Council, the Town staff adopted a policy that exempts walls under 12 inches from the prohibition on front yard walls. The rationale for this policy is that walls under 12 inches do not impact openness or other objectives of the Town's building regulations and that certain decorative landscaping borders should not qualify as "walls" under Town regulations.

While this policy has worked well in most cases, there has been a recent instance in which a resident has skirted the wall height restriction and tried to use the exemption by erecting multiple 12 inch walls to create a terraced front yard. These walls are not connected but are spaced approximately 2 to 3 feet apart; therefore, each wall is separate and, as such, falls below the Town's current height exemption limit. Collectively, however, these walls would exceed the Town's height exemption limit.

The Town Council was asked to discuss whether it wishes to establish a new policy that limits the height of front yard walls, individually or collectively, to 12 inches. This policy, which would subsequently be effectuated as an ordinance change, would prohibit the terracing of front yards with multiple retaining walls.

Town Attorney David Podolsky recommended regulating walls through an ordinance rather than a policy. It was the sense of the Council to literally interpret the current ordinance while the Land Use Committee reviews this issue and makes recommendations to the Council. Council directed staff to include a notice in the January Forecast and on the website explaining the change in interpretation of the front yard wall ordinance.

E. Elm Street Park – Public safety

Councilmembers had received a copy of a press release informing them of an incident in Elm Street Park. Ten individuals in Elm Street Park approached and assaulted five teenagers not far from 47th Street. Weapons were involved.

Park police are responsible for patrolling the park, and they will have a dedicated foot patrol officer to patrol the park, especially during weekends. There was discussion about the need for more lights in the gazebo and in other locations, but not at a wattage that would disturb nearby residents.

Staff was asked to determine who has law enforcement jurisdiction in the Capital Crescent Trail tunnel near Elm Street Park and to send a letter to Town residents about the incident. In addition, the Council asked that staff research the possibility of installing surveillance cameras in Elm Street Park and along Elm Street. Staff should review lighting in Elm Street Park with staff from Park and Planning and recommend improvements.

Residents will be asked to participate in discussions and plans regarding any changes or increases in lighting.

VII. Council/Staff Reports

A. Mayor's Report: None

B. Town Manager's Report: None

There being no further business, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

Kathy Strom
Secretary

Transcribed by Andi Silverstone

