

TOWN OF CHEVY CHASE  
TOWN COUNCIL MEETING  
July 12, 2006

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Kathy Strom, Secretary; Lance Hoffman, Treasurer; and Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; David R. Podolsky, Town Attorney; and Andi Silverstone, Town Clerk.

Residents and guests: Susan Blacklow, 6912 Oakridge Avenue; Pat Burda, 4108 Woodbine Street; Jason DePaul, 2914 Tennyson Street, Washington, DC; John Fitzgerald, 4502 Elm Street; Blaney Harper, 4002 Rosemary Street; Bridget and Lees Hartman, 7214 Ridgewood Avenue; Steve Lawton, 4120 Stanford Street; Judy McGuire, 4003 Rosemary Street; Jon Meyerle, 7001 Meadow Lane; Mark Miller and Lone Simonsen, 4411 Leland Street; Eric Murtagh, 4117 Leland Street; Joe Rubin, 4409 Ridge Street; Bruce Russell, 7107 Oakridge Avenue; Al, Catherine, and Maria Soto, 4504 Leland Street; and Nancy Wolfson, 3916 Leland Street.

I. General Business

A. Call to order – 7:15 p.m.

Mayor Barnes called the meeting to order at 7:20 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, informed the Council that the owner of a property was not present at the Pre-Permit Application Consultation (Pre-PAC) meeting. The architect was there to describe the plan. Ms. Blacklow asked the Council to consider whether or not attendance by the owner at a Pre-PAC meeting should be mandatory.

Nancy Wolfson, 3916 Leland Street, came before the Council to thank Councilmembers for including an article about “Ellen’s Run” in the Forecast. Ellen Schneider, who passed away, was an activist. There will be a 5K walk/run in her memory to raise money for a B-CC High School Scholarship Fund and to benefit a mental health organization. Section 5 has donated \$ 5,000 for the event. Ms. Wolfson asked the Town Council to consider making a donation. In addition, volunteer help is needed for the race. The Council took the request under advisement.

Blaney Harper, 4002 Rosemary Street, came before the Council to point out problems he thought existed with water management in the Town. He spoke specifically about features of Rosemary Street near his house which made drainage difficult because of the level of the road and inadequacy of the drains. He also mentioned that there is water run-off from Bradley Lane that affects the houses on Rosemary Street. Town

Attorney David Podolsky explained that the storm drains in the Town are owned and maintained by Montgomery County. The Town cannot tamper with the storm drain system. Mayor Barnes said that the Town will try to facilitate a meeting among County officials, engineers, representatives from Maryland State Highway Administration (MSHA), and Town residents to give residents an opportunity to describe the drainage problems they have and to find out what the County and MSHA are willing to do to help.

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

Councilmember Wolf made a motion to approve the minutes of the June regular meeting and executive session. Councilmember Enelow seconded the motion, and it passed unanimously.

II. Variance Requests – (Note, all variance hearings were recorded. A transcript may be made available.)

A. 4409 Ridge Street, Side and Rear Yard Setbacks

Alan Beal, consultant to staff, presented this variance request. Joe Rubin, 4409 Ridge Street, requests a variance from Town building regulations to construct a new house that would be located 7 feet from the west side property line. As applied to this property, the Town building code requires a minimum setback of 8 feet from a side property line; therefore, a variance of 1 foot is requested. In addition, the applicant is requesting a rear yard variance of 3.5 feet to construct a portion of the new house that would be 35.3 feet from the rear property line. Mr. Rubin described side setback issues on Ridge Street and indicated that he would need a front load garage if he was not granted the variance for the side yard setback.

There was discussion about the setback ordinance as it applies to rear yard depths. Mr. Rubin offered an alternative plan, if he is not granted the rear yard variance. He would move his house forward, which would require a variance.

There were no comments on the variance request from residents in attendance. There were several favorable comments in support of the project. None were received in opposition.

Councilmembers gave their individual positions on the variance application. Councilmembers Hoffman, Enelow, and Wolf expressed their inclination to grant the variance. Councilmember Strom read the standards for a variance. She pointed out that Mr. Rubin does not meet the standards for a rear yard variance. It was noted that all of Mr. Rubin's plans are acceptable to Montgomery County, and he does not need a variance from the County.

Discussion followed about Mr. Rubin's alternative plan. It was the sense of the Council that approving a variance for the front porch would be more acceptable than granting a variance from the rear yard setback.

Councilmember Wolf made a motion to grant the variance requested for the side yard and that the variance for the front yard be approved subject to notifying neighbors that they have the opportunity to object within 10 days and that another hearing

may be scheduled. Councilmember Enelow seconded the motion. Councilmember Strom asked that staff send a memo clarifying the alternative request. Staff will let Councilmembers know if any resident requests a hearing.

It was the sense of the Council that Mr. Rubin's two variance requests should be considered separately. Councilmember Hoffman amended Councilmember's Wolf motion and moved that the Council grant the variance for the side yard setback. Councilmember Wolf seconded the motion, and it passed unanimously. Councilmember Hoffman made a motion that the Town Council approve a 3.5 foot variance for a covered front porch instead of a 3.5 foot rear setback variance, pending notification to abutting and confronting property owners and a comment period to allow for objections or public hearing requests. If an objection or public hearing request is received, the Council will consider holding a public hearing on the amended proposal. If no objections or requests for a hearing are received by July 31, 2006, the Council will formally approve the covered porch variance request. Councilmember Wolf seconded the motion, and it passed unanimously.

#### B. 4411 Leland Street, Front Yard Setback and Retaining Walls

Mark Miller and Lone Simonsen, 4411 Leland Street, have applied for a variance from Town building regulations to construct a covered front porch that will extend 8.67 feet into the front yard setback of 25 feet. The Town building code allows roofed porches to project beyond the front setback no more than 3 feet; therefore a variance of 5.67 feet is requested. In addition, the applicants also are requesting a variance from Town building regulations to construct two front yard retaining walls, which would be 14 feet long and a maximum of 3.7 feet high. They would lead to a below-grade garage. The walls would be set back 2 feet from the property line, as required by Town code, and would be 6 inches high at that location. Since Town building code prohibits front yard walls, a variance is required. No residents in attendance had any comments on the variance requests.

The applicant, Mark Miller, made a presentation of his requests. The house is currently located 16 feet from the property line along 45<sup>th</sup> Street, and is therefore, non-conforming. The proposed porch follows the existing building frontage and does not encroach further into the setback than the existing home. One tree will have to be removed, and the owners will replace it. The retaining walls will provide for a front (side) loading garage.

There was discussion about the unusual topographical features of the lot. It slopes down toward the street.

Councilmember Wolf made a motion to approve the variance requests as presented. Councilmember Enelow seconded the motion, and it passed unanimously.

#### C. 4120 Stanford Street, Front Yard Hedge

Alan Beal, consultant to staff, presented this variance request. The applicant, Stephan Lawton, plans to install a photinia hedge between the driveways of 4120 Stanford Street and 4200 Stanford Street. The proposed hedge, which can grow from 15 to 20 feet tall, would extend from the front line of the house to the front property line for

a distance of approximately 38 feet. The Town Code does not allow front yard hedges over 3 feet. The applicant is requesting the hedge for privacy. The applicant amended his request so that the hedge would be 24 feet away from the sidewalk and would be maintained at a maximum height of 4 to 5 feet.

Councilmembers discussed the request. Councilmember Wolf expressed concerns about the height of the hedge and enforcement. Councilmembers Strom and Hoffman said that the standards for a variance are not met. Councilmember Enelow said that openness is achieved with the hedge being setback 24 feet from the sidewalk.

Councilmember Enelow made a motion to grant the variance as requested. Councilmember Wolf seconded the motion. The motion was defeated with Mayor Barnes and Councilmembers Hoffman and Strom opposed, and Councilmembers Enelow and Wolf in favor.

### III. Council Actions

#### A. Council Action on an Ordinance to Amend Chapter 4 of the Town of Chevy Chase Code to Clarify Terminology, Codify and Enhance Procedures, Modify Structure Location Requirements, and Provide for Penalties, Remedial Action and Executive Regulations.

Technical corrections and changes were made to Chapter 4 of the Town Code as requested by the Regulatory Review and Enforcement Committee. Town Attorney David Podolsky gave an overview of the changes.

Councilmember Wolf made a motion to adopt the amendment. Councilmember Strom seconded the motion, and it passed unanimously.

Susan Blacklow, 6912 Oakridge Avenue, told Councilmembers that the owner of a property did not attend the Pre Application Consultation (Pre-PAC) meeting for their property. It was the sense of the Council that property owners should be encouraged to attend Pre-PAC meetings, but their presence would not be required.

#### B. Introduction of an Ordinance to Adopt a New Article IV of Chapter 2 of the Town of Chevy Chase Code to Establish an Administrative Procedure for Executive Regulations.

Town Attorney David Podolsky described the provisions of the new Article IV of Chapter 2. Although some regulations do not have to be in the Town Code, they might need to be promulgated as Executive Regulations.

Councilmember Wolf made a motion to introduce the new Article. Councilmember Enelow seconded the motion, and it passed unanimously.

### IV. Discussion (Note: The original agenda was changed. IV. A – Permit Parking was deferred and replaced with Briefing on Staffing – Bruce Russell. Item IV. D. – Committee Structure was changed to IV. B)

#### A. Briefing on Staffing – Bruce Russell

Bruce Russell, Chair of the Regulatory Review and Enforcement Committee, described some staffing options to increase coverage for code enforcement activities as well as for public safety during times when the Town office is not open. The purpose would be to enforce various ordinances, such as the noise control ordinance. There was discussion about the need to hire another code enforcement officer. Mr. Russell pointed out that someone needs to be available to issue stop work orders during non-working hours.

### C. Committee Structure

Councilmembers had reviewed the Strategic Plan developed by the Visioning Committee. Councilmember Strom made a motion to adopt the Strategic Plan. Councilmember Hoffman seconded the motion, and it passed unanimously. The Mayor thanked the committee for their comprehensive plan. Staff was directed to put the Strategic Plan on the Town's website.

Mayor Barnes described the new committees: Community Relations; Environment and Climate Protection Committee; Land Use Committee (formerly Construction Committee); Long Range Planning Committee; and the Public Services Committee. The committees will be comprised of 9 members and a Council liaison. A chair will be chosen among the members. The Tree Board and Election Board will remain. Mayor Barnes, with advice from Councilmembers, will appoint the committee members. The committee members will be appointed for 1 year terms.

### D. Curb Cut Regulations

Town Manager Todd Hoffman reported that the Town does not have a formal policy or standard for the number or dimensions of residential curb cuts. The Town informally uses a standard that limits the width of curb cuts to 19 feet (14 feet through the right-of-way with 2 ½ foot wings on each side at the curb). It is a modification of County standards.

Staff prepared a report outlining issues and making recommendations for a policy regarding curb cut standards. There was discussion about the report. Issues such as the location of a curb were discussed. It was the sense of the Council to adopt the five staff recommendations at this point, and then send them to the appropriate committee for review with the goal of developing a code amendment that would include the requirements for the location of curb cuts.

Councilmember Wolf made a motion to adopt as policy the staff recommendations for curb cuts. Councilmember Enelow seconded the motion, and it passed unanimously.

### E. Fence, Wall & Hedge Regulations

The Town Manager reported that there is a need to modify the current Town code regarding fences, walls and hedges. There is a contradiction in the code whereby the Town requires fences, walls and hedges to be set back 2 feet from the public right-of-

way, yet elsewhere in the code, the Town provides a license to all residents to use the Town right-of-way.

It was the sense of the Council that the Town Manager would work with Town Attorney David Podolsky to correct the Town code with regard to the use of the Town right-of-way. After that is done, the issue will be referred to the Land Use committee for further study.

F. Storm Drain Markers

Town resident Julia Randall, 4210 Oakridge Lane, offered to contribute storm drain markers to the Town to try on a test basis. It was the sense of the Council to place 10 storm drain markers throughout the Town as test sites.

V. New Business

A. Town Management Study

It was the sense of the Council to wait until Town staff has had an opportunity to work with the new regulations before undertaking a management study. In the interim, the Town Manager was authorized to hire contractors until a determination about staff needs can be made. The Town Manager indicated that a permitting manager will be needed to handle various permit requirements as a result of the setbacks and pre-pac ordinances. Councilmember Strom indicated that an employee, who will be responsible for enforcement, also will be needed soon.

B. E-Mail Policies

Town Attorney David Podolsky informed Councilmembers that based on the current Sunshine Laws, e-mail correspondence among Councilmembers is not considered to be a meeting. Council decisions can not be made via e-mail.

Mayor Barnes asked Councilmembers to consider how much they want to use e-mail when corresponding with each other. It was her preference that it not be excessive.

VI. Council/Staff Reports

A. Mayor's Report

Mayor Barnes announced that the next pre-pac meeting is scheduled for Monday, July 24. She encouraged Councilmembers to attend.

B. Town Manager's Report

Town Manager Todd Hoffman asked Councilmembers to approve an extension of Vic Tervala's contract with the Town. He had been working with the Visioning Committee on the Strategic Plan for the Town, and the committee members would like to

continue to have his help with the implementation phase. The cost to extend the fixed fee contract is \$11,000. Councilmember Wolf made a motion to approve the extension of the contract. Councilmember Strom seconded the motion, and it passed unanimously.

Discussion followed about setting up a public meeting for Town residents with officials from Montgomery County Department of Public Works and Transportation about the storm drain issues in the Town. Councilmember Strom recommended including officials from the Maryland State Highway Administration to discuss problems with the storm drains on Bradley Lane. Staff also was directed to invite Town resident Jane Lawton, who is a State delegate, to the meeting. Depending on the availability of the officials, staff will try to schedule the meeting for late August.

There being no further business, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Kathy Strom  
Secretary

Transcribed by Andi Silverstone