

TOWN OF CHEVY CHASE
COUNCIL MEETING
April 11, 2007

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Kathy Strom, Secretary; Lance Hoffman, Treasurer; 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: Please see attached sign-in sheet. Boy Scout Troop 52.

Absent: Mier Wolf, Community Liaison.

I. General Business

A. Call to order

Mayor Barnes called the meeting to order at 7:05 p.m.

B. Pledge of Allegiance to the Flag

She invited the members of Boy Scout Troop 52, who were in attendance, to lead the pledge of allegiance to the flag.

C. Public Comments

Mayor Barnes explained the budget process to those in attendance. She acknowledged that she was aware that there had been letters sent to the Town about funds included in the FY08 budget for a study of the Purple Line. At the Annual Meeting on May 1, 2007, public comments will be heard on the budget. There will be another hearing at the end of May or early June specifically on the Purple Line, at which time residents may comment on the Purple Line. The Long Range Planning Committee will be working on the proposed study and will work to help develop an RFP as needed.

Ted Rouse, 7411 Oak Lane, spoke about what he asserted were the undemocratic actions of the Council in approving the funds for a study. He mentioned several points that were of specific concern to him, including, but not limited to, the amount of funds budgeted, the failure to notify residents in advance, the fact that the Purple Line has already been studied extensively by the State, and the assumption that most residents are against any form of the Purple Line without an objective survey or poll of residents.

David Steeds, 4507 Elm Street, expressed his thought that the County and State studies had a pre-determined outcome and were defective. He expressed preference for a tunnel below ground over an at grade level train.

Irving Kaminsky, 6903 Oakridge Avenue, asked the Council to survey residents about how they feel about the Purple Line. He believes a Town study is superfluous.

Pam Browning, 4317 Elm Street, talked about the impact of the Purple Line on the entire Town and said that the State's ridership study was in question. She also expressed her opinion that the Town had taken a position in opposition to the Purple Line.

Joan Rood, 4509 Elm Street, expressed her thoughts that there should be a full public discussion on the issue. She expressed concerns about the perception of the State study, which has had problems determining ridership and that it doesn't look into the effects on the residents, such as noise, water run-off and crime.

Dedun Ingram, 4411 Elm Street, said that she believes there is a loophole in the Town's curb cut ordinance when it comes to shared driveways. Her example involved a developer who waived his right to the use of a shared driveway so that the neighboring resident becomes responsible for the driveway. However, the builder is using the shared driveway as a staging area for the project.

Jean Buegler, 7207 Oakridge Avenue, complained that she learned of the Town's budget proposal to fund the Purple Line study on a blog, and there was nothing on the Town's website. She thought the Town should have provided notice to residents.

It was the sense of the Council that there should be an article in the FORECAST about the budget process and that a hearing should be scheduled on the Purple Line for the end of May or early June.

D. Acceptance of Minutes of February Regular Meeting and Executive Session

Councilmember Strom made a motion to accept the minutes of the regular meeting and executive session of February. Councilmember Enelow seconded the motion, and it passed unanimously.

E. Acceptance of March Financial Report

Councilmember Hoffman made a motion to accept the March financial report. Councilmember Enelow seconded the motion, and it passed unanimously.

F. Acceptance of FY06 Audit

Councilmember Hoffman made a motion to accept the FY06 audit. Councilmember Enelow seconded the motion, and it passed unanimously.

II. Variance Requests

A. Kolakowski, 4207 Leland Street, Front Yard Fence

Mayor Linna Barnes and consultant Alan Beal explained the variance process to Town residents and the boy scouts. The Mayor pointed out to the applicants that there were only four Councilmembers present. If the applicants preferred, they could wait for a time when their case could be heard by the entire Council.

Assistant Town Manager Ted Pochter presented the staff report. Jill and John Kolakowski request a variance from Town building regulation to replace a front yard fence in the Town right-of-way. Town code prohibits front yard fences and requires fences to be set back at least two feet from the public right-of-way. The applicants propose to replace a 6-foot high stockade fence, located in the Town right-of-way along Leland Street and Tarrytown Road, with a new 4-foot high picket fence in the same location. As illustrated on the site plan, the maximum distance that the replacement fence would encroach into the Town right-of-way is 14 feet. The fence would be located a minimum of 17.4 feet from the curb on Leland Street and 15.8 feet from the curb on Tarrytown Road. One confronting neighbor expressed support for the variance request.

The applicants claim the following hardships: 1) The current fence is more than 30 years old and is decayed with exposed, rusty nails; therefore, it needs to be replaced; 2) a new fence is needed to protect the family's small children and a large dog; and 3) due to shape of the property and its steepness, much of the usable open space is in the front yards along Leland Street and Tarrytown Road. This space is used for outdoor activities.

Councilmembers had no questions for the applicants. Councilmember Enelow made a motion to approve the variance. Councilmember Strom seconded the motion. Councilmembers Hoffman and Strom pointed out the unusual shape of the property and the steepness of the grade made a case to grant the variance. The motion was called and passed unanimously. The Mayor informed the applicants that they could not begin work on the project until they had the signed variance.

B. Hendricks, 7110 45th Street, Driveway Apron

The applicants withdrew their variance application during the hearing.

C. Johnson, 6807 East Avenue, Side Yard Setback

Assistant Town Manager Ted Pochter presented the staff report. Robert Johnson requests a variance from Town building regulations to construct a side addition to the house at 6807 East Avenue. The proposed improvement does not meet the Town's setback requirements. The proposed addition would be located 7 feet from the side lot line and will be no closer to the side lot line than the wall of the existing building. The side setback on the opposite side of the house at the location of the new construction is 6.83 feet, for a cumulative side yard setback of 13.83 feet. The cumulative required side yard setback for this property is 16 feet; thereby requiring a variance of 2.17 feet.

The hardships claimed by the applicant are the need to infill a small corner of the house to accommodate the installation of an elevator. The elevator will create accessibility for the homeowner. He noted that the addition would be in alignment with the existing side wall. The subject house is on an exceptionally narrow 50-foot wide lot. The existing home was built circa 1920 and does not conform to the new side setback requirements.

Councilmember Enelow made a motion to approve the variance. Councilmember Hoffman seconded the motion. There was discussion about the exceptional narrowness

of the lot and that the applicant was requesting the minimum necessary to overcome this topographical hardship. The motion was called, and it passed unanimously. The Mayor informed the applicant of the need to wait for the opinion and the permit before doing any work.

D. McFarland, 4211 Thornapple Street, Rear Yard Setback

Town Manager Todd Hoffman presented the staff report to the Council. Paul McFarland (agent for The Salvation Army), 4211 Thornapple Street, requests a variance from Town building regulations to construct a deck that extends 25.4 feet into the rear yard set back. The Town code allows decks to extend into any minimum rear yard not more than 9 feet; therefore, a variance of 16.4 is requested. The existing deck extends 13.4 feet into the rear yard set back, and the applicant proposes to construct a 12 foot addition that would result in a total projection of 25.4 feet into the rear yard setback. The property is owned by the Salvation Army.

The hardships claimed by the applicant include that the shallow rear yard is very wet due to water drainage from neighboring properties; the wet conditions create a rear yard that is unusable; and the extended deck would create more usable outdoor space with a step down to a new patio and planned outdoor plantings.

Jean Shorett, 7107 Oakridge Avenue, spoke in opposition to the variance. She claimed that the McFarland's wet back yard is due to overdevelopment and pointed out that the first owner of the property was an avid gardener and had no problem with the yard. According to Ms. Shorett, the mosquito problems have become worse. Bruce Russell, 7107 Oakridge Avenue, suggested that the owners could build up their property with fill dirt. He asserted that the Salvation Army made the water problem worse by building the addition and existing deck a number of years ago and would also make the problem worse by building the proposed new deck.

Lee Miller, landscaper for Mr. McFarland, claimed that the problem with the back yard was too much shade. Dedun Ingram, 4411 Elm Street, expressed concerns about giving variances for decks to extend the house and its features further into the setbacks.

Councilmember Strom made a motion to deny the request for the variance. Councilmember Enelow seconded the motion. Discussion followed about the fact that the application does not satisfy the standards for a variance. It was the sense of the Council that the deck would not fix the problem for the McFarlands. It was suggested that the McFarlands consult with a water expert. The motion was called and the vote was unanimous for denial of the variance request.

III. Council Actions

A. Council Action on the FY08 Operating and Capital Budgets and Recommendation of the FY08 Tax Rate

Councilmember Hoffman made a motion to adopt the proposed budget to be presented for public hearing at the May 1 meeting. Councilmember Strom seconded the motion. Councilmember Strom made a motion to amend the proposed budget language to change line item X10130.321A from "Purple Line Study" to "Purple Line Analysis" to

indicate a broader scope. Councilmember Hoffman accepted the amendment, and the motion was called. The motion passed unanimously. Councilmember Strom expressed her support for having an open public meeting to hear residents' comments on the Purple Line.

IV. Discussions

A. Woodmont Development – Lots 31 and 31A

Councilmembers discussed the possible impact of the development of lots 31 and 31A on Woodmont Avenue. There were concerns expressed about road closures, reduced parking availability and traffic flow. It was the sense of the Council to hire a traffic engineer to study the impact on the Town and offer solutions. The Council approved the Town Manager's suggestion to work with Doug Kennedy from PHRA. The Long Range Planning and Public Safety Committees will be asked to look into the issues involved with the Woodmont Development. It was the sense of the Council to begin a dialog with Montgomery County Department of Public Works and the Maryland-National Park and Planning Commission as soon as possible about both the public and private components of the project. Staff was asked to coordinate such efforts with Attorney Ron Bolt.

B. Legacy Open Space (LOS) Acquisition – 4-H Property

The Town Manager asked Councilmembers to discuss the possibility of nominating the 4-H Center property for Legacy Open acquisition, in anticipation that this property would be available for purchase at some point in the future. The 4-H Center would have no objection to the nomination. The nomination would put the 4-H property on a list which would make it eligible for LOS acquisition.

It was the sense of the Council to prepare the nomination of the 4-H property for LOS acquisition and to put an article on the Town's website and in the FORECAST about the 4-H Center nomination and the Woodmont development.

C. Crosswalks – Cost and Locations

Town Manager Todd Hoffman reported that staff determined the cost to install textured/colored pedestrian crosswalks, which were approved by the Council at the recommendation of the Town's Traffic Committee. He reported that the cost to install each Duratherm crosswalk is approximately \$6,000 per crosswalk. This cost includes replacing the asphalt and installing the crosswalk, which will last for the lifetime of the asphalt.

The Town Manager recommended installing crosswalks across Maple at Bradley Lane, across Meadow at Rosemary and across Meadow at East-West Highway. It was the sense of the Council to proceed with the installation of the crosswalks. Staff was directed to put a notice about the pilot project in the FORECAST and on the website. Councilmembers selected the single wagon wheel design with a brick border.

D. Front Yard Retaining Walls

The Town Manager reported that, per Council request, staff measured the distance between two sets of front yard retaining walls to gauge the scope of coverage of the proposed retaining wall ordinance. He reported on two locations in Town where multiple retaining walls were located close to each other. The proposed ordinance regulating front yard walls, and multiple tiered walls, would prohibit those two instances.

The Council asked that Councilmembers and the Town attorney meet concerning the interpretation of front yard retaining walls.

E. Committee Mission Statements

Town Manager Todd Hoffman presented Councilmembers with copies of the Town Committees' mission statements. It was the sense of the Council to adopt the mission statements of the committees. Staff was directed to put the mission statements on the Town website.

F. Improvements on Public Property Devoted to Private Use

Town Manager Todd Hoffman briefed the Council on proposed changes to the Town Code pertaining to hedges, trees, fences, walls on public property devoted to private use. Currently, Town Code allows the improvements to be placed on the public right-of-way as long as a permit is obtained from the Town. Most of the public right-of-way is in front of private property, adjacent to Town streets and sidewalks, which seems to put this provision of the ordinance at odds with the Town's prohibition against similar improvements in the front yards of private property.

Staff recommended that the Town Code be amended to prohibit structures/improvements in the Town right-of-way, with a few exceptions. It was the sense of the Council to introduce the ordinance for improvements on public property devoted to private use at the May Council meeting.

Councilmembers discussed having educational workshops on Town building regulations. The Environment Committee is working on educational materials. Staff will have a list of proposed executive regulations on building requirements within a month.

G. EBL Calculation – Projections

Town Manager Todd Hoffman reported that the County recently changed the way it measures the established building line (EBL) by excluding projections from the front building wall. The County now measures the EBL from the front property line to the nearest foundation wall or cantilevered floor. The Town continues to include certain projections in its EBL calculation. The practical effect of this County change is to establish greater front yard setbacks. Since the Town has a goal of preserving open space, staff recommends adopting the new County method of calculating the EBL.

Council expressed support for this change and asked staff to develop an amended ordinance for introduction at the May Council meeting.

Councilmembers asked the Town Manager to communicate with residents who have plantings in the Town right-of-way that are obstructing the sidewalk or are too high. They also asked to be informed about the development of standard operating procedures and executive regulations.

There being no further business, the meeting was adjourned at 10:15 p.m.

Respectfully submitted,

Kathy Strom
Secretary

Transcribed by Andi Silverstone