

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
January 10, 2007

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: Charles and Jody Bargerstock, 4222 Oakridge Lane; Susan and Will Blacklow, 6912 Oakridge Avenue; Jeb Brown, 4911 Underwood Street; Pat Burda, 4108 Woodbine Street; Mary Pat Couig and Madeline Smith, 7106 Oakridge Avenue; Jim Enloe, architect for 7202 Ridgewood Avenue; Andrew and Janet Freimuth, 4009 Underwood Street; Adam Goozh, 7202 Ridgewood Avenue; Lees Hartman, 7214 Ridgewood Avenue; Coralee and Dan Hoffman, 3917 Virgilia Street; Susan Lang, 4008 Underwood Street; Judith McGuire, 4003 Rosemary Street; Bruce Russell, 7107 Oakridge Avenue; A. Wes Siegner, Jr., 3916 Woodbine Street; and Jon Tardosky.

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

Judy McGuire, 4300 Rosemary Street, came before the Council to express her concerns about what she believes is the return of masionization since the moratorium. Ms. McGuire recommended that the Council appoint an emergency task force to make recommendations about four items: floor area, maximum height, minimum amount of green space per house, and development of a “green” building code.

Mary Pat Couig, 7106 Oakridge Avenue, came before the Council to ask why no advance notice was given to homeowners before a sidewalk was installed on Oakridge Avenue and Curtis Road. She also came to request that a “Stop” sign be installed on Oakridge Avenue at Curtis Road.

Jody Bargerstock, 4222 Oakridge Lane, came before the Council to complain about the height of the house that was built behind her and a tall basketball net that was installed. She reported that the net exceeds the 6-foot 6-inch height limit for

fences and functions like a fence. The Bargerstocks are trying to sell their house, and the basketball court and net that abuts their rear yard is negatively affecting the marketability of their property. They presented an e-mail from their real estate agent. Charles Bargerstock asked the Council to look into the issue of the net.

Susan Blacklow, 6812 Oakridge Avenue, expressed agreement with Ms. McGuire's comments and recommendations. She also requested that the Town website show how many variances and building permits have been issued so that residents can track what is being done in the area of permitting.

Bruce Russell, 7107 Oakridge Avenue, came before the Council to ask if the Town needed to issue itself a variance for the retaining wall that the Town installed at Curtis Road and Oakridge Avenue. The Town Manager pointed out that the Town does not issue variances to itself. Mr. Russell suggested that the Town Code be amended so that the Town would be subject to the same variance procedures as Town residents. He also thanked the Town for the dogipot at Meadow Lane and Oak Lane.

D. Approval of Minutes of December Regular Meeting and Executive Session (Deferred)

E. Acceptance of December Financial Report

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

At this point in the meeting, Mayor Barnes presented Councilmember Mier Wolf with a plaque and informed him that, in the spring, a tree would be planted in his honor in Zimmerman Park. The plaque and tree are in appreciation from the Council and staff for all that he's done for the Town for over 20 years.

II. Presentation of Town Survey Results

Town Manager Todd Hoffman presented Councilmembers with the results of the 2006 Town services survey that was sent to residents in October. He mentioned that staff member Belinda Wilborn put in a lot of time and effort to consolidate the comments that were written on the surveys. Councilmembers thanked the Town Manager for the survey and the mostly positive comments.

Councilmember Strom suggested that the results of the survey highlight the need to move quickly to enforce building regulations in a more consistent way. Councilmember Wolf pointed out that the results of the survey on the enforcement of building regulations include a combination of disappointment at what is being built as well as a lack of enforcement. The Mayor agreed with Councilmember Wolf and indicated that some problems are with existing laws. Councilmembers will look more closely at the comments included in the surveys. Councilmember Hoffman asked that Councilmembers bring their responses to the next Council meeting, and time should be scheduled at the next meeting to discuss the surveys.

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

A. Goozh, 7202 Ridgewood Avenue, Front Yard Setback

Assistant Town Manager Ted Pochter presented the staff report to the Council. Adam Goozh and Elizabeth Holder, 7202 Ridgewood Avenue, have applied for a variance from Town building regulations to construct a roofed front porch. The proposed roofed porch would extend 7.3 feet into the minimum required front yard of the property. The Town building code allows roofed porches to extend no more than 3 feet into any minimum required yard; therefore, the variance request is for 4.3 feet.

The property is located on the west side of Ridgewood Avenue. As illustrated in the attachments, the applicants wish to relocate the front door of the house and construct a roofed porch that extends 7.3 feet into the minimum front yard of the property. The established building line for the subject property is 33.6 feet, and the front line of the house is located 34.6 feet from the front property line; therefore, the proposed

porch would extend 8.3 feet from the front house line and would be located 26.3 feet from the front property line.

Applicant Adam Goozh described the need for the variance. The planned interior renovations will require relocating the front door and adding a new porch, leaving the existing front porch non-functional. The proposed porch matches the existing porch and those of other houses on the west side of this block of Ridgewood Avenue. Neighboring porches project more than 3 feet into their respective minimum front yards; therefore, the subject request is reasonable. It is impractical to construct a new 4 foot roofed porch (allowable under the current setback rules), since such a porch does not permit adequate protection in rainy weather.

Councilmember Strom pointed out that no reason was given by the applicant as to any hardships. She explained that there is a need for findings that satisfy the requirements for granting a variance. She recommended that the applicant consider withdrawing the application or amending it so that he can satisfy the standards. Discussion followed about the lack of any hardships that would enable a variance to be granted. The applicant decided to amend his variance application and return next month for a public hearing. Mr. Goozh's architect, Jim Enloe, was told that he could not go on to other residents' private property without obtaining permission from the homeowner.

B. Brown, 4011 Underwood Street, Front Yard Setback

Assistant Town Manager Ted Pochter presented the variance request of Jeb and Kate Brown to the Council. The Brown's applied for a variance from Town building regulations to retain a recently-constructed roof over an existing, non-conforming front stoop. The roof extends 3 feet from the front line of the house and 10 feet into the minimum required front yard setback. The Town building code allows roofed porches to extend no more than 3 feet into any minimum yard; therefore, the variance request is for 7 feet. The established building line for this property is 34 feet. The front wall of the existing house is located 27 feet from the front property line; therefore the front 7 feet of the existing house is non-conforming to the minimum required front yard setback.

On May 8, 2006, the applicant appeared before the Town Council with a similar variance request. At that hearing, the Council considered a request for a proposed roofed porch measuring 15 feet wide and extending 10 feet into the minimum required front setback. That request was denied by a vote of 3-2. The current application maintains the requested 10-foot encroachment (7-foot variance request) but reduces the roof width along the front of the house from 15 feet to 8.25 feet.

Applicant Jeb Brown described the need for a variance. The established building line runs through the middle of the front part of the house effectively negating any modifications to the front of the house. The proposed front porch is consistent with the character of the Town and would provide a functional and usable outdoor space. The proposed front porch complies with Montgomery County regulations for roofed porch projections. The proposed plan does no harm to the neighbors. Mr. Brown indicated that his house is complete and ready to go on the market. He claimed that he thought he had approval for the front porch covering.

Neighbors Janet and Andy Freimuth, 4001 Underwood Street, came before the Council to indicate that they were not taking any position on the application. They rely on the Town to monitor building projects and for enforcement. They expressed concerns about the size of the new house and how it looms over their property. Susan Lang, 4008 Underwood Street, came before the Council to ask Councilmembers not to be swayed by the fact that the porch is already constructed. Susan Blacklow, 6912 Oakridge Avenue, also spoke about counting on the Council to enforce Town rules.

Discussion followed about Mr. Brown's original variance request. It was the sense of the Council that the house that Mr. Brown built was not the one that had been approved by the Council. Mayor Barnes pointed out that the findings were very clear that the projection Mr. Brown was applying for was denied previously.

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

IV. Council Actions.

A. Public Hearing and Council Action on 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

Councilmembers discussed the provisions of the driveway ordinance that was introduced at the December Council meeting. Bruce Russell, 7107 Oakridge Avenue, suggested that the Town should be required to get a permit if a driveway is to be changed substantially, such as being widened. It was explained that a resident needs a permit, but the Town does not issue permits to itself.

Councilmember Enelow asked if the Driveway Ordinance had been referred to a committee for recommendations. Discussion followed about the role of committees to make recommendations to the Council. Councilmember Enelow asked that the Driveway Ordinance be sent to a committee, in part because it could have effects on development. It was clarified that this ordinance would apply only to the portion of a driveway that is in the Town's right-of-way and that approval of this ordinance would not preclude other recommendations regarding driveways from being considered in the future.

Councilmember Enelow made a motion to approve the Driveway Ordinance as written. Councilmember Wolf seconded the motion, and it passed unanimously.

V. Discussions

A. Election Procedures and Absentee Balloting (Sue Hill)

The report from the Election Committee has been delayed until February. Councilmembers discussed the absentee ballot procedures. It was the sense of the Council to allow absentee ballots to be submitted concurrent with the voting hours. The Town will provide an envelope that will include the words "Absentee Ballot" and ask for basic, personal information from the voter: name, address, month and day of birth. Two envelopes will be provided, so that the resident can return the ballot in a blank envelope. This process will not be in the code, but will be a regulation.

B. Council Compensation

The Visioning Committee suggested that consideration should be given to Councilmember compensation for their service to the Town due to the increase in the number of public meetings and the general increase in the demands of their roles. The Long-Range Planning Committee will study the issue and look into what similar municipalities are doing to compensate their elected officials. They will also be looking at related issues such as the structure of the Council and the position of Mayor. That committee will make recommendations to the Council.

Councilmember Strom indicated that her initial inclination is that she is not in favor of compensation. She considers her job to be volunteering to serve the community and perform a public service.

C. Traffic Committee Recommendations

Mayor Barnes indicated that the Council will be discussing two recommendations of the Traffic Committee at each Council meeting. Councilmembers Enelow and Wolf suggested starting with the least controversial recommendations first. Councilmember Strom asked that residents who might be impacted by any of the recommendations be notified before they are discussed at a Council meeting. Councilmembers will indicate their preference as to which recommendations would be discussed first via e-mail.

D. Land Use Committee Recommendations on Front Yard Walls

Julia Miller, Chair, Land Use Committee prepared a memo for the Council describing her committee's recommendations on the treatment of walls measuring 12 inches or less.

The Committee recommended that the Council adhere to its December 13, 2006 Council meeting, to require a permit for all front-yard walls, but that such permits be granted "as of right" if a wall measures 12 inches or less in height and is not located

within 30 inches of another wall. If a wall is to be constructed closer than 30 inches to another wall, the applicant would need the Council's approval through the variance process. The Committee also recommended that "as of right" permits be given on the basis of a house location survey rather than the more detailed documentation required for a variance request. The Committee suggested that the Council seek the counsel of the Town Attorney as to whether a license to construct a retaining wall measuring 12 inches or less on the public right-of-way should be required as a condition of obtaining a permit. One of the objectives of the recommendations was to address the situation where the Town's prohibition against the construction of walls greater than 12 inches could be circumvented by the construction of a series of tiered walls measuring 12 inches or less.

It was the sense of the Council to amend the Town code to reflect the Committee's recommendations.

VI. Reports

A. Mayor's Report: The Mayor did not have a report, however the Council scheduled work sessions on recommendations presented by the Visioning Committee and the Regulatory and Review Committee. The Council agreed to reschedule the February Council meeting from Wednesday, February 14 to Tuesday, February 13. There will be a Pre-PAC meeting regarding construction at 4424 Walsh Street on either January 22 or 24. Councilmembers will be notified, and whoever is available was asked to attend.

B. Town Manager's Report : Town Manager Todd Hoffman informed Councilmembers that Dave Dabney has proposed to extend the fencing in the Capital Crescent Trail tunnel in an effort to stop the graffiti problem there. He asked Councilmembers to consider donating funds to help with those efforts. Discussion followed about the need for the tunnel to be locked at night.

The Town Manager reported that staff receives requests from residents requesting traffic calming measures. Councilmember Hoffman suggested that those requests should go to the Public Services Committee for review and recommendations. It was the sense of the Council that objective criteria are needed to deal with residents'

requests for traffic calming devices. A process is needed that will be fairly applied to all resident requests.

Councilmember Hoffman asked the Council to consider putting the Town's audit on the Town website. Mayor Barnes indicated that the Council could discuss that at the next Council meeting.

There being no further business, the meeting was adjourned at 10:00 p.m.

Respectively submitted,

Kathy Strom
Secretary

Transcribed by Andi Silverstone, Town Clerk