

TOWN OF CHEVY CHASE
COUNCIL MEETING
October 10, 2007

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Lance Hoffman, Secretary; and Kathy Strom, Treasurer; Todd Hoffman, Town Manager; Ted Pochter, Assistant Town Manager; David Podolsky and Ron Bolt, Town Attorneys; and Andi Silverstone, Town Clerk. Residents and guests: Scott Aker, Landis Construction, architect for George Canty; George Canty, 7701 Meadow Lane; David and Terry Eason, 7507 Lynn Drive; and Fran McClure, landscape designer for the Easons, 9603 Glencrest Lane, Kensington, MD.

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

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

C. Public Comments

There were no residents in attendance who wanted to speak on any non-agenda item.

D. Approval of September Financial Report

Councilmember Strom reported that receipt of income tax revenues is delayed due to the October 15 filing date. Those anticipated revenues should be received by the Town in November.

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

E. Acceptance of Minutes of September Regular Meeting and Executive Session (Deferred)

II. Variance Requests

A. 7701 Meadow Lane, Side Yard Setback

Assistant Town Manager Ted Pochter presented the staff report to the Council. The Cantys, 7701 Meadow Lane, have applied for a variance from Town building regulations to rebuild and expand a non-conforming side addition. The proposed improvement does not meet the Town's setback requirements. Mr. Pochter described the proposed construction.

Scott Aker, Landis Construction, explained that the Cantys have three children, and the house is not adequate for that size family. The proposed side addition was formerly a porch and is being reconstructed to address existing sloping floors and poor energy efficiency. They will be maintaining the same footprint. In addition, the Cantys will be finishing the attic to gain additional height. The proposed plan will keep all the trees on the property. The Cantys' three adjoining neighbors have signed letters in support of granting the variance request.

Councilmember Strom made a motion to grant the variance. Councilmember Hoffman seconded the motion, and it passed unanimously. Mayor Barnes reminded the applicants that they must wait for the written opinion, prepared by the Town Attorney, before they can proceed with the project.

B. 7507 Lynn Drive, Front Yard Walls

Assistant Town Manager Ted Pochter presented the staff report to the Council. The Easons, 7507 Lynn Drive, have applied for variances from Town building regulations to construct three front yard retaining walls over 1 foot high and within 2 feet of the Town right-of-way. The Town building code prohibits front yard walls over 1 foot high and walls within 2 feet of the Town right-of-way; therefore, variances are required.

Mr. Eason described the hardships claimed by the applicant. He stated that the lot is unusually shaped with extreme topography, the slope at the front of the property is between 4 and 4.5 feet high and a maximum of 2.5 feet high at the driveway, and that as a result of the sloping lot, erosion is occurring, including dropping of the front stoop. He

went on to note that maintenance of the front yard lawn has become increasingly difficult due to the slopes and that lawn mowing could almost be considered hazardous with serious injury resulting should one slip on the hills.

Councilmembers discussed the location of the proposed walls in relation to the curb line and the property line. It was the sense of the Council that staff needs to show the locations of public improvements on surveys for variance applications. Councilmember Hoffman also expressed displeasure with the way the Town handles new physical structures but pointed out that this issue is being addressed in proposed ordinances.

Councilmember Enelow made a motion to approve the variance as requested. Councilmember Strom seconded the motion, and it passed with Mayor Barnes and Councilmembers Enelow and Strom in support. Councilmember Hoffman abstained.

III. Public Hearings & Council Actions

A. Public Hearing and Council Action on an Ordinance to Regulate Traffic and Parking by Resolution

Councilmember Hoffman made a motion to adopt the ordinance to regulate traffic and parking by resolution that had been introduced at the September Council meeting. Councilmember Enelow seconded the motion, and it passed unanimously.

Councilmember Enelow made a motion in favor of introducing agenda items B. through Q, as listed below. Councilmember Hoffman seconded the motion, and it passed unanimously.

- B. Introduction of a Resolution to Amend Section 204 of the Town Charter to delete the requirement that the Council rules shall provide that residents shall have a reasonable opportunity to be heard at any meeting in regard to any municipal question so as to permit the Council to conduct worksessions and to permit the Council to limit public comment at special meetings to the subject of the special meeting.
- C. Introduction of a Resolution to Amend Section 205(a) of the Town Charter to delete the requirement that the mayor shall counter sign checks and other fiscal vouchers issued by the treasurer so as to eliminate an inconsistency with Section 508 of the Charter which provides “All checks, except those issued pursuant to the provisions of section 520 of this charter, issued in payment of municipal obligations, shall be signed by the town manager and one (1) member of the council” and also to eliminate an inconsistency with Section 520 which provides, inter alia: “checks drawn

on the revolving fund may be signed by any person(s) designated by the council.”

- D. Introduction of a Resolution to Amend Section 209 of the Town Charter to permit the Town to make a copy of a new ordinance or fair summary thereof available to households within the Town as an alternative to distributing a copy of each ordinance or a fair summary thereof to each household and to make grammatical clarifications to Section 209.
- E. Introduction of a Resolution to Amend Section 210 of the Town Charter to substitute the term “adoption” for the term “distribution” so as to start the 30-day period for submitting a referendum petition with the date an ordinance is adopted rather than the date an ordinance is “distributed” and so as to avoid any question regarding whether distribution take place when an ordinance is: 1) mailed; 2) received; or 3) made available.
- F. Introduction of a Resolution to Amend Section 301 of the Town Charter to simplify the description of the powers granted to the Town Council.
- G. Introduction of a Resolution to Amend Section 303 of the Town Charter to delete a provision regarding the right of appeal that is ambiguous and inconsistent with State law so as to avoid confusion and eliminate a conflict with State law.
- H. Introduction of a Resolution to Amend Section 304(b) and delete Sections 304(c) and (d) of the Town Charter to delete provisions the subjects of which are governed by State law so as to avoid confusion and eliminate any current or future conflicts with State law.
- I. Introduction of a Resolution to Delete Section 305 of the Town Charter to delete provisions from the Charter that more properly belong in and are found in Section 1-7 of the Town Code.
- J. Introduction of a Resolution to Amend Section 403 of the Town Charter to delete the requirement that the Council establish and maintain a separate Town voter registration system so as to eliminate a conflict with another provision of Section 403 directing the Town to accept registration with Montgomery County as registration with the Town.
- K. Introduction of a Resolution to Amend Section 406 of the Town Charter to provide that the elections board shall certify election results “to” the Council rather than “in the minutes” of the Council.
- L. Introduction of a Resolution to Amend Section 503 of the Town Charter to provide that the Town Council may levy a tax on taxable personal property following the same procedure as is followed to levy a tax on real property; to provide that the tax rate(s) is/are fixed by the Town Council after a public hearing; and to correct a typographical error.
- M. Introduction of a Resolution to Amend Section 505 of the Town Charter to provide that any transfer of funds between budget programs, but not transfers between existing line items within a program, must be approved by the Council so as to clarify the circumstances under which Council approval is required.
- N. Introduction of a Resolution to Amend Section 509 of the Town Charter to correct a typographical error by substituting “owner” for “town” in describing the basis for determining that the Town is the situs of taxable personal property.

- O. Introduction of a Resolution to Amend Section 512 of the Town Charter to authorize the Montgomery County official responsible for tax sales to sell property on which Town taxes have not been paid at the same time and in the same manner as those properties on which County taxes have not been paid.
- P. Introduction of a Resolution to Amend Section 516 of the Town Charter to delete the requirement that residents must own real property in the Town as a qualification for voting in a bond referendum election and to correct typographical errors.
- Q. Introduction of a Resolution to Amend Section 703 and 704 of the Town Charter to change the numbering and lettering system in Sections 703 and 704 so as to use the same numbering and lettering system as is used throughout the remainder of the Charter.

Councilmember Strom expressed problems with the language in Amendment (L). She wanted a clarification about what is being revoked by the amendment.

Discussion followed about the process for publication of the Charter Amendments. It was the sense of the Council to publish summaries of the proposed charter amendments in the FORECAST and to announce them on the listserv and on the web with links to the full text.

It was the sense of the Council to hold the public hearing on the Charter Amendments at the November 7 Council meeting.

IV. Discussions

A. Oakridge/Thornapple Sidewalks

Town Manager Todd Hoffman reported that Council had asked staff to determine the parking situation on Oakridge and Thornapple during evening hours so as to gauge the potential impact of prohibiting parking to accommodate a sidewalk. The Town Manager presented the results of traffic counts to the Council. He explained that the data collected may have been skewed because parking on Oakridge may have been affected by the storm drain replacement project.

It was the sense of the Council to direct staff to repeat traffic counts on Oakridge and Thornapple after the storm drain work is completed. The counts will be taken on the same days and times for both locations.

Discussion followed about the conflicting interests of walkers and property owners regarding the installation of sidewalks (public safety vs. private property). Mayor Barnes said that current property owners are opposed to sidewalks unless they are put in the street. Staff was directed to determine the number of parking spaces that would be lost on Oakridge and Thornapple with a dedicated hiker/biker lane.

Discussion followed about whether or not the Council would consider installing sidewalks, because if the Council would not, no engineering survey would be needed. It was the sense of the Council that, as part of evaluating whether or not to install sidewalks, it was important to gather facts and get costs.

It was the sense of the Council to get costs for design and construction for installing a sidewalk in the street on the west side of Oakridge and the north side of Thornapple.

B. Front Yard Fences and Walls

Town Manager Todd Hoffman framed several issues regarding front yard fences and walls for Council discussion. The first issue dealt with improvements the Council would agree to allow by right. The Council agreed with the staff recommendation that the Council determine the required right-of-way set back of fences, earth berms, hedges and walls on a case-by-case basis when variance requests are considered. The determination will be based, at least in part, by the width of the right-of-way.

There was discussion about whether or not the Town should allow for administrative variances for replacement fences and walls in the public right-of-way. Councilmember Enelow expressed support for requiring variance hearings for any new fences or retaining walls and allowing replacement fences and walls to be handled administratively. Mayor Barnes and Councilmember Hoffman agreed.

It was the sense of the Council to continue the discussion of front yard fences and walls at the November 7 Council meeting.

C. Community Handbook

The Town Manager presented Councilmembers with another iteration of the Community Handbook. Most Councilmembers agreed that the handbook should be available on-line and that all residents should be mailed a hard copy. A footnote will be added to indicate that the building regulations are currently on-line and are available in hard copy from the office. It was the sense of the Council to use the date of publication as the date of the handbook.

D. Community Services Survey

Councilmembers discussed the idea of sending a community services survey to residents, similar to the one that was sent last year. Councilmembers Hoffman and Enelow believed it was too soon to re-survey the residents, and Councilmembers Barnes and Strom wanted to send another survey. Mayor Barnes will ask Councilmember Wolf about his preference.

E. New Business

Councilmember Strom informed Councilmembers about proposed County zoning text amendment 07-13. There was a discussion about the possible impact on the Town if the development is near Town borders. It was the sense of the Council to send a letter to the County Council expressing concern about ZTA 07-13. Staff was directed to reserve time for Mayor Barnes to testify at the County Council hearing on October 16, 2007.

Town Attorney Ron Bolt and Assistant Town Manager Ted Pochter were asked to determine which properties bordering the Town, if developed, would be affected by ZTA 07-13.

Staff was asked to add “New Business” to Council meeting agendas.

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

Respectfully submitted,

Lance Hoffman, Secretary

Transcribed by Andi Silverstone