

TOWN OF CHEVY CHASE
COUNCIL MEETING
November 7, 2007

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Lance Hoffman, Secretary; Kathy Strom, Treasurer; Mier Wolf, Community Liaison; Todd Hoffman, Town Manager; David Podolsky and Ron Bolt, Town Attorneys; and Andi Silverstone, Town Clerk. Residents and guests: Judy McGuire, 4003 Rosemary Street; Jeanne and Richard Clay, 3917 Woodbine Street; Joe and Gabrielle Fontana, 4317 Stanford Street; Mark Luker and Sue Rohan, 6820 Meadow Lane; Susan and Will Blacklow, 6912 Oakridge Avenue; Robert Lederman, 3916 Underwood Street; David Lublin, 4214 Thornapple Street; Art and Larry, 7106 45th Street; Bob Lehrman, 3914 Virgilia Street; Bruce Russell, 7107 Oakridge Avenue; A. D. Harris, 4428 Ridge Street; Debbie Borkowski, 7105 Ridgewood Avenue; Dennis Van Dusen, 6910 Ridgewood Avenue; Dedun Ingram, 4411 Elm Street; Bob and Veda Charrow, 4001 Underwood Street; A. Wes Signer, Jr., 3916 Woodbine Street; Lisa Schlager, 7204 Ridgewood Avenue; Coralee Hoffman, 3917 Virgilia Street; Don and Peg MacGlashan, 4414 Woodbine Street; Barbara Bryniarski, 4228 East-West Highway; Steve Keeble, 4414 Walsh Street; Harvey B. Maisel, Tom and Elaine Collins, 6903 Ridgewood Avenue; Rob and Saralee Zakroff, 7108 44th Street; Susan Milner, 4404 Stanford Street; Audrey Dutton, The Gazette; Pat Burda, 4108 Woodbine Street; Michael Brown, 4118 Stanford Street; and Vicky Taplin, 41120 Leland Street.

General Business

A. Call to order

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

Bruce Russell, 7107 Oakridge Avenue, spoke about the procedure for the consideration of traffic sign requests. He asked that the response to resident requests be timely. He also wanted to know why there were only three topics listed under agenda item H. "Comments on Executive Regulations and SOPs." Mayor Barnes informed Mr. Russell that she had prepared an e-mail that explained the reason for those three items but had neglected to send it. She promised to forward the e-mail to him.

Dedun Ingram, 4411 Elm Street, asked whether recommendations of the former Regulatory Review and Enforcement Committee had been included in the final standard operating procedures, such as making the sidewalks ADA compliant. Mayor Barnes indicated that many of the recommendations had been included.

Dennis Van Dusen, 6910 Ridgewood Avenue, asked about the process for petitioning Charter Amendments to referendum.

Debbie Borkowski, 7105 Ridgewood Avenue, came before the Council to ask for help in having improvements made to the Leland Center playground equipment. She described the equipment as having rotting wood and rust on metal bolts. The Maryland-National Capital Park and Planning Commission is responsible for the playground equipment and has plans to renovate in 2009. She presented a petition with signatures from residents who would like to see the improvements made sooner and would like to have input into what is done. It was the sense of the Council to have staff follow up with Park and Planning on their schedule to improve the playground and to include Ms. Borkowski in the discussions about the repair process.

David Lublin, 4214 Thornapple Street, reported that he was working to promote the installation of a park adjacent to Thyme Square. He asked that residents attend a hearing being held by Park and Planning and express support for the park.

Wes Signer and Sarah Smith, 3916 Woodbine Street, expressed several concerns about the new house being built next door to them. Among their concerns was the size of the house, drainage and tree issues. In addition, they questioned staff's management of the permitting process.

Town Manager Todd Hoffman, in response to Mr. Signer's comments, indicated that all ordinances and procedures are being applied correctly and all due process safeguards are in place.

Susan Blacklow, 6912 Oakridge Avenue, asked the Council to consider adopting FAR's temporarily in order to see how they work and to put controls in place quickly.

Willie Blacklow, 6912 Oakridge Avenue, asked for the Council to institute temporary restrictions on house size, which the State gave the Town the authority to do.

Dennis Van Dusen, 6910 Ridgewood Avenue, complained that the Council had not provided residents with enough information on the proposed Charter amendments.

Judy McGuire, 4003 Rosemary Street, pointed out that the drainage on Bradley Lane is very poor.

E. Acceptance of Minutes of September Regular Meeting and Executive Session

Councilmember Hoffman made a motion to approve the minutes of the September open and executive sessions. Councilmember Wolf seconded the motion, and it passed unanimously.

II. Public Hearings and Council Actions

The Council held public hearings on sixteen charter amendments that had been introduced at the October Council meeting. A transcript of the hearing will be made available upon request.

Because of some confusion about the proposed charter amendments, the Council agreed to publish in the Forecast and on the website revised simple descriptions

of the charter amendments. These could be distributed before the next Council meeting. Veda Charrow, a resident with expertise and experience in crafting these descriptions, volunteered to help with these. It was noted that another public hearing will be held at the next Council meeting on these charter amendments.

III. Variance Requests

A. Luker/Rohan, 6820 Meadow Lane, Front Yard Fence

Town Manager Todd Hoffman presented the variance request for Mark Luker and Sue Rohan, 6820 Meadow Lane. The property owners have applied for variances from Town building regulations to retain a new solid wood fence with a 6'10" arbor in the front yard of their property. Town building regulations prohibit fences in the front yard and fences that exceed 6'6" high; therefore, variances are required.

The new fence replaced a non-conforming chain link fence with an arbor in the same location. The new fence is 4'3" high and extends 12'6.75" past the front line of the house, in violation of Town building regulations. The portion of the new fence with the arbor, which was previously attached to the chain link fence, is 6'10" high. The fence is located a minimum of 14'10" to the property line and 39'8.75" to the sidewalk along Meadow Lane. The Town Manager reported that the Town has received two petitions and two e-mails supporting the request.

Among the hardships claimed by the applicants are that the old, chain link fence and gate were deteriorated, rusted and unsafe; the new fence was installed to enhance the appearance of the property and hide the closest portion of the elementary school's chain link fence; the new fence helps to shield the property from a high level of youth activity at the school; the fence is set back almost 40 feet from the sidewalk along Meadow Lane; the fence does not obstruct approaching traffic, either pedestrian or vehicular; and a variance was granted for a front yard fence across the street from the applicants' property. That fence is 64' long and is located 57" from the sidewalk.

Discussion followed with Councilmember Strom pointing out the unusual topographical features of the property and its proximity to the elementary school. The original application did not include the front yard fence. The applicants reported that the fence company did not realize a permit was needed for a replacement fence.

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

B. Fontana, 4317 Stanford Street, Front Yard Fence

Town Manager Todd Hoffman presented the staff report for the variance request from Joseph and Gabrielle Fontana, 4317 Stanford Street. They have applied for a variance from Town building regulations to install a front yard fence. Town building regulations prohibit front yard fences; therefore, a variance is required.

The subject property is a corner lot and has two front yards – one along Stanford Street (actual front yard) and one along East Avenue (functional side yard). The applicants propose to install a 4 foot high wood picket fence along the East Avenue side of the property. As illustrated on the plat attached to the variance request, the proposed fence

would extend 22 feet past the front line of the house along East Avenue. The fence would be located 3 feet from the sidewalk.

Among the hardships claimed by the applicants are that the variance is needed to ensure the safety of their children; the property is a corner lot and much of the usable land is along the East Avenue side of the property; the applicants' fenced rear yard is too small to accommodate their children; and due to vehicular traffic, it is extremely dangerous for the applicants' children to play outside the existing fenced area. The applicants stated that they will plant significant landscaping to soften the proposed fence.

Michael Brown, 4118 Stanford Street, spoke in support of the variance request.

Councilmember Wolf made a motion to approve the variance as requested. Councilmember Enelow seconded the motion. Discussion followed about a hedge instead of the fence. The applicants stated that a hedge would be too permeable. Councilmembers Wolf and Enelow spoke in support of the variance due to the unique size of the lot in addition to it being a corner lot. Councilmember Hoffman expressed support for the fence given the heavy traffic on Stanford Street. Mayor Barnes and Councilmember Strom expressed concerns about traffic sight lines and visibility and were not in favor of the variance. Councilmember Hoffman then changed his position to oppose the variance, pointing out that the ordinance was passed to, in part, maintain an aesthetically pleasing appearance throughout the town and expressing his concerns about aesthetics of the proposed fence.

The vote was called. The motion failed with Mayor Barnes and Councilmembers Strom and Hoffman opposed and Councilmembers Wolf and Enelow in favor.

IV. Discussions

A. Procedure for Consideration of Traffic Sign Requests

The Council asked the Public Services Committee to discuss and recommend a procedure for considering requests for traffic control signage.

B. Front Yard Fences and Walls

At the October Council meeting, the Council discussed possible changes to Town regulations concerning front yard fences and walls and reached consensus on applying the administrative variance process to requests for replacement fences and walls and applying the regular variance process to requests for new fences and walls. The Council also agreed that it would determine the setback of fences and walls from Town right-of-way on a case-by-case basis.

After discussion, the Council agreed by consensus to direct the Town Attorney to draft an ordinance allowing for administrative approval of replacement fences and walls in front yards and on the Town right-of-way. The ordinance also would require application of the regular variance process to requests for new fences and walls in front yards and on Town right-of-way. The Town Attorney also was asked to draft an ordinance that requires a boundary survey to be provided with applications for front yard fences and walls if such improvements are proposed to be located close enough to the property line that they are within a house location survey's margin of error.

C. Community Services Survey

Councilmembers discussed when would be the best time to distribute a Community Services Survey. After discussion, it was the sense of the Council to defer the survey until late spring.

D. Sidewalks

Councilmembers discussed whether or not to proceed with a study of the feasibility of installing a sidewalk in the street on the west side of Oakridge Avenue and the north side of Thornapple Street. The Town Manager pointed out that a sidewalk on Oakridge would have to meet ADA requirements due to the grade.

It was the sense of the Council to proceed with the sidewalk engineering study and to include a study of the feasibility of creating a hiker/biker lane on Oakridge Avenue.

E. East and Bradley Sight Lines

Town Manager Todd Hoffman informed the Council that the office has received complaints about the location of a white brick pedestal on the property at the intersection of East Avenue and Bradley Lane. The location of the pedestal makes it difficult to see on coming traffic when exiting East Avenue onto Bradley Lane.

The Council authorized the Town Manager to talk with the property owner to try to gain voluntary compliance in removing the pedestal. Councilmember Wolf will accompany the Town Manager.

F. Tree Removal – Unclaimed Beech Tree

Councilmembers discussed how to proceed with a tree that is on private property and is hazardous and needs to be removed. No homeowner is claiming ownership of the tree.

Town Attorney David Podolsky recommended that the Council meet in executive session to discuss the issue as the discussion involves obtaining legal advice.

G. Leland Center Playground Equipment

Town Manager Todd Hoffman spoke with Joyce Coleman of Park and Planning about the condition of the Leland Center playground equipment. A replacement of the equipment is scheduled for 2009, with the design process beginning in May or June of 2008. However, the maintenance staff will sand and oil the equipment to address splinter and rust issues.

It was the sense of the Council to appoint Debbie Borkowski, lead petitioner for the playground improvements, 7105 Ridgewood Avenue, to the Public Services Committee and give her an opportunity to participate in the repair process.

H. Comments on Executive Regulations and SOPs

This item was deferred so that the Mayor could distribute an e-mail with more information on this topic.

V. New Business

Councilmember Strom gave an introduction to the process of selecting an engineering firm with environmental experience to do an analysis of the Purple Line. Pat Burda, 4108 Woodbine Street, Chair of the Long Range Planning Committee, described the applicants and reported that Sam Schwartz Engineering had the most relevant experience in advising communities and are creative in their approach. The Town Manager will check their references; if that check yields acceptable results, it was the sense of the Council, based on the Long Range Planning Committee's recommendation, to retain Sam Schwartz Engineering to provide transportation consulting services on the Purple Line project.

Pat Burda reported that she will testify at an upcoming hearing of the Planning Board in support of maintaining open space at the Woodmont East site and keeping that the tunnel open during any construction. Councilmember Strom stated that, if the Purple Line is built, the Town will need to encourage the developer to remove trains from the public plaza on the tail track, which should only be used for emergency repairs and not for storage.

Vicky Taplin, 4120 Leland Street, Chair of the Environmental Committee, reported that her committee had been asked whether a resident can refuse a new tree that is planted in the Town right-of-way in front of his/her house. Ms. Taplin's committee agreed that residents should not have veto power over trees planted on public property. By consensus, the Council agreed with the committee's recommendation to not allow residents to refuse a tree planted by the Town on public property.

Councilmember Hoffman made a motion that the Council meet in executive session to discuss a legal matter. Councilmember Enelow seconded the motion, and it passed unanimously. Pursuant to Section 10-508(7) of the State Code, at 10:20 p.m. in the National 4-H Center, the Council convened in executive session to discuss a legal matter.

Respectfully submitted,

Lance Hoffman
Secretary

Transcribed by Andi Silverstone