

TOWN OF CHEVY CHASE  
COUNCIL MEETING  
April 9, 2008

Present: Linna Barnes, Mayor; Rob Enelow, Vice Mayor; Lance Hoffman, Secretary; Kathy Strom, Treasurer; Mier Wolf, Community Liaison; Ted Pochter, Assistant Town Manager; Andi Silverstone, Town Clerk; David Podolsky and Ron Bolt, Town Attorneys; Alan Beal, Consultant. Residents and guests: Monique Shimm, 4215 Thornapple Street; Ann Wild, 7104 Oakridge Avenue; David Lublin, 4214 Thornapple Street; Karen Elkins, 4213 Thornapple Street; Jerry Weir, 4213 Thornapple Street; Esther Schrader, 7101 Oakridge Avenue; Nick Anderson, 7101 Oakridge Avenue; Mike and Alisa Lebowitz, 7102 Oakridge Avenue; Stephanie Flack, 7111 Oakridge Avenue; Naomi Kaminsky, 6903 Oakridge Avenue; Mary Pat Couig, 7106 Oakridge Avenue; Jean Shorett, 7107 Oakridge Avenue; Bruce Russell, 7107 Oakridge Avenue; Andrew Berg, 7217 Oakridge Avenue; John Navratil, 7216 Oakridge Avenue; William Bowser and M. A. O'Donnell, 4422 Walsh Street; Jonathan and Sybil Freedman, 4116 Stanford Street; Richard Minchik, 4212 Thornapple Street; Alisa Lebowitz, 7102 Oakridge Avenue; Al Lang, 4008 Underwood Street; Pat Burda, 4108 Woodbine Street; Eleanor Harris, 4212 Stanford Street; Irving Kaminsky, 6903 Oakridge Avenue; Patrick Keating, builder, 4424 Walsh Street; Joe Rubin, 4409 Ridge Street; Bruce Russell and Jean Shorett, 7107 Oakridge Avenue; Bill Pritchard, 7211 Ridgewood Avenue; Dian Seidel, 4426 Stanford Street; Coralee Hoffman; Jennifer Burton, 4311 Leland Street; Paloma and Lucia Delgado, 4311 Leland Street; Maria Roche, 4313 Leland Street; and Noel and Devon Kesterman, 7303 Oakridge Avenue.

I. General Business

A. Call to order

Mayor Barnes called the meeting to order at 7:10 p.m.

B. Pledge Allegiance to the flag

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

C. Approval of Minutes of March 2008 Council Meeting – Deferred

D. Acceptance of Financial Report for March 2008

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

### E. Public Comments

There were no residents in attendance who wanted to make comments on any non-agenda items.

### II. Discussion of Purple Line Alternatives

Pat Burda, Chair of the Long Range Planning Commission, described the main points made by the Town's consultant for the Purple Line, Sam Schwartz Engineering, PLLC, (SSC) on the advantages of the Jones Bridge Road (JBR) Bus Rapid Transit (BRT) alternative versus the Capital Crescent Trail (CCT) alignment. Discussion followed about the next steps.

Ms. Burda reported on an event being scheduled for May 31, 2008, to bring the issue of the Purple Line alignment to the attention of the greater Bethesda-Chevy Chase community and public officials. SSC provided a suggested draft letter to be sent to public officials, the County, and the State MTA. It also would be released to the press. SSC also provided an Executive Summary of their findings to date and a letter to the Town from Sam Schwartz responding to the State's evaluation of the tunneling options on the CCT.

It was the sense of the Council to send a letter from the Town Council to the State MTA about the JBR/BRT alternative. Ms. Burda will send a copy of the draft letter and executive summary provided by SSC to other neighboring communities. Councilmembers were asked to send their comments about the draft letter and executive summary to Pat Burda so that they could be incorporated into the final version.

Councilmembers thanked Ms. Burda and her committee for their work and asked to be kept well-informed on the status.

The committee is scheduling an evening meeting on April 24 with the other communities to help plan the May 31<sup>st</sup> event. They also will meet with officials during the day.

Councilmember Strom made a motion to endorse the recommendations of SSC consultants and explain why the JBR alternative would be better and advance the efforts with other communities. Councilmember Wolf seconded the motion, and it passed unanimously.

### III. Variance Requests

#### B. Freedman, 4116 Stanford Street, Side Yard Setback (out of agenda order)

Assistant Town Manager Ted Pochter presented the staff report to the Council. Jonathan and Sybil Freedman, 4116 Stanford Street, have applied for a variance from Town building regulations to construct a rear addition that would encroach into the property's side yard setback. The side yard setback for the west side of the property is 10'8". The west wall of the proposed rear addition would be 8'2" from the property line; therefore, a 2'6" variance is required. The west wall of the proposed rear addition would not be parallel with the side property

line and would extend 2'6" into the setback. Due to the shape of the property, a small portion of the southwest corner of the existing house is non-conforming and encroaches into the setback on the west side of the property. The Town has not received any objections to the request.

The applicant's claims of hardship include the following:

- The west side property line is not parallel to the house, which creates an unusually narrow property with respect to the existing house.
- The rear property line also is not parallel with the existing house, which limits the distance the applicants can expand the house.
- An addition designed according to current setback rules would be oddly shaped, thereby reducing the property's value.
- The proposed variance would be a minor deviation from the setback rules, and the proposed construction meets Montgomery County regulations.
- Complying with the current setback rules would produce an unattractive and unsightly structure that would detract from the community.

Town consultant Alan Beal explained the reason for the variance which was that the lot is oddly shaped and the configuration of the existing house is at an angle.

Councilmember Strom pointed out that the applicants meet the standard for a variance because the unusual shape of the lot creates a condition peculiar to this property. She made a motion to grant the variance. Councilmember Wolf seconded the motion, and it passed unanimously.

A. PB Builders, 4424 Walsh Street, Front Yard Walls (out of agenda order)

Assistant Town Manager Ted Pochter presented the staff report to the Council. PB Builders LLC, 4424 Walsh Street, has applied for a variance from Town building regulations to construct two front yard retaining walls over 1' high. Town building regulations prohibit front yard walls over 1' high; therefore, a variance is required.

The subject property is a corner lot and has two front yards – one along Walsh Street (actual front yard) and one along West Avenue (functional side yard). The applicant proposes to construct two retaining walls bordering a new driveway. The retaining wall on the north side of the driveway would be 18' long and 24" high. The retaining wall on the south side of the driveway would be 16' long and 30" high. Both walls would be set back a minimum of 2' from the Town right-of-way in accordance with the Town Code. The walls would be constructed of fieldstone with a flagstone top. The Town has received one objection to the request.

Among the hardships claimed by the applicant, Pat Keating, are as follows:

- The retaining walls are needed to prevent soil erosion. The property slopes 6' within a 15' span from the front yard to the north side of the driveway.
- The applicant's landscape architect and civil engineer recommend the retaining walls as the minimum necessary solution to this hardship.
- The retaining walls would make it less hazardous for the homeowner to mow in this area. The installation of these walls will in no way

impair the intent, purpose or integrity of the general plan of the Town.

Town residents Bill Bowser and Emily O'Donnell, 4422 Walsh Street, spoke about concerns they have about the impact of the potential for flooding on their property due to obstruction in the natural flow of water because of the walls and the change in the topography due to the construction. Discussion followed about the flow of water, the water drainage plan and the catch basin Mr. Keating said was installed to absorb water. There was also discussion about identifying site management issues versus long-term drainage problems.

Discussion followed among Councilmembers about whether or not the applicant had met the test for a variance. Councilmember Hoffman made a motion to deny the variance. Councilmember Wolf seconded the motion, and it passed unanimously.

The applicant was informed that he could build a 12 inch wall that would need a permit but not a variance. The applicant indicated that a 12 inch wall would satisfy his needs.

#### IV. Public Hearings and Council Action

##### A. Public Hearing on Oakridge/Thornapple Sidewalks

A complete transcript of the hearing is available in the Town office.

##### B. Public Hearing on an Ordinance to Set Town-Wide Speed Limit of 25 MPH, to Establish Special Speed Limits on Certain Town Roadways, and to Authorize the Town Manager to Provide for the Erection and Maintenance of Speed Limit Signs

The Council held a public hearing on establishing a Town-wide speed limit of 25 MPH. Special speed limits of 20 MPH were set for 5 locations in Town and a speed limit of 15 MPH for Pine Place alley and 10 MPH for Ridgewood alley were set. A transcript of the hearing will be made available.

Mary Pat Couig, 7106 Oakridge Avenue, asked that the speed limit on the 7100 block of Oakridge Avenue be added to the list of streets having a 20 MPH speed limit.

John Navratil, 7216 Oakridge Avenue, asked the Council to get a second opinion from another engineer.

Stephanie Flack, 7111 Oakridge Avenue, asked that the Council ensure that the speed limits will be enforced.

Nick Anderson, 7101 Oakridge Avenue, asked that the speed limit be set at 20 MPH Town-wide.

Mike Leibowitz, 7102 Oakridge Avenue, asked if the Council had to abide by what the engineer recommends and added that he wants to make sure the speed limit is enforced.

Esther Schrader, 7101 Oakridge Avenue, spoke in favor of a 20 MPH speed limit Town-wide and asked that parking be allowed on both sides of 7200 Oakridge Avenue.

Discussion followed about the provisions of the proposed ordinance. Councilmember Enelow expressed his opinion that the goal of the law is to make the Town safe and efficient, and it should be easy to enforce. It would be easier to enforce if the speed limit were the same throughout the Town, and he expressed support for a 20 MPH Town-wide. Councilmember Hoffman expressed his opinion that it is hard to defend a 20 MPH speed limit Town-wide. He suggested adopting the ordinance to get a speed limit in place.

Councilmember Hoffman made a motion to adopt the ordinance establishing a Town-wide speed limit of 25 MPH. Councilmember Wolf seconded the motion. Councilmember Wolf expressed concern about adopting the ordinance at 20 MPH since residents had not been noticed. Councilmember Strom expressed support for the motion as a good first step, pointing out that it could be amended later.

The vote was called and passed 4-1 with Councilmembers Barnes, Strom, Hoffman, and Wolf in favor, and Councilmember Enelow opposed.

#### C. Approval of Proposed FY09 Budget and Tax Rates

Councilmember Strom made a motion to approve the proposed FY09 budget, and the property tax rate of \$0.021 per \$100 of assessed value, and the personal property tax rate of 0.10 per \$100 of assessed value. Councilmember Hoffman seconded the motion, and it passed unanimously. A public hearing will be held at the Annual Meeting on May 6 about the proposed budget and tax rates, after which the Council will adopt the budget and tax rates, with any modifications to which it agrees, at the May or June regular meeting.

#### D. Approval of Supplemental Budget for Climate Protection Committee

Dian Seidel, 4426 Stanford Street, came before the Council to request a supplemental appropriation of \$2,820 for FY08 to cover projected costs for research assistants for the greenhouse gas survey, facilitation of the Climate Protection Action Plan, and lodging for the ICLEI Local Action Summit in Albuquerque, NM. Ms. Seidel pointed out that the committee is using adults now for research assistants, whereas they had been using students.

Discussion followed about the request for additional funds. Councilmember Hoffman raised questions about the lack of a proposal for a Town-wide meeting and asked for a written plan. He preferred to see specific plans for the community. Councilmember Strom expressed support for the request.

Councilmember Strom made a motion to transfer \$2,820 from the Civic Affairs line item to the Committee Expenses line item in the FY08 budget. Councilmember Wolf seconded the motion, and it passed unanimously. Councilmember Enelow made a motion to fund the request for \$2,820 as requested by the Climate Protection Committee. Councilmember Wolf seconded the motion. Councilmember Hoffman made a motion to amend Councilmember Enelow's motion

and reduce the amount of the supplemental appropriation by \$2,000 until the Council receives a plan in writing from the Committee. There was no second, so Councilmember Hoffman's amendment failed. A vote was taken on Councilmember Enelow's motion. It passed with a vote of 4-1 with Councilmembers Barnes, Enelow, Strom, and Wolf in favor and Councilmember Hoffman opposed.

E. Appointment of Town Elections Board

Mayor Barnes reported that she had appointed the members of the Election Board: Costis Toregas, 4325 Leland Street; Hope Pinkerton, 7005 Maple Avenue; and Brenda Lizzio, 4218 Oakridge Lane. Councilmember Barnes made a motion to approve the appointments to the Election Board. Councilmember Enelow seconded the motion, and it passed unanimously. Mayor Barnes will appoint the Chair of the Election Board.

It was the sense of the Council that clearer directions for absentee ballots need to be put in the FORECAST and on the website. Absentee ballot requests may not be faxed. Requests for absentee ballots can be made in writing or the resident can appear in person.

The Board of Elections will be responsible for the elections. The League of Women voters will be hired by the Town and will work for the Town and the Election Board.

V. Discussions

A. Donations of Funds for Trips

Councilmembers discussed a request from the Principal of Chevy Chase Elementary School to donate \$2,000 to help reimburse three teachers who paid from their own funds to take the school chorus to Carnegie Hall. Discussion followed. Councilmembers Enelow, Hoffman and Wolf expressed support for making the donation. Councilmember Strom said the school should be paying for the trip and did not think it was appropriate to make the request after the fact.

Councilmember Enelow made a motion to approve the \$2,000 donation to Chevy Chase Elementary School to reimburse the teachers for the trip. Councilmember Wolf seconded the motion. The motion passed with Councilmembers Enelow, Hoffman, and Wolf in support and Mayor Barnes and Councilmember Strom opposed.

B. Election Procedures

This item was discussed under VI. E. Appointment of Town Elections Board.

C. Annual Meeting

Councilmembers discussed various topics and possible speakers for the Annual Meeting. It was the sense of the Council to have Sam Schwartz, Purple Line

Consultant, make a presentation to residents. In addition, County Executive Ike Leggett would be invited to speak, and there may be a presentation by selected committees. Any other dignitaries in attendance will be introduced but not invited to speak.

D. Economic Impact Study Results

Staff was directed to put the results of the Economic Impact Study on the Town's website.

E. Building Permit Appeal Procedures – Deferred

F. Time Limits on Variance Approvals – Deferred

G. Signage in Public Right-of-Way

Discussed in Executive Session.

H. Street Lighting and PEPCO

Councilmembers discussed a bill before the State legislature that would give the Town an opportunity to own the street lights in Town. PEPCO has approached the Town office and wants to have a meeting. A decision will need to be made with input from the Environment, Climate Protection, and Public Services Committee.

It was the sense of the Council to wait until Town Manager Todd Hoffman returns before scheduling a meeting with PEPCO.

There being no further business, the meeting was adjourned at 10:30 p.m.

Respectfully submitted,

Lance Hoffman  
Secretary

Transcribed by Andi Silverstone