

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
September 10, 2008

Present: Kathy Strom, Mayor; Rob Enelow, Vice Mayor; David Lublin, Secretary; Linna Barnes, Treasurer; Al Lang, Community Liaison; Todd Hoffman, Town Manager; David Walton, Permitting and Code Enforcement Manager; and David Podolsky and Adam Cohen, Town Attorneys.

Residents and guests: Judy McGuire, 4003 Rosemary Street; Johanna Walk, 7208 Oakridge Avenue; Bruce Russell, 7107 Oakridge Avenue; Pat Burda, 4108 Woodbine Street; Steve Keeble, 4414 Walsh Street; Hope Pinkerton, 7005 Maple Avenue; Costis Toregas, 4325 Leland Street; Brenda Lizzio, 4218 Oakridge Lane; and Bridget Hartman, 7214 Ridgewood Avenue.

I. General Business

A. Call to order

Mayor Strom called the meeting to order at 7:00 p.m.

B. Pledge Allegiance to the Flag

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

C. Approval of Minutes of July 9 Council Meeting and Executive Session

Councilmember Lang made a motion to approve the minutes for the July 23 Executive Session. Councilmember Enelow seconded the motion, and it passed unanimously. Councilmember Lang made a motion to accept the August 6 Executive Session and Council Meeting Minutes. Councilmember Lublin seconded the motion. Mayor Strom made a motion to amend the August 6 Executive Session Minutes to change the word “advise” to “advice,” and made a motion to amend the August 6 Council Meeting Minutes (page 3) to add the following sentence to the beginning of the last paragraph under IIIA, “The Council voted unanimously to adopt the resolution as amended.” Councilmember Enelow seconded the motion to amend, and it passed unanimously. The motion to approve the minutes as amended passed unanimously.

D. Acceptance of August 2008 Financial Report

Councilmember Barnes presented a brief summary of the August 2008 Financial Report. Year-to-date revenues appear to be slightly lower to date than FY08 revenues. The Town budgets very conservatively, but this trend does bear watching.

Councilmember Barnes made a motion to accept the August 2008 financial report. Councilmember Lublin seconded the motion, and it passed unanimously.

E. Public Comments

Several B-CC students came to the meeting. One of them asked the Council to consider setting aside some open space for a skate park. Steve Keeble, 4414 Walsh Street, requested information about the Town's plan for repaving Walsh Street following the water main replacement work. Mr. Keeble was informed that the Town anticipated repaving Walsh Street in the spring.

II. Variance Hearings

A. Thomas, 3903 Thornapple Street, Rear Yard Setback

Town Zoning Consultant Alan Beal presented the staff report. Peter Thomas, 3903 Thornapple Street, applied for a variance from Town building regulations to construct a non-conforming rear addition to the existing home. The Town Code requires a total rear yard setback of 30.5 feet for the subject property. Mr. Thomas proposed to construct the addition 25.7 feet from the rear property line; therefore a variance of 4.8 feet was requested. The proposal also included a chimney to be located 6.8 feet into the 30.5 foot rear setback. Chimneys are allowed to project two feet into a rear setback; therefore a variance of 4.8 feet was requested for the chimney.

The applicant made several claims in support of the variance request, including:

- The front building line of the existing home sits deeper on the lot than the established building line, which penalizes the subject property by restricting the rear setback to a greater extent than other homes constructed closer to the front property line.
- The applicant was given faulty information from previous Town personnel, which was used to design the project and develop the architectural plans.
- The proposed addition includes accessibility features needed to accommodate a physical disability. An addition that conforms to the rear setback would be unable to accommodate these needed features.

Town Manager Todd Hoffman reported that the office had received letters of support from three adjacent neighbors supporting the variance request. There were no residents in attendance who spoke on the request.

Councilmember Lublin confirmed with the applicant that the steep slope in the front of the property would make it difficult to construct a front addition, and confirmed that the proposed deck complies with the Town's rear setback requirements. Councilmember Lublin stated that the requested variance seemed to be the minimum necessary to overcome the topographical hardship presented by the lot and the physical disability mentioned by the applicant. Councilmember Lang made a motion to grant the variance. Councilmember Lublin seconded the motion, and it passed unanimously.

B. Fontana, 4208 Rosemary Street, Side Yard Setback and Wall Plane Length

Zoning Consultant Alan Beal presented the staff report. Joe and Gabrielle Fontana, 4208 Rosemary Street, applied for variances from Town building regulations to construct an addition within the side yard setback of the subject property and to construct a wall with a plane length greater than 34 feet. The existing home is built 11 feet from the west property line, and 15.7 feet from the east property line. For the second story addition, the Town code allows the applicants to maintain either non-conforming setback, but requires a total side yard setback of 30 feet. The applicants chose to maintain the 11 foot setback on the west side; therefore, the addition on the east side of the house must be set back 19 feet from the property line. The applicants proposed to build the addition 15.7 feet from the east property line; therefore, a variance of 3.3 feet was requested.

The west wall of the existing home is 37'9" long. The applicants requested permission to build a second story addition with a 37'9" wall length. The Town code prohibits walls with a plane length greater than 34 feet; therefore, a wall plane length variance of 3'9" was requested.

The applicants made several claims in support of the side yard setback variance request, including:

- The existing structure is non-conforming to the current side yard setback requirements. The subject lot is extraordinarily wide (100'). The total side yard setback requirement of 30' is almost double the total side setbacks of the majority of lots in Town.
- The existing home has low basement ceiling heights, limited basement floor space, and first and second floor layout limitations.
- An architecturally unappealing, impractical, and peculiar inset of 3.3' ("wedding cake" design) would be required on the second floor to conform to the building ordinance. A 3.3' inset on the southeast side addition would create a loss of cabinet, counter and floor space on a substantial and critical portion of the addition. The load-bearing structure needed to support the required inset would require significant and expensive re-engineering of the existing structure. The cumulative effect of the design, structural, and cost difficulties of conformance would make preservation of the current building impractical and force a demolition and new home development.
- The request is the minimum necessary to overcome the exceptional conditions causing the hardship and approval would not be detrimental to the use and enjoyment of neighboring properties.

The applicants made several claims in support of the wall plane length variance request, including:

- The existing structure is non-conforming to the current wall plane length requirements.
- The alternative plan would be to install a floor to ceiling 5' wide bay window on the west side of the second floor that would extrude 2' toward 4210 Rosemary Street. Installing this bay window would

bring the structure closer to the neighboring property, which seems to run counter to the general plan of the Town.

Town Manager Todd Hoffman reported that the Town had received letters of support from ten residents of the Town, including three adjacent properties. There were no residents in attendance who spoke on the request.

Councilmember Lublin commented that the non-conformities of the existing home constitute a practical hardship. Councilmember Barnes made a motion to approve both variance requests. Councilmember Lublin seconded the motion, and it passed unanimously.

III. Public Hearings and Council Actions (All public hearings were recorded.)

A. Introduction of, and Public Hearing on, a Resolution to Ratify and Confirm Permit Parking Areas Currently Existing Within the Town

A resolution to ratify and confirm permit parking areas currently existing within the Town was introduced and a public hearing was held. No residents spoke at the public hearing. The Council voted unanimously to approve the resolution.

B. Public Hearing on an Ordinance to Amend Chapter 4 of the Town Code Regarding Front Yard Improvements

The Council held a public hearing on an ordinance to amend Chapter 4 of the Town Code regarding front yard improvements. Bruce Russell, 7107 Oakridge Avenue, expressed concerns that the ordinance includes language that is confusing, poorly defined and unenforceable. No other residents in attendance who commented on the ordinance. Following the public hearing, the Council discussed the concerns raised by Mr. Russell. The Town Attorney commented that the changes suggested by Mr. Russell relate to language that is already included in Chapter 4 of the Code. The provisions added to the Code by the proposed ordinance were not intended as a comprehensive rewrite of the entire code section. Following the discussion, it was the sense of the Council to encourage the Land Use Committee to discuss further what the Town's front yard regulations should be and report back to the Council with recommendations for clarifying the code. Councilmember Lang made a motion to approve the ordinance. Councilmember Enelow seconded the motion, and it passed unanimously.

C. Public Hearing on an Ordinance to Amend Chapter 4 of the Town Code Regarding Improvements in the Public Right-of-Way.

The Council held a public hearing on an ordinance to amend Chapter 4 of the Town Code regarding improvements in the Public Right-of-Way. No residents spoke at the public hearing. Following the hearing, Councilmember Lublin made a motion to adopt the ordinance. Councilmember Enelow seconded the motion, and it passed unanimously.

D. Public Hearing on an Ordinance to Impose Time Limits on Approved Variances

The Council held a public hearing on an ordinance to impose time limits on approved variances. No residents spoke at the public hearing. Following the public hearing the Council discussed how the ordinance would apply to variances that were previously approved. The Town attorney advised that the ordinance would apply to variances approved after the effective date of the ordinance. The Council requested that the Town Attorney include notification of the time limits in variance decisions. Following the discussion, Councilmember Barnes made a motion to approve the ordinance. Councilmember Lublin seconded the motion, and the ordinance was approved 4-1, with Councilmember Lang opposed.

E. Introduction of an Ordinance to Amend Certain Provisions of Chapter 4 of the Town Code Relating to the Regulation of Signs Displayed Within Town Limits

Town Attorney David Podolsky presented an ordinance for the Council's consideration that would amend the Town's existing sign ordinance to make it consistent with the first amendment and remove some inconsistencies. Mayor Strom made a motion to introduce the ordinance. Councilmember Lublin seconded the motion, and the ordinance was introduced unanimously. Staff was directed to include a summary of the ordinance in the October Newsletter. The Town Attorney will send a copy of the ordinance to the County Council as required by State Code. The Council anticipates holding a public hearing on the ordinance at the November Council meeting.

IV. Discussions & Presentations

A. Ellen's Run Contribution

Nancy Wolfson, 3916 Leland Street, came before the Council to request a contribution to Ellen's Run, a fundraiser that benefits the Bethesda-Chevy Chase High School Scholarship Fund and the Mental Health Association of Montgomery County. Councilmember Enelow made a motion to donate \$1000. Councilmember Barnes seconded the motion, and it passed unanimously. The Council directed staff to include information on the run in the October Forecast.

B. Strategic Plan Update

Bridget Hartman and Pat Burda provided an update on the Town's Strategic Plan to the Council. They reported that in the two years since the plan was approved, the Town had made good progress in achieving the goals and objectives in the original plan. The Council discussed next steps, including a review of the plan to ensure that it is kept current and relevant. The Council tasked the Long Range Planning Committee with reviewing the plan and providing a report to Council with recommendations for adjusting timelines, goals, and objectives.

C. Election Board Presentation

Mayor Strom thanked the Election Board for their work in managing the 2008 Council Election and informed the members that they would be reappointed for the 2009 Council Election. Board Members Costis Toregas, Brenda Lizzio, and Hope Pinkerton came before the Council with a report on the 2008 Council Election, which had the highest voter turnout of any election on record. Specifically, the Board was very pleased by the service provided by the League of Women voters. Going forward, the Election Board would like to focus on ways to engage residents as much as possible to ensure high voter turnout and also would like to record the “Meet the Candidates” event to make the information available to residents who cannot attend. The Council was supportive of their ideas and encouraged the Board to work with the staff to retain the League of Women Voters and contact Montgomery Municipal Cable about taping the “Meet the Candidates” event for the 2009 Election. The Council directed the Town Attorney to prepare an ordinance that would eliminate the requirement that applicants for an absentee ballot must appear in person or submit a self-addressed stamped envelope. The Council will discuss a plan that would provide appointments for staggered terms to ensure increased year-to-year continuity on the Election Board in the future.

D. Community Services Survey

The Council discussed options for preparing and distributing an updated Community Services Survey. The original survey was sent to residents in October 2006. The goal is to have a new survey mailed to Town residents this fall. Town Manager Todd Hoffman will provide a draft of the survey for Council’s review at the October Council Meeting.

E. Sight Lines Along Bradley Lane

The Council discussed options for correcting line-of-sight issues along Bradley Lane. Council agreed to ask residents to prune hedges and shrubs that interfere with intersection visibility, offering help from the Town maintenance crew if necessary. The Council instructed the Town Manager to ask the Town’s traffic engineer to prepare a formal memo relating to the pillars located on private property at the intersection of East Avenue and Bradley Lane.

F. Off-Duty Montgomery County Police Coverage

Councilmember Lublin reported on a meeting that he attended with M.C.P.D. 2nd District Commander Hamill and Town Manager Todd Hoffman to discuss crime and communication about crime in and around the Town. Based on that meeting, Councilmember Lublin recommended that the Town’s off-duty Montgomery County police officers do more patrolling on foot. The Council agreed unanimously to have the Town Manager and the Town’s off-duty Montgomery County Police Supervisor develop a more comprehensive patrol plan involving the increased use of foot patrols in addition to the traffic and entry restriction patrols they are already performing.

G. Land Use Committee’s Parks and Playgrounds Commission

Councilmember Barnes reported that she received information at the Maryland Municipal League Conference about being designated by KaBOOM (KaBOOM.org) as a Playful City USA. In order to be considered, the Town would have to have a local play commission, an annual action plan, and a play space audit. It was the consensus of the Council that a Parks and Playgrounds Commission could be appointed as a subcommittee of the Land Use Committee. Staff was instructed to solicit volunteers for the Parks and Playgrounds Commission in the October Forecast. Additionally, staff was directed to add a "Parks and Playground Equipment" line item to the FY09 budget.

H. Oakridge Avenue (7200 Block) Parking Restrictions

The Council deferred discussion of the proposed parking restrictions in the 7200 block of Oakridge Avenue.

I. Schedule Work Session with Climate Protection Committee on Climate Protection Plan

Judy McGuire, Chair of the Climate Protection Committee, came before the Council with an update on the Climate Protection Plan. The plan has been approved by the Climate Protection Committee and forwarded to the Council. The Council agreed that a work session is needed to discuss the draft plan. Additionally, the plan needs to be publicized to allow residents a chance to provide comments. The Council agreed that a summary of the plan should be published in the October Forecast, and the summary and full plan should be made available online. The Council tentatively scheduled a work session for the November 6 and anticipates making a decision on the adoption of the plan at the December 10 Council Meeting. Judy McGuire will send the draft plan and a summary to staff for distribution.

V. New Business

Town Manager distributed the official Complaints and Resolutions from August and early September to the Council for their review.

VI. Adjournment

There being no further business, the meeting was adjourned at 10:40 p.m.

Respectfully submitted,

David Lublin
Secretary

Transcribed by David Walton