

TOWN OF CHEVY CHASE
TOWN COUNCIL MEETING
October 14, 2008

Present: Kathy Strom, Mayor; Rob Enelow, Vice Mayor; Linna Barnes, Treasurer; Al Lang, Community Liaison; Todd Hoffman, Town Manager; Andi Silverstone, Town Clerk; David Podolsky and Adam Cohen, Town Attorneys; and Alan Beal, Town Consultant.

Residents and guests: Charles Lund, 7409 Oak Lane; Elizabeth Carder-Thompson and Larry Thompson, 4214 Maple Terrace, Gerald Garfinkel, Doris Hamburg, Johanna Garfinkel, and Rebecca Garfinkel, 7407 Oak Lane; Jonathan Ellen, 6915 Ridgewood Avenue; Joe Rubin, 4409 Ridge Street; Johanna Walk, 7208 Oakridge Avenue; Pat Burda, 4108 Woodbine Street; Francis Cavanaugh, 7213 Oakridge Avenue; and Delegate Al Carr, 6 Bladen Street, Room 222, Annapolis, MD.

Absent: David Lublin, Secretary

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 September 10 Council Meeting and Executive Session

Councilmember Barnes made a motion to approve the minutes of the executive session and regular Council meeting. Councilmember Enelow seconded the motion. Councilmember Barnes asked that the minutes of the regular meeting be amended to reflect the addition of a "Parks and Playground Equipment" line item to the FY09 budget instead of the FY10 budget. The minutes, as amended, were approved unanimously.

Mayor Strom appointed Councilmember Barnes as Acting Secretary for the meeting in Councilmember Lublin's absence.

D. Approval of the September 2008 Financial Report

Councilmember Barnes made a motion to approve the September 2008 Financial Report. Councilmember Enelow seconded the motion, and it passed unanimously.

E. Public Comments

There were no public comments.

II. Variance Hearings

A. Ellen/DeLisser, 6915 Ridgewood Avenue, Front Yard Fence

Zoning Consultant Alan Beal presented the staff report. Jonathan Ellen and Margaret DeLisser, 6915 Ridgewood Avenue, applied for a variance from Town building regulations to install a front yard fence. The Town code prohibits front yard fences; therefore, a variance is required.

The applicants have applied for a variance from Town building regulations to install a fence along a portion of the north property line of their property. The north property line fronts on an unimproved public right-of-way, making the north side of the property a front yard. The proposed fence extends north from the corner of the existing garage to the property line and continues east along the north property line approximately 30 feet to the northeast property corner.

The Town received correspondence in support of the variance request from Chris and Holly Wright, 7101 Ridgewood Avenue.

The applicants made several claims in support of the front yard fence variance, including:

- The right-of-way adjacent to the applicants' home is unimproved so there will not be the appearance of a "typical" front yard fence.
- The variance is required to increase the usability of the rear yard.
- The fence is needed to ensure the safety of the applicants' children.
- The approval of the variance will not interfere with the use of the public right-of-way.
- The requested fence will not disturb the look of the Town.
- The request does not cause substantial impairment to the general plan of the Town.

Mayor Strom asked for clarification of the height of the proposed fence. Mr. Ellen responded that it would be 6.5 feet in height. Mayor Strom pointed out that the property borders Pine Place, an unusual, small alley with a unique stone path.

Councilmember Enelow made a motion to grant the variance request. Councilmember Lang seconded the motion, and it passed unanimously.

B. Garfinkel/Hamburg, 7407 Oak Lane, Rear Yard Setback & Wall Plane Length

Town Zoning Consultant Alan Beal presented the staff report. Gerald Garfinkel and Doris Hamburg, 7407 Oak Lane, applied for two variances from Town building regulations. The applicants propose to construct an addition within the rear yard setback. Town Code prohibits structures that project into a rear setback; therefore, a variance is required. The proposed addition also would create a continuous wall plane longer than 34 feet. Town Code prohibits walls with a continuous wall plane longer than 34 feet without an appropriate articulation; therefore, a wall plane length variance is required.

The applicants propose to construct a rear addition to their home. The proposed addition projects a maximum of 3.5 feet into the 78.7 foot minimum required rear setback; therefore a rear yard setback variance of 3.5 feet is required.

The applicants also propose to extend an existing non-conforming side wall of their home. The northwest wall of the existing home is 36 feet long. The proposed addition would add 14 feet of length to the wall, creating a wall with a total wall plane length of 50 feet. The Town code prohibits walls with a continuous wall plane length more than 34 feet without an appropriate articulation; therefore, a wall plane length variance of 16 feet is required.

Town Manager Todd Hoffman reported that the Town Office received two letters in support of the variance request from the applicants' neighbors.

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

- The requested variance represents a small amount of square footage and is the minimum necessary to meet the applicants' needs.
- The lot has an unusual trapezoidal shape, causing a rear setback line that is not parallel to the front property line. The lot is also very deep, resulting in a very large rear setback.
- If the setback formula were to be applied at each point along the rear property line instead of only using the average depth of the two side property lines, the variance would not be needed.

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

- The existing house includes a porch that is proposed to be removed. Including the existing porch, the existing continuous wall plane length is 44 feet. The proposed addition will extend only 6 feet past the rear of the existing home.
- There is no practical way to interrupt the current wall plane length because there is already an existing chimney (that only projects one foot) and areaway steps (to the basement) along the existing wall.
- The addition is not massive and is only one story, as compared with the existing two story home.
- The existing wall plane has a number of features, such as the chimney and basement steps, that help break the wall plane visually. Also, the addition will be finished with wood siding that will help visually break the wall plane. In addition, there is an existing brick wall that extends perpendicular from the rear of the existing home and is attached to a set of stairs leading to the back yard. Lastly, the addition includes large windows that will visually break up the wall plane.

- The addition cannot be inset two feet from the current wall plane because of a large American Beech tree located in the rear yard. The addition must be located along the wall of the existing home to prevent encroachment on the tree's root zone.

Charles Lund, 7409 Oak Lane, spoke in support of the variance request. He mentioned concerns about drainage issues but was satisfied that Mr. Garfinkel and Ms. Hamburg will work with the contractor to mitigate these issues.

Councilmember Barnes commented that the residents had devised a solution with minimal encroachment necessary to preserve a tree. Mayor Strom pointed out that the lot was very steep.

Councilmember Lang made a motion to grant the variance request. Councilmember Barnes seconded the motion, and it passed unanimously.

C. Thompson/Carder, 4214 Maple Terrace, Rear Yard Deck Covering

Zoning Consultant Alan Beal presented the staff report. Larry Thompson and Elizabeth Carder, 4214 Maple Terrace, have applied for a variance from Town building regulations to construct a deck covering that projects more than three feet into the rear setback. Town Code prohibits deck coverings that project more than three feet into a rear setback; therefore, a variance is required.

The existing home has an uncovered deck, a portion of which projects 11.3 feet into the rear setback. The applicants are proposing to add a covering over a portion of the existing deck. The proposed covering would project 11.3 feet into the rear setback. Deck coverings may project into a rear setback no more than three feet; therefore a rear yard projection variance of 8.3 feet is required.

The Town received correspondence from three neighbors supporting the variance request.

The applicants made several claims in support of the rear yard deck covering variance request, including:

- The property is exceptionally narrow and unusually shaped. The rear yard is steeply sloped. The back yard is small and is one story below the main living level of the home.
- The existing deck space is unusable due to large amounts of tree resin, branches, and other debris that fall from nearby trees.
- The proposed roof is minimalist and will not extend past the limits of the existing deck.
- The proposed roof will be shielded from the view of neighboring properties by the large trees located in the rear yard.
- The request is the minimum necessary to overcome the exceptional conditions causing the hardship.
- The request does not cause substantial impairment to the general plan of the Town.

Councilmembers asked the applicants to clarify which deck would be covered. Mayor Strom commented that the lot was unusual due to its topographical features.

Councilmember Lang made a motion to grant the variance request. Councilmember Barnes seconded the motion, and it passed unanimously.

II. Public Hearings & Council Actions

A. Introduction of an Ordinance to Amend the Town Code to Eliminate the Requirement that an Absentee Ballot Applicant Must Enclose a Self-Addressed, Stamped Envelope with an Application or Appear in Person at the Town Office to Pick Up an Absentee Ballot

Mayor Strom made a motion to introduce the absentee ballot ordinance. Councilmember Enelow seconded the motion, and it passed unanimously. A public hearing on the ordinance will be scheduled for the November Council meeting.

B. Appointment of Election Board

Councilmembers discussed whether or not to have staggered terms or fixed terms for Election Board members. It was the sense of the Council to continue appointing a minimum of three Election Board members every year for a one year term. There would be no limits on the number of terms a member could serve.

Councilmember Barnes made a motion to appoint Costis Toregas, Brenda Lizzio, and Hope Pinkerton for another term. Councilmember Lang seconded the motion, and it passed unanimously.

III. Discussions and Presentations

A. Street Lighting and PEPCO (Al Carr)

State Delegate Alfred Carr mad a presentation to the Council on street lighting upgrade and purchase options for the Town. The Public Services Committee will address issues surrounding the Town's possible purchase of the PEPCO street lights and report back to the Council.

B. Bethesda Bikeway Path

Pat Burda, Chair of the Long Range Planning Committee, briefed the Council on developments regarding Montgomery County's Bethesda Bikeway Project. The County would need to use a portion of 47th Street, which is in the Town's right-of-way. Councilmembers discussed the various impacts on the safety of the riders and the need to remove some trees. The Council asked staff to prepare a letter to the County advising that the Town will not allow the use of 47th Street right-of-way at this time.

C. Purple Line Analysis

The State's Alternative Analysis/Draft Environmental Impact Study (AA/DEIS) will be formally released on October 17, 2008. Mayor Strom appointed a committee of Councilmember Barnes, Pat Burda, Todd Hoffman and herself to select a law firm to assist with the preparation of a written submission regarding the AA/DEIS. The State will hold a public hearing at the National 4-H Center on November 18, 2008. Staff was directed to publicize the hearing and provide Town residents with information on the procedure to appear and testify.

D. Parking Restriction in Front of 7208 Oakridge Avenue

Councilmembers discussed whether or not there was a need to restrict parking in front of 7208 Oakridge Avenue. It was the sense of the Council to direct the Public Services Committee to discuss the parking issue in front of this address and confer with Town engineering consultant Joe Cutro. The committee will then advise the Council on how to proceed with consideration of additional parking restrictions.

E. Public Safety (Elm Street Park)

Mayor Strom expressed concern about safety in Elm Street Park as a result of recent incidents. The Council discussed several ideas relating to safety in the park, including adding cameras and/or safety boxes along the Capital Crescent Trail (CCT) and adding more hours of foot patrols in Elm Street Park and on the trail. Staff was directed to contact Park and Planning to request that bushes be trimmed near the entrance to the CCT tunnel in Elm Street Park.

The Public Services Committee will add the issues of security resource allocation and safety boxes to the PSC's agenda, and Town Manager Todd Hoffman will schedule a meeting with PSC representatives to discuss the recent security meetings/initiatives, providing a brief summary e-mail before the meeting.

F. Building Permit Appeal Procedure

Councilmembers discussed Town procedures for appeals from the issuance, denial, renewal or revocation of a Town building permit. Currently, the Town Code does not provide a procedure for appealing a Town permit. The default process is for an aggrieved party to appeal to the Circuit Court of Montgomery County.

Councilmembers discussed the option of establishing an intermediate appellate board to hear permit appeals, with the Council serving in this capacity or appointing a separate board.

It was the sense of the Council to continue with the current process of having any permit appeals go to the Circuit Court of Montgomery County.

G. Former Traffic Committee Recommendations

Town Manager Todd Hoffman presented Councilmembers with a list of traffic-related improvements from the Town's former Traffic Committee. The Council

asked the Public Services Committee's Traffic Sub-Committee to review the recommendations and report back to the Council.

Councilmember Barnes asked that the Traffic Sub-Committee do a traffic flow analysis of the school buses at Chevy Chase Elementary School.

IV. New Business

Councilmember Lang will investigate providing rebate money to households in the Town. Town Attorney David Podolsky raised questions and provided some initial guidance and will work with Councilmember Lang.

Councilmember Barnes reported that the equipment at the renovated playground at Chevy Chase Elementary School was installed too low. She made a motion that the Town support the concept of replacing that equipment. Councilmember Lang seconded the motion, and it passed unanimously.

Councilmember Barnes made a motion to establish a separate line item for "Playgrounds and Parks" in the Civic Affairs Program and to transfer \$10,000 from the "Civic Affairs" line item to the new one. Councilmember Enelow seconded the motion, and it passed unanimously.

There being no further business, the meeting was adjourned at 10:05 p.m.

Respectfully submitted,

Linna Barnes
Acting Secretary

Transcribed by Andi Silverstone