

Chevy Chase Village Board of Managers

October 9, 2007

BOARD OF MANAGERS

Douglas B. Kamerow, Chair	Present
David L. Winstead, Vice-Chair	Present
Susie Eig, Secretary	Present
Gail S. Feldman, Treasurer	Present
Betsy Stephens, Assistant Treasurer	Present
Peter M. Yeo, Board Member	Present
Robert L. Jones, Board Member	Present

STAFF

David R. Podolsky, Legal Counsel	Present
Ronald M. Bolt, Assistant Legal Counsel	Present
Geoffrey B. Biddle, Village Manager	Present
Roy A. Gordon, Police Chief	Present
Shana R. Davis-Cook, Manager of Administration	Present
Michael W. Younes, Administrative Assistant	Present

Dr. Douglas B. Kamerow, Chair of the Chevy Chase Village Board of Managers, called the meeting to order at 7:33 p.m.

Approval of Minutes from the September 10, 2007 Board Meeting

Ms. Feldman, Ms. Eig and staff submitted changes to the minutes, which were provided to the Board at the meeting. Discussion followed.

Mr. Winstead made a motion to approve the amended minutes of the September 10, 2007 Board Meeting. Mr. Yeo seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Speed Camera Program

Chief Gordon explained that portable photo speed cameras became operational on Connecticut Avenue the morning of Monday, October 8. In the first two days there were 21,155 vehicles traveling on the roadway and of these 3,533 vehicles were traveling in excess of 41 MPH. He explained that each of the violators was subject to a fine of \$40. Discussion followed.

MaxMara Café Site Plan Amendment

Megan Showers, Director of Marketing for *MaxMara Café* (MaxMara), on behalf of General Manager Joe Giannino, and Bob Dalrymple of Linowes & Blocher, Counsel to the Chevy Chase Land Company (Land Co.) presented the proposed plans for the site. Mr. Dalrymple stated that the Land Co. is unhappy with the level of the current use of Farr Park, a 9,000 square foot outdoor public plaza located between the two retail buildings abutting Wisconsin Avenue. MaxMara, located directly adjacent to the plaza, has requested the designation of a portion of the

plaza for private dining. Mr. Dalrymple explained that the proposed 1,100 square foot private dining area would be separated from the remaining plaza by a three-foot (3') high semi-permanent iron fence. The current outdoor private dining area maintained by MaxMara on the sidewalk along the parking lot side of the restaurant would remain. Mr. Dalrymple stated that the new private dining area would not impede pedestrian access to the remaining area, and that the Land Company hoped the private dining area would activate use of the remaining plaza. Mr. Dalrymple explained that the minor site plan amendment request would allow for the change to be noted as a consent amendment, but only if there is no opposition from the neighboring communities. If any neighboring community opposes the amendment, the Land Company will withdraw the amendment application. Ms. Showers added that the restaurant receives high patronage during lunch hours, but that it was hoped the additional outdoor private dining area would encourage increased patronage at other times of the day by making the restaurant more visible to potential customers. Mr. Dalrymple asked for resident feedback on the proposed amendment.

Alison Powers of 3929 Oliver Street said she felt a huge portion of the public space would be utilized, and that she felt that a more casual dining area should be encouraged, where people would feel free to purchase a sandwich or a beverage, but would have access to open public seating in the plaza.

Margaret Cook of 5410 Center Street said that she did not see how the outdoor private dining area would draw in additional people to use the remaining public space. She also said that she would not find the area more attractive with the proposed configuration. Mr. Dalrymple replied that the Land Company would like the area to resemble Bethesda Row as an active area with outdoor private dining that pedestrians would be able to traverse.

Diane Kartalia of 5412 Grove Street complimented the appearance of the Wisconsin Avenue side of the Center. She continued by stating that Farr Park was not the public amenity that the residents had originally desired, and that it is small in relation to the amount of retail development that was allowed. She said that allowing the public space to be reallocated for private use would not benefit the public, that it would not be a good use of public space and that it would be a loss of the public amenity.

Betty Tubbs of 5509 Montgomery Street said she thought the amount of foot traffic in the area would not change until community stores were added to the Center. Discussion followed.

Mr. Dalrymple stated that based on the resident comments he would advise his clients to withdraw the amendment request.

Building Regulations Review—Dr. Kamerow provided background information on the building regulations review process. Mr. Winter provided a proposal, which was circulated to the Board prior to the meeting summarizing the next phase of work. The proposal is for \$18,390 for an expected 11 weeks of work. Noré Winter of *Winter & Company* attended via video conference and explained the proposed scope of work: a more precise calculation of floor area ratios (FARs), lot coverage, plate heights and impermeable surfaces.

Mr. Winter explained that he would work with Village staff to provide a sufficient sample calculation of existing dimensions based on in-field assessments, review of aerial photo maps, County tax assessments, and building plans on file in the Village office. This data would be compared with data collected from workshops and resident survey results.

Ms. Feldman stated that she felt the Board should define what it wants included in the FAR calculations (i.e., below-grade staircases, covered porches, etc.) before staff begins making its calculations. Mr. Winter responded that there is a formula that can be used to calculate these features.

Mr. Jones asked if there was precedent for restricting the size of a basement to the footprint of the above-grade structure. He said he felt this was important given the existence of underground water throughout the Village contributing to drainage issues. Mr. Winter responded that this could be researched. Mr. Podolsky advised of recent regulations adopted by the Town of Chevy Chase pertaining to water drainage and storm water management.

Ms. Eig asked if regulations could be developed to determine a shape in which residents could build that would not require the use of FARs. Mr. Winter replied that a bulk-plane formula could be used, but cautioned that this would not be an ideal calculation for a community with great diversity like the Village because it would eventually render houses out-of-scale with the surrounding houses.

Mr. Biddle suggested that approximately 10-20% of homes within the Village could be used as a reasonable calculation sample which would then be cross-referenced with available building plans on file in the Village office, and an inventory of available aerial photography.

Ms. Stephens asked how houses would be selected for the data collection process. Mr. Biddle responded that staff would begin with the residents who are willing to allow staff onto their properties. Mr. Winter said that there are a wide range of locations within the Village with houses and lot sizes that could be used as models.

Betty Tubbs of 5509 Montgomery Street said that there are conflicting definitions for patios vs. porches. She said that a distinction should be made prior to calculating FARs. Mr. Winter said that acceptable definitions for patios and porches can and should be determined.

Mr. Winter and the Board discussed the use of photographs vs. computer models. Ms. Stephens and Ms. Feldman said they would find photographs to be more helpful than computer models. Mr. Biddle stated that there are a limited number of aerial photos. Mr. Winter added that when aerial photos are not available, computer models would be beneficial. Mr. Yeo expressed his support for the use of both aerial photos and computer modeling. Discussion followed.

Alan Berlow of 9 East Melrose Street said he felt the survey results were helpful. He encouraged the Board to read the previously circulated letter from the Concerned Citizens for Village Preservation group.

Phillip Sheridan of 5416 Center Street stated that driveway retaining wall heights and below-grade structures should be regulated. He also cautioned that the point-system, being considered by the Town of Chevy Chase, could lead to mechanical “wheeling and dealing”, thereby excluding the concerns of neighbors. Dr. Kamerow said that given the resident concern, he expected that below-grade structures would be regulated. Ms. Eig and Mr. Yeo stated that they did not favor the point-system. Ms. Feldman said that conceptually the point-system was not a bad idea based on what it will provide, but she acknowledged that in actuality it could become a “nightmare” and that it needed to be determined who would decide the factors that should be weighed. Mr. Winstead spoke in favor of fixed regulations. Mr. Yeo spoke in favor of keeping the regulations simple.

Alison Powers of 3929 Oliver Street asked the Board to keep the letter from the Concerned Citizens for Village Preservation open for consideration.

Mr. Berlow asked Mr. Winter if he had had any experience with the use of story poles which allow neighbors to get an idea of what the proposed structure would look like. Mr. Winter responded that story poles can be effective and useful to indicate impact, especially when a proposed structure is nearing the established FAR limits. Discussion followed.

Mr. Yeo made a motion to accept the proposal from Winter & Company to begin the third phase of the Chevy Chase Neighborhood Conservation Project. Mr. Winstead seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Mr. Biddle stated that staff would come up with a list of features to be included in the FAR calculations, which he would provide to the Board for their review and comment. Dr. Kamerow asked Mr. Biddle to keep the Board informed. Discussion followed.

Treasurer’s Report

The Treasurer’s report was distributed to the Board prior to the meeting. Discussion followed.

Committee Reports

Building Facilities Commission—The Board welcomed Elizabeth Bausch of 12 East Lenox Street as the incoming Chair of the Building Facilities Commission. Ms. Bausch stated that she does not intend to approach the Board at its monthly meetings as did her predecessor, Mary Anne Tuohey, unless there is a specific issue to address. Ms. Bausch continued by saying that she would be leaving photographs of more chair options for the Board members to review. Ms. Bausch advised that classes are going well and that a Movie Night would be held on October 12 and the Annual Halloween Party would be held on October 26. Discussion followed.

Brookville Road Working Group—Dr. Kamerow explained that Rummel, Klepper & Kahl (RK&K) has submitted 30% complete draft drawings for the proposed Brookville Road walkway. These base drawings show how the walkway, which would be located along the east side of the roadway, could/should look. The walkway would be five feet (5’) wide for the majority of its length, narrowing down at points to a minimum width of thirty-two inches (32”).

Dr. Kamerow asked the Board if it would accept the partial drawings and authorize Mr. Biddle to submit the plans to the Historic Preservation Commission (HPC), the Maryland Historic Trust and the State Highway Administration (SHA) for preliminary review and approvals. Mr. Biddle circulated a sample of the proposed walkway material. Mr. Winstead applauded the Group for its efforts. Dr. Kamerow applauded the Village staff for its efforts. Discussion followed.

Joan Gaul of 27 Primrose Street asked why the proposed material for the walkway had been chosen. Mr. Biddle responded that water drainage is a serious issue on Brookville Road and that the material was selected because it is porous.

Elizabeth Bausch of 12 East Lenox Street asked if the Group had begun to address traffic control. Dr. Kamerow stated that traffic control had been classified as a secondary issue. Ms. Bausch said that pedestrians would not use the walkway if they were too scared to walk down Brookville Road due to the speed of traveling vehicles. Dr. Kamerow noted that in addition to the proposed walkway, a 4-way stop sign is proposed for the intersection of Brookville Road and East Kirke Street near Ms. Bausch's residence. Discussion followed.

Mr. Yeo made a motion to authorize the Village Manager to submit the 30% partial drawings to the Historic Preservation Commission, the Maryland Historic Trust and the State Highway Administration for preliminary review and approval. Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Environmental Committee—Committee Chair Lawrence Heilman, Ph.D. advised that the group had met on October 8, 2007 to determine its priorities going forward, and determined their primary focus would be energy conservation. The Committee divided itself into four sub-groups: an energy conservation group, a “green” group, a recycling group and a solar energy (one-person) group. Dr. Heilman said the Committee is anxious to develop ideas for action within the next 60-90 days. Their first action item would be the use of energy-efficient light bulbs. He stated that community participation and a good communication strategy were necessary. The Committee does not intend to suggest regulations, but requested Board support of its recommendations to the community. Dr. Heilman said the Committee would hold its next meeting in November and would submit its action plan to the Board at its December meeting. In the interim, the Committee would communicate with the community via the Village's website and listserv and would post its meeting minutes and progress reports on the website for residents to view. Dr. Heilman said that any residents who were unable to attend the last meeting should contact him to be put in contact with the individual group leaders. Dr. Heilman added that he would like a routine article in the *Crier* of an environmental practice that residents could adopt.

Decisions on Previous Appeals

None.

Appeals

A-5173: Ms. Ruth Katz, 29 Primrose Street—The applicant seeks a modification to a variance which was granted by the Board of Managers on November 30, 2006. The

original variance allowed the applicant to replace an existing chain link fence and two gates measuring five-feet (5') in height with a tongue and groove solid board fence and two gates measuring six feet, six inches (6'-6") in height in the Brookville Road front yard, located two inches (2") west of the east property line beginning at the north property line and connecting with the north end of a porch on the east side of the house. The applicant proposes to extend the fence southward along the east property line an additional eleven-feet, seven-inches (11'-7"). The proposed fence would then extend to the west to connect with the middle of the porch. The landscape architect for the applicant, Lila Fendrick of Lila Fendrick Landscape Architecture, presented the request.

Ms. Feldman asked Chief Gordon if he had determined if there were any sightline issues for the proposed extension. Chief Gordon responded that he had not. Board members stated that they did not feel there would be a sightline issue because the fence is sufficiently set back from the intersection. Ms. Fendrick also advised that the previously submitted landscape plan would only be modified to the extent necessary to extend the fence according to the plans submitted for the record. Discussion followed.

Ms. Stephens made a motion to direct Counsel to draft a decision approving the above-referenced modification request to the approved Special Permit A-5173. Mr. Yeo seconded the motion. Dr. Kamerow, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. Mr. Winstead was absent during the motion. The motion passed.

A-5300: Ms. Ruth Katz, 29 Primrose Street—Install a wood fence measuring six-feet, six-inches (6'-6") in height along the north property line between the front property line (Brookville Road) and the twenty-five foot (25') front building restriction line. The landscape architect for the applicant, Lila Fendrick of Lila Fendrick Landscape Architecture, presented the request. Discussion followed.

Ms. Feldman made a motion to direct Counsel to draft a decision approving the request to install a wood fence measuring six-feet, six-inches (6'-6") in height along the north property line between the front property line (Brookville Road) and the twenty-five foot (25') front building restriction line. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed.

Old Business

Resolution No. 10-01-07: Extend Moratorium—Mr. Podolsky explained that the draft resolution circulated to the Board at the meeting would extend the moratorium through January 31. **The Board unanimously voted to approve Resolution No. 10-01-07.**

Wohlfarth Property—Mr. Podolsky said that it appeared the County would consent to the Village's annexation of the Wohlfarth property. The Board will hold a discussion of possible uses for the Wohlfarth property and directed Counsel to draft annexation documents for introduction at the Board's November 13, 2007 meeting. A public hearing on the proposed annexation will be held at the Board's December 10, 2007 meeting. Discussion followed.

New Business

29 Primrose Street—Joan Gaul of 27 Primrose Street thanked Mr. Biddle for his help with an issue she had with her neighbor, Ruth Katz of 29 Primrose Street, regarding Ms. Katz's high-efficiency furnace's water vapor emissions. Ms. Gaul explained that the furnace's exhaust pipe emitted water vapor that blew onto her property and she outlined the adverse effects thereof. Ms. Gaul stated that with Mr. Biddle's efforts, the pipe has been relocated behind an existing fence and that she would have to wait until this winter to determine if the vapor would still be blown onto her property. She asked the Board to consider adopting a formal policy to regulate these vent pipes. Mr. Biddle explained that these high-efficiency furnaces are the new technology standard and explained the technical aspects of the units. Ms. Feldman stated that she felt residents should not be allowed to install these vent pipes in a location that would be directed at neighboring properties. Mr. Biddle noted that the contractor for 29 Primrose Street, David Brown, had been very responsive in remedying the situation. Mr. Podolsky stated that the units could be classified as a nuisance between property owners, but under the current Village Code it is not a situation that the Village regulates. Mr. Biddle stated that staff could draft a *Crier* article asking residents to be courteous when determining the location of these vent pipes when installing these high-efficiency furnaces. Discussion followed.

Saks Fifth Avenue—Mr. Biddle advised that representatives of *Saks Fifth Avenue* (Saks) would attend the Board's November 13 meeting to discuss their desire to eliminate the current 1-hour free parking period in the Saks parking lot to prevent people from parking in the lot who are not shopping in the store. Mr. Podolsky provided background on standing agreements with Saks. He stated that the Village needs to determine if it would oppose Saks's request to the County for a zoning text amendment. Discussion followed.

Chairman's Report

None.

Manager's Report

Mr. Biddle advised that the Citizens Coordinating Committee on Friendship Heights (CCCFH) would like a \$2,000 contribution from the Village to support the drafting of a design alternative for the redevelopment of the Westbard area. Mr. Biddle said that the Village has benefited from CCCFH's support in the past. Discussion followed.

Margaret Cook of 5410 Center Street asked why CCCFH felt the need to submit a re-design proposal. Mr. Biddle responded that if the area is re-zoned, it could become high-density. CCCFH would design a plan that would provide more public space and less dense development.

Mr. Winstead suggested that the Board donate the requested amount with a qualification that the funds be used for the portion of the project that would impact the Village.

Diane Kartalia of 5412 Grove Street stated her support for the requested contribution stating that development in the Westbard area would directly affect traffic along Western Avenue, thereby affecting the Village. She added that CCCFH has supported the Village in its initiatives for several years. Discussion followed.

Ms. Stephens made a motion to approve the request from CCCFH for a contribution of \$2,000 to support the drafting of a design alternative for the redevelopment of the Westbard area, provided the contribution is used for the portion of the plan that addresses traffic impact. Dr. Kamerow, Mr. Winstead, Ms. Feldman, Ms. Stephens and Mr. Yeo voted in favor of the motion. Mr. Jones and Ms. Eig abstained. The motion passed.

Police Report

The monthly Police Report was distributed to the Board prior to the meeting. Chief Gordon updated the Board on the progress of investigations pursuant to recent crime in the Village. Discussion followed.

Betty Tubbs of 5509 Montgomery Street stated her concerns regarding parking along the 5500 block of Montgomery Street. Mr. Biddle advised that a resident of the block had advised that he would be submitting a permit parking petition for the Board's consideration. Discussion followed.

Ms. Eig made a motion to adjourn the open meeting and to convene in Executive Session pursuant to State government Article Section 10-508 (a)(7), to consult with Counsel to obtain legal advice on a legal matter (annexation of the Wohlfarth property). Mr. Jones seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens, Mr. Yeo and Mr. Jones voted in favor of the motion. The motion passed. The open meeting adjourned at 10:19 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.