

Chevy Chase Village Board of Managers

Special Meeting

January 7, 2008

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	Absent
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	Absent
Shana R. Davis-Cook, Manager of Administration	Present
Michael W. Younes, Administrative Assistant	Present
Doris M. Lyerly, Administrative Assistant	Present

David L. Winstead, Vice Chair of the Chevy Chase Village Board of Managers, called the special meeting to order at 7:38 p.m. Dr. Kamerow arrived at 7:45 p.m. Mr. Yeo was absent. Nore Winter of *Winter & Company* attended via video-conference.

Mr. Winstead stated that Mr. Winter had submitted a draft ordinance outlining possible new regulations in regard to FARs and lot coverage restrictions. Mr. Winter explained that he had drafted the ordinance pursuant to data calculations by Village staff of a sample of existing homes within the community. He noted that the ordinance included a FAR of .44, an impervious lot coverage maximum of 35% and as yet undetermined wall plate height restriction.

Ms. Feldman noted that the two issues to be determined when discussing FAR restrictions were the numerical value at which the FAR should be set and what features should be included in the FAR calculation. Ms. Stephens said that it was her understanding that a .44 FAR would be exceeded by approximately 1 in 7 of the existing homes within the Village. She also noted that attached garages, accessory buildings and basements had not been included in the analysis of the FARs of existing homes within the Village. Ms. Stephens said that if these three areas were included, a far greater number would exceed the .44 FAR. Mr. Winter stated that he did not know how extensively these three features exist in the Village. He also stated that, based on residents' survey responses, a higher FAR was not preferred by the community based on the models reflected within the survey. Discussion followed.

Heather Cass of 7 Magnolia Parkway said she felt there should be an easier way to address the feeling of a house's "bulk" than utilizing an FAR regulation. Ms. Cass noted that her home is

located in the Village's historic district, and since the intent included in the preamble of the Village's draft ordinance seems to her to be the same basic general intent of the Historic Preservation Commission (HPC) review, she said that she felt the homeowners in the historic district would be doubly regulated and burdened with these additional regulations. Mr. Winter responded by stating that FAR is the simplest way to regulate building bulk and mass and that other regulatory measures are typically used in jurisdictions where there is a review committee in place to assess the individual projects. Mr. Winter further explained that the proposed regulations would work simultaneously with the HPC's review. Mr. Podolsky added that, just as it does now, the Village's proposed regulations would apply simultaneously with a review by the HPC, and that residents within the historic district would continue to be required to comply with both. It is possible that, as happens currently, an applicant could receive approval under one jurisdiction's authority, but not from the other jurisdiction. Ms. Cass stated that it didn't seem fair to her to have to meet FAR regulations imposed by the Village and regulations imposed by HPC when one of the objectives of both jurisdictions is to reduce building mass. Ms. Cass concluded by stating that she did not favor the additional burden of complying with FAR regulations from the Village in addition to the HPC's already imposed guidelines.

Jane Roemer of 5402 Center Street asked Mr. Winter to explain the definitions included in the draft ordinance, specifically the definitions of porches, balconies, patios and breezeways. Mr. Winter explained the definitions in more detail and stated that the objective of the definitions was to determine what features factor into a building's mass. He further stated that the intent was to capture the spirit of what contributes to mass, and that the definition could be clarified to define an enclosing wall as a floor-to-ceiling wall. If a porch or breezeway abuts a solid wall of the house, that abutting wall is one of the enclosing sides. This generally captures an inset porch that is cut into the façade of the house, as opposed to projecting away from the house, or a porch with one open side. Mr. Winter stated that the Board must determine how many exterior sides a porch would need to have before it factors into the FAR. Discussion followed.

Mark Nadel of 5808 Cedar Parkway said that detached garages should be calculated into the FAR to avoid subjecting abutting neighbors to the view of a large auxiliary structure, which is allowed to be much closer to the property lines than the main structure. Mr. Winter responded that the community can make the choice to calculate garages at a lower FAR.

Mr. Winstead said that the mass of accessory buildings can be more imposing on neighbors than the main structure because they are permitted to be much closer to the property lines. Mr. Winter concurred with Mr. Winstead's comments, but he said that the incentive to builders is to build detached structures to decrease the bulk of the main structure. Ms. Feldman stated that she felt accessory structures should be included in the FAR calculation.

John Lynham of 32 West Kirke Street said that there are properties within the historic district that have existing detached garages that the HPC would not allow to be demolished. Mr. Lynham claimed that with a .44 FAR, these residents would generally not be able to do any further work on their properties.

Diane Kartalia of 5412 Grove Street said she doesn't think basements should be calculated in the FAR because she does not feel that basements count toward the visual impact of a building's

bulk. She said that she felt detached garages should be calculated in the FAR, but open garages/carports should not because they do not have the same visual impact.

Robert Vricella of 5505 Grove Street stated that his home could not be developed further because his existing FAR and lot coverage including impervious surfaces exceeds the limits in the draft ordinance. Mr. Podolsky explained the Village Building Code's current regulations for developmental non-conformities and variance procedures. Discussion followed.

Alison Powers of 3929 Oliver Street asked Mr. Winter if he felt the .44 FAR would sufficiently accomplish the community's objective to maintain the Village's current mass and scale. Mr. Winter said that lot coverage, FARs and wall plate height used in combination would begin to achieve the community's objective. Ms. Powers asked what other regulations could be added to better achieve the objective. Mr. Winter stated that regulating wall length would also be beneficial.

Ralph Stephens of 11 Magnolia Parkway stated his concern with what he considered to be a low number of respondents to the survey, and said that an attempt should be made to gauge the concerns of the residents who did not respond. Discussion followed.

Alan Berlow of 9 East Melrose Street advised that the HPC had recently denied a development proposal from the owner of 11 East Melrose Street that would have essentially doubled the size of the house. He further explained that the proposed FAR for that house was .45. Mr. Berlow said that it appeared to him that this case was a good indication that solely regulating FAR would not be adequate.

Alex Boyle of 49 West Lenox Street said that he was surprised that the draft ordinance reflected a single FAR for the entire Village, no matter the size of the lot. Mr. Boyle said he felt the draft ordinance should reflect a modification to the FAR dependent upon the size and slope of the lot. Mr. Winter responded that the Board and residents had expressed a desire to have a single FAR for the entire Village. Ms. Feldman said that it seemed simple enough to provide a sliding scale dependent upon the size of the lot. Mr. Jones said that it would be more efficient to regulate a single FAR for all homes within the Village. Mr. Boyle responded that there is such a varying degree of lot sizes in the Village, that there should be a scale.

Jean Federico of 5609 Belmont Avenue said that several residents she had spoken with felt the .44 FAR was too high and she asked if it could be reduced to .42 or a slightly lower number to allow as much open space as possible. Dr. Kamerow responded that the .44 FAR was derived from calculations of a sample of the existing homes within the Village, which provided a better sense of how many of the existing homes within the Village would not comply with the proposed regulations. Discussion followed.

Ms. Roemer said that the FAR should be set below the level of the houses that raised concern amongst the residents.

Betty Tubbs of 5509 Montgomery Street said that the perception of the size of 5500 Montgomery Street related to the partially screened porch located in the rear yard. She further

stated that the term wall would be better defined as a barrier; therefore, a partial solid wall with screening that could later be fully enclosed into the main structure, should be classified as a wall when originally permitted.

Ms. Cass cautioned that if the FAR is lowered below .44, some homeowners might be unable to develop their homes.

Ms. Eig said that residents want to be included in the permit review process, with an opportunity to participate in the design review process before the permit is issued, and with an opportunity to review their neighbor's drawings and discuss their proposals in a public forum with mediation. She added that the Board should consider how best to include resident participation in the permit process. Discussion followed.

Phillip Sheridan of 5412 Center Street said that he felt neighbors should be notified prior to the Village Manager's issuance of a building permit for a project that complies with the building Code. He added that this notice should be provided with sufficient time allowed for neighbors to comment or to submit their objections to the proposal. Dr. Sheridan also stated that setback regulations should be modified to regulate accessory buildings and below-grade structures. Mr. Jones cautioned that if the regulations are too strict, it will result in additional variance hearings. Discussion followed.

Dr. Kamerow acknowledged that several residents had commented that they felt that a FAR of .44 is too high and he asked how FARs, lot coverage and wall plate heights could work in concert to address these residents' concerns. Mr. Winter responded that by using these regulatory measures in concert, you encourage applicants to decrease in other areas to accomplish the desired project; i.e., remove a portion of the existing driveway in order to build a new addition. Ms. Feldman said that if the aforementioned regulations were all used, then ½ of the homeowners in the Village would not be able to expand their homes. Discussion followed.

Mr. Vricella asked why the draft ordinance included impermeable surfaces in the lot coverage calculation since the intent of these new regulations was to limit the bulk of larger houses on smaller lots, and he asked why the County regulations weren't sufficient for application in the Village. Dr. Kamerow explained that inclusion of impermeable surfaces in the lot coverage calculation addressed additional concerns raised by residents in relation to water drainage. Ms. Eig added that, in addition to the additional regulatory authority granted to it, the Board was also seeking to respond to concerns raised by residents in regard to the general permitting process. Mr. Vricella concluded by stating that he felt there were other ways to address drainage concerns other than the regulation of impermeable surfaces. Discussion followed.

Ron Holroyd of 3929 Oliver Street said that other regulatory measures that had been favored by several residents including limiting wall lengths, one-story step downs and a reduction of garage frontages, were not included in the draft ordinance even though it appeared that they would have accomplished the desired reduction of mansionization. He said that he understood that there was an objective to keep the regulations simple, but that these measures should be factored into the regulations.

Robert Brewer of 105 Grafton Street said he didn't understand why the draft ordinance reflected a 50th percentile figure for impermeable surfaces, but a 90th percentile figure for FAR. He explained that this would place half of the Village out of compliance with the impermeable lot coverage, but only 10% out of compliance in relation to FAR. Mr. Brewer also noted Montgomery County definitions for basements and cellars. He asked if the FAR would be modified for properties on blocks with broader rights-of-way. Mr. Podolsky responded that the FAR is based on the lot size and is not related to the width of the right-of-way. Mr. Jones asked why the Village wouldn't just adopt the County's definition for basements and cellars.

Ms. Stephens said that she felt that a better understanding of existing conditions within the Village needed to be gained in order to identify what features should be included in the FAR calculation. Discussion followed regarding the Village staff's calculations.

Using the original "targeted" 100-house non-random sample, Village staff is to recalculate FARs with the following changes:

- Do not include fully below-grade basements in the FAR.
- If a basement extends at least three feet (3') above-grade it should be calculated in the FAR.
- Attached garages should be calculated in the FAR.
- Detached garages, sheds and accessory structures should be calculated in the FAR at both 50% and 100% of floorspace.

Ms. Stephens requested pictures of houses in the Village as viewed from the streetscape. Ms. Eig noted that the issue is also the view of a house from the neighbors' perspectives.

Dr. Kamerow said that the Board would discuss plate heights and regulatory features while staff compiles additional data in regard to FARs encompassing basements with at least three feet (3') exposed above-grade, screened porches and attached and detached garages. Mr. Younes was directed to post this data on the website by the weekend. Discussion followed.

The Board unanimously scheduled Special Meetings to be held on January 28, 2008 and February 25, 2008 at 7:30 p.m. in the Village Hall to continue the building regulations discussions.

Mr. Winstead made a motion to adjourn the special meeting. Ms. Stephens seconded the motion. Dr. Kamerow, Mr. Winstead, Ms. Eig, Ms. Feldman, Ms. Stephens and Mr. Jones voted in favor of the motion. The motion passed. The special meeting adjourned at 9:58 p.m.

Secretary, Chevy Chase Village Board of Managers

Final.