

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
December 7, 2015**

Mr. Thomas Franko called the Regular Meeting of the Planning Board to order at 7:29 P.M.

Adequate notice of the meetings of the Planning Board of the Township of Chatham was given as required by the Open Public Meetings Act as follows: Notice in the form of a Resolution setting forth the schedule of meetings for the year 2015, and January, 2016 was published in the Chatham Courier and the Morris County Daily Record, a copy was filed with the Municipal Clerk, and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Hurring, Mrs. Swartz, Mr. Saluzzi and Mr. Nelson. Mr. Ciccarone, Mr. Ritter, Mr. Travisano and Mr. Murray were absent. Mr. Brower and Ms. Hagner arrived a couple minutes late.

Also present was Amanda C. Wolfe, Esq, filling in for Board Attorney Steven Warner. Board Engineer John Ruschke was also present. Township Frank Banisch arrived a few minutes late.

Approval of Minutes

Mr. Hurring moved to approve the minutes of the November 16, 2015 meeting. Mrs. Swartz seconded the motion, and it carried unanimously.

2016 Meeting Schedule

Mr. Franko said that the Planning Board received a draft meeting schedule for 2016. He noted that the proposed dates need to be cross-referenced for holidays. Mr. LaConte added that two of the proposed dates fall the day before an election.

Hearing

Plan: 15-61-10 (March 11, 2015) Bhee Properties, LLC – 697 Fairmount Ave, Block: 61 Lot: 10. Minor Subdivision.. Continuation Escrow# 11299

Mr. Franko noted that a site visit for this application was held on December 5th.

Mr. Ruschke was sworn in to give testimony.

Attorney Steve Barcan representing the applicant reintroduced Engineer Robert Moschello to continue his testimony from the last hearing.

Mr. Moschello said that the plans have been updated to show that the height of the homes will conform to the Township's ordinance for height restriction. The pitch of the roof will be

changed to remove 3.4 feet from the height of the houses. As such, a height variance will not be needed.

Mr. Moschello presented exhibit A5, showing the elevations of the surrounding properties. He also commented on the roof elevation and first-story elevation of some of the surrounding homes.

Mr. Banisch was sworn in to give testimony.

Mr. Moschello also commented on the elevation of the proposed homes. The siding materials were also addressed, and Mr. Moschello provided an exhibit showing homes previously built by the applicant.

Mr. Ruschke commented that the plan shows a lot of exposed foundation near the garage, and he asked if that can be mitigated. Mr. Moschello said that the applicant plans to provide landscaping to mitigate that exposure. Ms. Wolfe asked if the applicant is willing to stipulate that landscaping would be added, and the applicant agreed.

Mrs. Swartz asked about landscaping as a buffer between homes. Mr. Franko said that the professionals can address this matter.

Mr. Ruschke said that revised plans have not yet been submitted, and he would like the applicant to submit an update. Mr. Moschello noted that the Morris County Planning Board is amenable to a 2% slope within a 14-foot portion of the right-of-way. He also said that the driveway will have a 24-foot opening into the roadway.

Mr. Hurring asked about a comment in a memorandum from Mr. Banisch about preserving a berm along Fairmount Ave to mitigate noise from the roadway. Mr. Banisch said that the comment in the memorandum is no longer relevant.

Mr. Brower asked about the maintenance of the driveway. Mr. Franko noted that the plan has separate driveways.

Mr. Ruschke asked about the proposal for a conservation easement along the right-of-way, and asked if the easement makes sense. Mr. Moschello said that it should be an easement to the County for grading purposes if they ever decide to widen Fairmount Ave.

Mr. Franko opened the floor to the public to ask questions of Mr. Moschello. Seeing no questions, Mr. Franko closed the public hearing.

Planner Roger DeNiscia was sworn in to give testimony. He provided his qualifications, and was accepted as an expert witness.

Mr. DeNiscia said that the proposal is to subdivide an existing lot into two lots measuring 100 ft by 250 ft, and each lot would be developed with a single-family home facing Fairmount Ave. They will also have substantial setbacks. The proposal includes one point of access for two driveways. Both lots will also have stormwater management systems, while the existing lot does not presently have any stormwater management measures. Mr. DeNiscia also noted that some of the slopes on the property are manmade. Regarding the neighborhood, Mr. DeNiscia said that

some lots in the vicinity are undersized for the zone. He also addressed the lot size requirement and the lot density regulations. The proposed lots would be consistent with the R3 zone, and will meet the use, density and lot area intent of the zoning ordinance. Mr. DeNiscia offered his opinion that the application meets the necessary criteria for the variances to be granted, as the benefits outweigh any substantial detriment and the variances are the result of the unique physical conditions of the property. He also said that the lots are more conforming to the R3 Zone than the current lot.

Mr. Saluzzi asked what variances would be needed if the slopes on the property were natural and not manmade.

Mr. Brower said that when reviewing an application, he considers the potential detrimental effect of the proposal. He also offered his opinion that there is not any reason to oppose the application.

Mrs. Swartz asked for an explanation why there will be a retaining wall in the rear yard. She also asked for the potential of driving hazards on Fairmount Ave with water runoff from the driveways. Mr. Moschello said that the retaining walls create a transition from the garage area to the rear yard area. Regarding runoff, Mr. Moschello said that a stormwater management system is proposed to collect runoff before it reaches Fairmount Ave and directs it into an inlet. Mr. Brower asked about the size of storm for which the stormwater management system is designed. Mr. Moschello said that the system is designed for a 100 year storm.

Ms. Hagner asked about the proposal for the conservation easement. Mr. Franko indicated that the conservation easement is no longer part of the proposal.

Mr. Franko opened the floor for the public to ask questions.

1. Charles Philipp, 52 Sunset Drive, asked about the dimensions of the proposed lots. Mr. Moschello said they will be 100 feet by 250 feet, and will conform to the R3 Zone regulations.
2. Ken O'Brien, 6 Sunset Terrace, asked if the applicant had considered building a single home in the existing footprint. Mr. Moschello said that the existing lot could potentially have a 6000 to 7000 square foot house, and slope variances would likely still be needed. Mr. O'Brien asked if the applicant would consider building just one house on the existing lot. Mr. Barcan said that the applicant would not consider building just one house. Mr. O'Brien said that the property owner has not maintained the site, and has used it as a rental property. He also challenged the testimony that the benefits of the application outweigh the detriment, and he said that he will challenge the decision of the Planning Board.
3. Pat Philipp, 52 Sunset Drive, asked how long the property owner has owned the site. Mr. Barcan said that the applicant has owned the property for five years. Mr. Philipp said that the property was cleaned up for the site visit, and neighbors have periodically cleaned up the site. Mrs. Philipp also said that the property has been maintained as a rental unit, and she asked who will monitor the property during the construction phase. Mr. Ruschke said that the Construction Official handles property maintenance inspections. He also addressed the sequence of inspections per the Municipal Land Use Law. Mr. Brower

noted that the subdivided properties would eventually be owned by private homeowners who would have an interest in maintaining their properties.

4. Mr. Philipp asked about the proposed height of the structure. Mr. Franko said that the applicant has modified the application to conform to height regulations. Mr. Philipp asked about the preservation of the portion of the property nearest Sunset Drive, and if it could be stipulated in the resolution. Mr. Franko said that the resolution could contain such a provision. He also said that Township ordinances make it unlikely that any development could take place in the portion of the property referenced by Mr. Philipp. Ms. Hagner said that a future property owner could apply to either the Board of Adjustment for approval to develop in the subject area, but approval is unlikely. Mr. Ruschke said that a conservation easement in the area would inhibit property owners from maintaining the area, and Township regulations would necessitate a Board of Adjustment application for any development in the subject area.
5. Mrs. Philipp asked if a future property owner could apply to put a driveway on one of the subdivided lots with access from Sunset Drive. Mr. Ruschke said that all property owners have a right to apply to the Planning Board and the Board of Adjustment with an application. He also said that there are ordinances that limit steep slope disturbance.
6. Patricia Moran, 35 Sunset Drive, addressed a neighboring property that had a driveway installed from Sunset Drive. Mr. Banisch said that a condition of approval could be that there would not be access from Sunset Drive. Ms. Wolfe asked if the applicant would stipulate that there will not be no future access from Sunset Drive, and the applicant agreed.
7. Susan O'Brien, 6 Sunset Terrace, addressed the setback from one of the new houses to hers, and asked why the driveway is proposed to be in between the proposed lots. Mr. Barcan said that the County wanted only one access point to Fairmount Ave. Mrs. O'Brien asked if there will be an Environmental Impact Statement. Mr. Moschello said that the property does not have any of the conditions that would be addressed by an Environmental Impact Statement, which is why the applicant requested a waiver.
8. Mr. O'Brien asked if any examples exist of houses already built by the applicant. Mr. Franko said that some of the exhibits submitted at this meeting show houses already constructed by the applicant.

Mrs. Swartz asked about neighbors' rights to complain about construction issues. Mr. Ruschke said that the neighbors can call the construction office if they see anything at the construction site that appears to be improper.

9. Mr. O'Brien asked what the next steps are for this application. Mr. Franko said that the next step would be for the Board to entertain a motion to approve or disapprove the application subject to memorialization at a future meeting. Mr. O'Brien asked about the public's right to offer rebuttal. Mr. Franko said that the current public session is the time for the public to offer comment. Mr. Barcan said that the public has had ample time to offer comment and to retain counsel to assist them in offering rebuttal. He said the applicant would like for the Board to take action on the application.

Mr. Brower moved to approve the application. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Aye; Mr. Ciccarone, Absent; Ms. Hagner, Aye; Mr. Ritter, Absent; Mr. Saluzzi, Aye; Mr. Travisano, Absent; Mr. Nelson, Aye; Mr. Murray, Absent.

Mr. Hurring moved to adjourn at 9:07 PM. Ms. Hagner seconded the motion and it carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary