

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
JANUARY 22, 2018**

Mr. Jack Hurring called the Regular Meeting of the Planning Board to order at 7:31 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 2017, and January, 2018 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. Hurring, Mrs. Swartz, Mr. Brower, Mr. Franko, Mr. Nelson, Mr. Sullivan, Mr. Krawiec and Mr. Tarasca. Ms. Hagner, Mr. Ciccarone and Mr. Travisano were absent.

Also present was Board Attorney Steven Warner, Township Planner Frank Banisch and Samantha Anello, PE filling in for Township Engineer John Ruschke.

Mr. Hurring noted that Mr. Brower recently celebrated his 90th Birthday.

Approval of Minutes

Mr. Franko moved to approve the minutes of the January 8, 2018 meeting. Mr. Brower seconded the motion, which was approved unanimously with an abstention by Mr. Krawiec.

Mr. Brower asked if the minutes reflected that there was objection to the selection of the official newspaper. Mr. LaConte said that it is noted on page 7, and also noted in the vote on that resolution.

Hearing

Plan: 17-54-10 9 Mountainview Road, Block: 54, Lot: 10 Minor Subdivision

The applicant was represented by Dean Stamos, Esq, who was filling in for Mark Madaio, Esq. The subject property of the application is a large lot with frontage on two streets, and there is an existing home. The proposal is to subdivide the lot into two conforming lots, and the existing home would be demolished so that two homes could be built which will comply with the setback regulations.

Mr. Banisch and Ms. Anello were sworn in to give testimony.

Also sworn in to give testimony was Shawn McClellan of Lantelme Kurens & Associates. Mr. McClellan provided his qualifications as a civil engineer, and was accepted as an expert witness.

Mr. McClellan described the property and house as they currently exist. He said that the current structure will be demolished, and conforming homes will be built on the subdivided lots. Mr. McClellan also said that the lot sizes will conform to the zone regulations.

Mr. Warner addressed the completeness checklist items cited on a memorandum dated January 8, 2018 from Mott MacDonald. He noted that the Township Engineer's office takes no exception to the Board granting waivers for completeness purposes, with the condition that the Applicant's professionals provide written confirmation that there are no freshwater wetlands/wetlands transition areas located on the subject property.

Mr. Hurring asked if there are any other pending issues on the property. Mr. McClellan addressed a man-made slope on the property. Mrs. Swartz asked about the disturbance on the site. Mr. McClellan said that less than 1000 sq. ft. will be disturbed so as to avoid a variance. He also said that he anticipates having to submit two lot grading plans, and agreed to stipulate as a condition of approval to stake out the limits of disturbance and put up silt fences.

Mr. McClellan addressed the three test holes on the property, and he noted the soil conditions which were found on the site. Mr. Warner asked if the soil test results were acceptable. Ms. Anello said that there are not any concerns based on the results.

Mr. Warner said that the form of the subdivision deed will be subject to the review and approval of the Planning Board and/or Township Attorney, if stipulated. Mr. Sullivan asked why the Township Attorney would be approving the form, and Mr. Warner said that sometimes the Township Attorney likes to review the form of certain documentation.

Mr. McClellan addressed the five trees which are proposed to be removed.

Mr. Banisch said that the application meets all the Township's requirements as submitted. The only question he had was if the driveway access would remain in the same location. Mr. Brower suggested that the applicant should avoid having the driveway on the same side of the property as the adjacent property's driveway.

Mr. Sullivan asked if the applicant plans to build to the maximum lot coverage. Mr. McClellan said that it will likely be close to the maximum.

Mr. Brower addressed the complication of snow plowing when driveways are parallel to each other, as there would be limited space between them for snow removal. Mr. McClellan said that if the driveways were on the same side, they would be at least 15 feet apart.

Mrs. Swartz asked how this application affects the conformity of a deck on Lot 15. Mr. Stamos said that Lot 15 is already non-conforming due to the deck, and the proposed subdivision does not lead to any additional non-conformity on the neighboring lot.

Mr. McClellan said that the developer proposes front-facing garages, which would have driveways 15 feet from the property line. Mr. Warner asked that the applicant stipulate to a minimum 15-foot setback for the driveways on both lots.

Mr. Warner noted that the application proposes a Lot 10.01, and said lot designation already exists. Mr. Stamos said that the applicant will work with the Tax Assessor to determine an appropriate lot designations and addresses.

Ms. Anello noted that the items in the memorandum from Mr. Ruschke have been addressed.

Mr. Brower asked when the location of the dry wells will be made known. Mr. Warner said that said information will be reviewed by the Township Engineer rather than the Planning Board. Mr. Brower said that the location of dry wells will impact tree removal and replacement. He noted that new trees should be planted in locations where they have a higher likelihood of survival. Mr. Brower also said that junk trees should be replaced. He further addressed how the tree ordinance has prompted developers to avoid cutting down trees which later die.

Mr. Sullivan said that neighboring lot 15 is a small lot. He also said that the Township Committee adopted a zoning ordinance in 2016 to rezone the subject property and several neighboring properties from an R-3 designation to an R-4 designation, and the change was designed to help the neighborhood make use of their properties. Mr. Sullivan questioned if lot 15 would be able to attract developers as potential buyers, and he said he would like input from the owners of lot 15. Mr. Sullivan also suggested that an additional front-yard setback on the lot facing Chestnut would keep the new structure in line with the existing homes. Mr. Stamos asked if the additional front-yard setback would include relief on the rear-yard setback, which would require a variance. Mr. Banisch said that the Planning Board has the power to grant such a variance as part of the approval of this application. Mr. Sullivan suggested that an additional side-yard setback should also be considered.

Mr. Stamos said that moving the front-yard setback an additional five feet back would lead to increased lot coverage, as the driveway would have to be longer to reach the house. Mr. McClellan said that an extra 120 sq. ft. would suffice. He also said that moving the house to the side would result in additional slope disturbance.

John Harrington and Diane Harrington of 10 Chestnut Road were sworn in to give testimony. Mr. Harrington said that he is not opposed to the subdivision, however he is concerned that the house to be built on the new lot will be built large and close to the road. He referenced a document on the Township website which recommends that consideration be given to scenic impact when new houses are designed. Mr. Sullivan said that the Planning Board is trying to address scenic impact, however the Board is beholden to the ordinances and statutes currently in effect.

Mrs. Harrington asked that the driveway for the new house be on the opposite side of the property from her property. Mr. Sullivan noted that there would be a potential advantage to having the driveway on the same side, as backup generators and air conditioning units are usually on the opposite side from a driveway.

Mr. Warner asked the Harringtons if it would benefit them to have the new house set back 5 feet further from the front property line. Mr. Harrington said that it would be a benefit to them. Mr. Warner asked the applicant if they would stipulate to the additional setback. Mr. Stamos said that the applicant would stipulate provided that there would be a corresponding relief on the rear

yard setback. The applicant also asked for a deviation allowing for an additional 120 sq. ft. of lot coverage, which would be for the driveway.

Mr. Sullivan asked what plans the applicant has for the rear yard.

Robert Zampolin, the architect for the applicant, was sworn in to give testimony, and provided his qualifications. He was accepted as an expert witness.

Mr. Zampolin presented the preliminary design sketches for the proposed home on the new lot, which is proposed to be a center hall colonial. He said that the garage will be on the opposite side from lot 15. He also addressed the proposed height and roof-line. He said that the footprint and coverage are being maximized. The chimney will be opposite the garage side. The drawing was entered as Exhibit A-1. Exhibit A-2 was reviewed, which shows the rear elevations. The Mt. View front elevation was also presented, which was entered as Exhibit A-3.

Mr. Sullivan asked if the builder has done work in Chatham Township previously. The builder, Mr. Feldman, was sworn in to give testimony, and indicated that he has done work in the Township.

Mrs. Swartz asked if the garage will be in the same spot as the current garage, and said that there does not appear to be a necessity for a subterranean garage. Mr. Brower said that the Planning Board prefers not to have garages below grade. Mr. Zampolin said that grading will need to be done on the site. He also noted that the final design will be compliant with the height ordinances.

Mr. Brower noted that the house on lot 15 has an exit toward the proposed new house, and he said that the owners will likely want to see the final design of the side of the new house which will face theirs.

Mr. Stamos provided a summation. He said that the applicant submitted a fully compliant application, and the Board has requested certain deviations. Mr. Stamos said that the applicant is willing to stipulate to have an additional 5-foot front-yard setback subject to a deviation for the rear-yard setback with an additional 120 sq. ft. of lot coverage. Mr. Warner asked if the applicant is also requesting a bulk variance for the 5-foot deviation on the rear yard setback and the 120 sq. ft. lot coverage on the C-2 flexible C criteria. Mr. Stamos agreed.

Mr. Brower asked if the Board could restrict what a future homeowner could request for the backyard, such as a patio. Mr. Stamos said that such a restriction would punish his client for agreeing to the additional 5-foot front yard setback. Mr. Sullivan said that building the house to the maximum lot coverage already restricts what can be done in the future, and any homeowner could submit an application to the Zoning Board.

Mr. Stamos asked if there is a setback for pools, and said that the 5-foot setback could affect the ability of a future homeowner to put in a pool. Mr. Stamos also indicated that the impervious coverage deviation accounts for a potential future pool. Mr. Hurring noted that the future homeowner would only need to apply for permits from the Construction Department if the variance for a future pool is granted. Mr. Stamos also noted that any applications for a pool would be reviewed by the Township Engineer. Mr. Banisch said that if the Board wants the

additional setback, the requests from the applicant are reasonable. Mr. Sullivan said that he is in favor of granting the additional waiver in order to protect the owner of lot 15.

Mr. Warner summarized that the motion will be for a minor subdivision approval with three variances for the 5 foot rear yard setback for the principal dwelling, a 5 foot rear yard setback for a prospective accessory structure pool and an additional 120 sq. ft. of lot coverage overage, as well as the conditions proposed by Mr. Banisch and Mr. Ruschke, as well as block/lot designations to be determined in conjunction with the tax assessor's office.

Mr. Sullivan made the above motion, which was seconded by Mr. Nelson.

Roll Call: Ms. Hagner, Absent; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Aye; Mr. Ciccarone, Absent; Mr. Franko, Nay; Mr. Sullivan, Aye; Mr. Nelson, Aye; Mr. Travisano, Absent; Mr. Kraweic, Aye; Mr. Tarasca, Aye.

Discussion

Tree Protection Ordinance

Mr. Hurring said that potential changes to the tree ordinance will be discussed at a future meeting, and he said that Mr. Sullivan has handouts for the Board's review.

Mr. Sullivan said that Mr. Ruschke prepared some suggested amendments to the tree protection ordinance. He also said that there has been a concern about the clear cutting of lots. Mr. Sullivan also said that builders are essentially clear cutting lots, and leaving enough trees in a remote corner which technically satisfies the current regulations. He would like to see a balance that protects trees, yet allows homeowners to take down small trees.

Mr. Brower provided some background on the tree ordinance which used to be in effect because it was too draconian. He also noted that clear cutting by developers has been a problem for a long time.

An electronic copy of the proposed changes will be distributed to the Board.

Mr. Sullivan moved to adjourn at 9:26 PM. Mr. Franko seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary