

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
FEBRUARY 4, 2019**

Mr. Don Travisano called the regular meeting of the Planning Board to order at 7:30 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 2019, and January, 2020 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy filed with the Municipal Clerk and a copy placed on the bulletin board in the main hallway of the Municipal Building.

**Oaths of Office**

Robert S. Hoffmann was sworn in as a Class II Planning Board Member. The oath of office was administered by the Township Clerk.

Answering present to the roll call were Mr. Travisano, Mrs. Swartz, Ms. Hagner, Mr. Hoffmann, Mr. Kelly, Mr. Nelson and Mrs. Ozdemir. Mr. Franko, Mr. Sheth, Mr. Coviello and Mr. Tarasca were absent. Also present was Board Engineer John Ruschke and Attorney Jolanta Maziarz filling in for Board Attorney Steve Warner.

Those absent were excused.

**Approval of Minutes**

Ms. Hagner moved to approve the minutes of the January 7, 2019 meeting. Mrs. Swartz seconded the motion, which carried unanimously. Mr. Hoffmann abstained.

Mr. Travisano recognized and thanked Ms. Hagner for her years of service as Planning Board Chairperson.

**Discussion**

**2018 Annual Report**

Mr. Travisano asked that the Annual Report be distributed to the Township Committee. Mr. Kelly asked if Mr. Travisano would be presenting the report to the Township Committee at a regular meeting. Ms. Hagner said that such presentations have been done in the past. Mr. LaConte said that he will check with the Mayor to see if he wants to have a report presented.

**Board Member Training**

Mr. Travisano said that he had asked Mr. Warner to provide training for Board members on the responsibilities of the Planning Board, and also to address conflicts of interest. He said that Mrs. Maziarz is present to provide the training.

Mrs. Maziarz said that she is a partner in Mr. Warner's law firm. She asked if any new members have taken the statutory training course, and said that anyone who has not will need to do so within 18 months of their appointment to the Planning Board. She noted that Class I and Class III members are exempt from the requirement.

Mr. Travisano asked if there is mandatory stormwater management training in addition to the normal training certification and the Joint Insurance Fund (JIF) training. Mrs. Maziarz said that it is unclear if the stormwater management training will be required, but it is still good for land use board members to receive the training because applications often include a stormwater management component. Mrs. Maziarz also said that she does not know if the JIF will have another training session this year. Mr. Travisano noted that the JIF training was a response to a situation in another town where board members were sued individually. Mrs. Maziarz said that the JIF will cover attorney fees when the board members are found innocent of the accusation, and those who are found guilty are responsible for their own attorney fees.

Mrs. Maziarz discussed the primary purpose of the Planning Board, and said that the Board is the planning and policy arm of the Township. She said that the Board is responsible for looking at land use patterns and to develop a Master Plan to guide future development. The requirement for periodic reexaminations of the Master Plan was discussed, and Mrs. Maziarz said that if a municipality does not conduct a reexamination, land use ordinances become presumptively invalid. She also addressed master plan consistency reviews for land use ordinances. Mrs. Maziarz also said that the Planning Board is responsible for capital plan reviews, and capital improvement projects are required to be reviewed by the Planning Board. Planning boards also review applications for subdivisions, unless the application requires use variances from the Zoning Board. Applications for conditional uses are also heard by the Planning Board. Mrs. Maziarz discussed the types of variances that can be granted by the Planning Board.

Conflicts of interest were also discussed. Mrs. Maziarz addressed Financial Disclosure Statements, and she said that anyone having a potential financial interest in an application would need to recuse from participation as a Board member. Mrs. Maziarz also advised that if there is any confusion whether a Board member should recuse, it may be safer to do so. Mrs. Maziarz noted that anything said at a public meeting becomes a public record.

Mr. Hoffmann asked if the Planning Board members who are also members of the Township Committee would have a conflict of interest on affordable housing matters. Mrs. Maziarz explained why there would not be a conflict. Mr. Hoffmann said that in another municipality for which he worked the governing body members were asked to recuse, however that was a combined land use board.

Mrs. Maziarz said that once a Board member has recused themselves, they cannot be forced to exit the room and may choose to remain in the room and sit in the audience. She advised that they do have the right to speak as a resident during public comment, but suggested that it may be prudent to have someone else express their concerns. Mrs. Maziarz suggested letting the board professionals handle the cross-examination of the applicants' professionals. She also said that the Planning Board can borrow members from the Zoning Board if there are so many recused members that there would not otherwise be a quorum.

Mrs. Maziarz also addressed the Open Public Meetings Act, and advised against having an effective quorum copied on emails. Mr. LaConte noted that emails are also subject to the Open Public Records Act. Mrs. Maziarz said that board members should not use their personal email account for public business. She further explained that if Board members run into each other in public, it would only be an OPMA concern if public business is discussed. Mrs. Maziarz further noted that Board members should not discuss an application privately before a hearing, as a decision should be made based on evidence presented. During site visits, Board members are not advised to speak with applicants about the merits of an application, and should only ask factual questions. Mr. Ruschke noted that the Board Attorney typically attends site visits.

Mrs. Maziarz also discussed architectural standards, and said that it is difficult to govern aesthetics unless, for example, there is a historic district where a certain type of appearance is required. She also noted that applications which conform to land use regulations are required to be approved.

### Planning Board Bylaws

Mr. Travisano asked the Board members to review the draft bylaws and be ready to comment at a future meeting. He also said that the draft bylaws do not seek to change any process currently in place.

Mrs. Maziarz said that certain bylaws are statutory, and the Planning Board can tailor any that are discretionary. She asked Board members to send any comments on the draft to Mr. Warner.

Mr. Travisano said that the Board does not currently have bylaws, and he had asked Mr. Warner to develop a draft for discussion.

Mrs. Hagner asked if the draft bylaws had been compared to the Township's ordinances. Mr. Travisano said that a comparison needs to be made, and he does not want to rely solely on the Township's ordinances. Ms. Hagner said that the ordinances and bylaws should not overlap.

Mrs. Swartz asked if there is a difference between having bylaws or having rules and regulations. Mrs. Maziarz said that the Board is required to have bylaws to address some discretionary matters. She also said that having official bylaws helps the public understand how the Planning Board is supposed to function.

Mr. LaConte said that part of the genesis of the bylaws discussion stems from attendance issues, and having bylaws would formalize an attendance policy and how to deal with unexcused absences. He also noted that the section that refers to the Recording Secretary incorporates some of the duties that belong to the Board Secretary.

Mrs. Maziarz said that instead of having the bylaws copy the Township Code, it can have a reference directing people to read the Township Code.

Mr. Travisano said that the adoption of bylaws are usually done at a reorganization meeting, and he wants the Board to be as happy as possible with whatever bylaws are ultimately adopted.

Mrs. Maziarz suggested that a chart be developed showing which sections of the proposed bylaws come from the Township Codebook or MLUL. She also said that finding the MLUL online can often be difficult for the public, as some sites want to charge people for it.

Mr. Hoffmann suggested that the further discussion be deferred until a later meeting so that the Board professionals can have enough time to review which sections were pulled from the Township Codebook. Mrs. Ozdemir asked where comments should be sent, and Mr. Travisano said that the Board members can send comments to Mr. Warner.

### Woodlawn Drive

Mr. Ruschke reported that there are several residents on Woodlawn Drive who have complained about redevelopment of some homes. He noted that the neighborhood is unique, having lots that

are not uniform and consistent with each other. Mr. Ruschke said that several lots are non-conforming with the R-4 zoning regulations, while others are double lots. Mr. Ruschke further recommended that the R-4 zone can be reviewed to see if a house width regulation could be enacted. Mr. Travisano asked if the Planning Board can review such matters under its own prerogative. Mr. Ruschke said that last year the Township Committee had asked the Planning Board to take a look at the zoning on Woodlawn, but it was an informal request. Mr. Kelly said that as a Township Committee member, he had anticipated a response from the Planning Board, and perhaps that Township Committee needs to be more clear when requesting reviews. Mr. Travisano said that he would like to hold off on further discussion until the Township Committee can clarify their request.

Mr. Kelly said that there would be a benefit to having the Planning Board discuss what they want the Township to look like in 10-20 years based on current development patterns. He noted that redevelopment has occurred in several neighborhoods, not just on Woodlawn Drive. He also said that affordable housing should be considered when discussing zoning regulations.

Mrs. Maziarz said that zoning boards usually ask for restrictions to be eased so that there are fewer zoning board applications. Mr. Ruschke said that with redevelopment, builders typically build to the max, which leads to zoning board applications by future homeowners. Ms. Hagner noted that the Planning Board usually considers potential future circumstances, and will suggest certain variances up front to prevent future zoning board applications. Mrs. Maziarz noted that variance applications can be denied when a hardship is not demonstrated. Mr. Ruschke suggested that objectionable houses throughout the Township be studied to determine what was objectionable and if there are issues that could be found elsewhere in the Township.

#### Master Plan Elements

Mr. Kelly said that the Open Space Element on the Township website appears to be in need of review and potential updating. He would like to see any elements in need of updating be reviewed by the Planning Board. Mrs. Maziarz asked if a reexamination had been performed. Ms. Hagner said that not every element needed updating when the reexamination was performed.

Mr. LaConte asked that the Planning Board consider appointing a liaison to the Open Space Committee, as it has been a few years since there was a liaison.

Mrs. Swartz moved to adjourn at 9:58 PM. Mr. Kelly seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary