

Roll Call: Mr. Tony Vivona, Yes, Mr. Styple, Yes, Mrs. Romano, Yes, Mr. Borsinger, Yes.

Memorialization of Approval

Mr. Robert Lyon
20 Chestnut Road
Block: 54 Lot: 13.

A motion was made by Mrs. Romano to approve the Resolution as distributed, seconded by Mr. Styple

Roll Call: Mr. Tony Vivona, Mr. Weston, Mr. Styple, Mrs. Romano, Mr. Borsinger, Mr. Newman,

Hearings

Chatham Church of Christ
382 Fairmount Ave.
Block 68 Lot 2
Minor sub-div

Calendar BOA 15-68-2

The applicant had submitted photographs of the property. The Church is a conditional use in an R3 zone and has been there since 1969. There are single family homes on either side of this property one of which is used as a Rectory and one as a rental. The church seeks a minor sub-division or lot line adjustment to subdivide out the residence on the eastern side. By way of history the church purchased the property from Long Hill Chapel in 1959 and at that time the purchase consisted of the Chapel, Church and Rectory which is along Fairmount. Two years later they purchased the subject property from Long Hill Chapel, the residence on Southern Blvd. At that time the assessor merged the properties into one lot. We seek to unmerge it in order to be able to sell it. There is no plan in regard to this application. It is just the resetting of the lot line between the church and the western residential property. As a result of this lot line there are some variances that are created which he would argue that nothing on these properties will change. The street scape would show the two residences with the church in between. Everything would appear exactly as it is. Because of the way the ordinance and the way the conditional use conditions are set it does create some technical variances such as parking lot, the property line next to the residence which we wish to subdivide (3 ft.), etc. The size of the lot that the church sits on is 3 acres. The variances are all related to side yard setbacks. We have several witnesses, Mr. William Hollows of Murphy & Hollows, Mr. Weber a past Pastor, Wayne Fields a member of the Church.

Mr. Vivona asked if there was a fence on the property and was advised there was none.

Mr. Field said that there was no buyer. Presently there is an elderly person living there and they have no plans until she moves out.

Mr. William Hollows, was sworn and gave his qualifications. Mr. Hollows submitted exhibit A11 – colorized rendering with a date of February 18, 2016 which was sheet 3 of 3 which we have colorized to give you a better idea of what is on the site. Pointing to the NE corner shows Fairmount Avenue and Southern Blvd. When you do down further on Fairmount Ave you will see the rectory which is a 1.5 story cape cod house with a driveway. The next structure you will see is the Church and the parking lot at the corner of Southern Blvd. and Fairmount Ave. You make a right hand turn going westerly on Southern Blvd and you will see a one story frame dwelling which is the subject of the subdivision. The first thing we have to do is dedicate land to the County of Morris for roadway purposes. That being said we are proposing to subdivide this parcel (19,199 sf) because of the side yard being short. The new property line is just off of the parking lot (grey area). This is the same parcel that was purchased second (1969) is the exact same dimensions as purchased - 110 ft. across the back and made the new property parallel with the northerly property line. We have reviewed the 1969 deed from a metes/bounds point of view and its identical other than we will take off the parking and dedicate it to Morris County. Mr. Schaffer says if you can drive down the street you would probably think there are three different parcels. They stand out that way. The parking lot doesn't go behind the rectory. There are trees along this property.

Mr. Vivona asked if the dwelling was on the lot when it was purchased. Mr. Hollows believed it did. Mr. Vivona to clarify – it had the existing non-conforming structure on it then. Mr. Hollows agreed.

Mr. Fields was asked to tell us about the parking lot and how often cars are there.

Mr. Fields said at this point we are a small congregation ourselves but we also do have a Spanish congregation which meets on Sunday afternoons which is a bit larger than ours so the only time that portion of the parking lot is really used is on Sundays. We rented that house in 1974. We had an associate minister who had lived there for a month. I've been sort of the land lord for the last 20 years. The only complaint that I have ever received was for the cops that parked there at night and sit out there and talk.

Mrs. Romano asked if the parking lot was there when the lot was purchased in 1969.

Mr. Fields said he had come in 1974 and it was there is the same configuration as it is today. The only thing different is that there was a basketball goal at the back end of the property at one time.

Mr. Borsinger referred to the yellow line shown on the plans.

Mr. Hollows said it was the proposed new property line.

Mr. Romano asked if it was the same exact property line that was there before the merging of properties.

Mr. Hollows said it was.

Mr. Vivona asked if the square footage calculation taking out of the easement

Mr. Hollows said it was – it is to the new sideline to the road.

Mr. Vivona – with that included it is actually 20,000.

Mr. Hollows said if you were to take the property line out to the center of the road it would be greater than 20,000 sf.

Mr. Hyland asked if the County had taken some of the land.

Mr. Hollows said this is common for all deeds.

Mr. Shaw said it was a standard requirement for County road as they like to get people to dedicate easements.

Mr. Court said the County was requiring this in conjunction with the application.

Mr. Vivona said he had no further question and asked if the Board had any. As there were none a site visit was scheduled Mar. 5 at 9 a.m.

Mr. Vivona asked for question from the Public.

Mrs. Skinner, 26 Hilltop Terrace, questioned the R3 zone of the existing property. It was her understanding that R3 zones – institutional zone – and that means if that property later sells to a service for providing care to a number of different types of groups including youth centers, etc. would that would be permitted.

Mr. Shaw – to clarify – R3 zone is a residential zone. In addition to residential uses there are certain things permitted as conditional uses. A church is a conditional use with strict standards that have to be met. That is why they are here. The

remaining church is going to have other numbers. If this is subdivided it will be as a residential lot. That size lot is not going to comply with any of the standards for an institutional use. If someone ever wanted to put that building to that use they would have to come back to this Board to get a Conditional Use Variance relief. The result of any action from this board would simply be to establish that as a residential use with a request for certain variances because it is smaller than the standard requirement with pre-existing side yard setback issues.

Site Visit scheduled for March 5th 9 am. This matter will be continued to the next schedule meeting of March 17th without further legal notice.

Mr. Holzer
44 Hampton Road
Block 48.12 Lot 16.

Calendar BOA 15-48.12-16

Mr. Primiano, Architect

Mr. Vivona asked if we were basically looking for lot coverage.

Mr. Primiano said it was building/impervious coverage in the front yard. The addition in the back is going over the patio which will be removed. The applicant would like to put a open air porch (8 ft. x 52 ft.) across the front which will trigger the front yard setback. When questioned about the footage of the rear yard he confirmed that it was currently 63 ft. The side yards are in conformance.

Mr. Shaw noted for the record that the notice of completeness was January 20, 2016.

Mr. Vivona noted that plantings in the front. He asked if there would be columns on the porch as well. He noted the house had a massive look to it.

Mr. Primiano said that was correct. The front portion has a little gabled roof to enhance the look. There will be no other modifications to the front as the applicant has recently resided as well as update the trim etc. The addition in the back opens up the house and extends the family room into that area. It will be on the first floor level. He noted the grade of the land in the rear yard.

Mr. Ruschke commented at its being very substantial increase in the maximum allowable for the principal structure. Testimony should be provided regarding the reasons for the porch.

Mr. Primiano said the reason for the porch was to create a nice and elegant front to an already existing flat dwelling. It is open and there is not intent to put enclose it

at a later date. It is mainly for enhancement. Some of the homes in the neighborhood have porches while others do not. This is one that did not.

Mr. Ruschke thought it was a very substantial deviation. He was concerned with the size and the increase in building coverage which decreased the front yard setback. We don't usually get applications of this magnitude. People usually get porticos and what is proposed is very large.

Mr. Holzer said this was the first house we looked and one we liked, one we felt we could improve.

Mr. Shaw said in order to justify a variance you have to establish either hardship conditions or some furtherance of the MLUL. Those are proofs and issues that will have to be presented.

Mr. Vivona sometimes we try to see if its possible to downsize the project so it is not so huge. That is something you could keep in mind for the next hearing. If you could shrink it a bit to reduce the variance relief you are looking for would be helpful.

Mr. Holzer asked whether it was the width or the depth of the proposed that was of concern.

Mr. Vivona said it was not so much the width. The variance is for a front yard setback so if it were not sticking out so far it wouldn't be so obtrusive to other homes in the neighborhood. We try to keep the variance to as little as needed. Consider if it can be a little less deep; a little bit shorter so it's less of a variance.

Mr. Primiano said you asked us to stake where the corners are going to be – would you like it as proposed or if the applicant to reduce it to 6 ft. if the applicant chooses to change it.

Mr. Vivona said he would prefer both. This way you have a sense of what it will look like as well.

Mr. Ruschke when asked about the total coverage and what should be staked out he suggested both as you still need a variance for the back yard.

Mr. Holzer asked, in consideration of reduction, if we took some square footage away from the rear addition would it be helpful.

Mr. Shaw you would still be dealing with the issues of the front yard setback. I don't think the Board can speculate as to what you should or shouldn't do but something you should consider.

Mr. Vivona asked for questions from the Board/Public. None Heard.

This matter will be continued to the next schedule meeting of March 17th without further legal notice. Site Visit scheduled for March 5th 9.30 am

Mr. & Mrs. McCabe
Hampton Road
Block: 48.10 Lot: 24.

Calendar BOA 15-48.10-24 9

Mr. McCabe,
Mr. Klesse, Architect

Mr. McCabe sworn in

Mr. McCabe said that he and his wife had appeared before the Board about a year ago seeking a variance for coverage which you had granted. We are here again is because during the construction one of our neighbors complained about the draining. Someone from the Township came out and said that give the scope of the fill that was going on a grading plan needed to be done. Mr. Clark had done the grading plan and during that period of time he had identified a number of things that we had done wrong. What we built was exactly as we showed this Board. Given the survey he highlighted two areas is why we are back here for the variance. Tim will explain why we are here.

Mr. Klesse, sworn in. He said they are requesting two variances. One is for coverage. We added stone around the residence which we now have to account for. We received a variance for additional building coverage so the request would be to allow us this additional 37 sf. of building coverage so we don't have to remove the stone. He submitted some pictures for review and explained what they were showing. The original survey was done several years ago. When Mr. Clark came back to do his survey as part of the grading plan he calculated an additional 37 ft. over. The variance was for the principal building structure coverage. It was his understanding that there was a bus between the two professionals and what you represented to the Board.

Mr. McCabe felt it was a discrepancy between the two surveyors. Andrew Clark explained it to us that he felt compelled to measure from the placement of the stones. So what he did is added the stone so when he resurvey the building off of the Benjamin survey which he now has additional square footage which gives us more building coverage than we had previously asked for.

Mr. Newman asked if it was approx. 2 inches around the entire building that is causing the overage.

Mr. McCabe said it was.

Mr. Shaw asked if that was the material being used to finish the foundation with and was advised it was.

Mr. McCabe said they had their drawings which were approved with a fifty foot setback to the back corner of the deck so the real property line backs up to the swamp we go 50 ft. to the rear corner. When Andrew came back he resurvey he ended up getting a setback which is 1.2 ft in on diagonal that's about 5 ft. off. When I checked the dimensions to see what was going on and the irregular shape of the property has led to this corner being in violation of the 50 ft.

Mr. Vivona asked why it was resurveyed?

Mr. Klesse was not sure it was required but one surveyor didn't want to work off of the other surveyor's information.

Mr. Vivona clarified that everything is already done. It was approved and it wasn't a mistake by the builder.

Mr. Ruschke said that we rely on the signed/sealed drawings that are provided to us. Issues on the site have been corrected. You did submit a plan that basically shows two zoning violations which we can't ignore. You could certainly have another surveyor check them.

Mr. Hyland – you said the first violation was 37 sf. which was 2.5 inches of exterior. It makes sense that the perimeter is about 180 ft.

Mr. Vivona said it was basically a measuring question because you built within the limits of the previous variances. The deck is where its supposed to be. It's where someone decided to measure from. The main thing was the grading which has been corrected. Basically we just have to follow the process. Hopefully if everything goes well we can make a ruling at our next meeting.

Question from the Public.

Chatham Twp. Environmental, Mrs. Stillinger
Did you ever get an LOI?

Mr. Ruschke said they didn't get an LOI. They did encroach the Transition area and did remove fill but they did put the fill back and restored the area.

This matter will be continued to the next schedule meeting of March 17th without further legal notice. Site Visit scheduled for March 5th 10 am

T-Mobile Northeast LLC, PSE&G Tower
Sunset Drive
Block: 62 Lot: 52

Calendar BOA 16-62-52

The applicant will provide a transcript.

T Mobile Northeast LLC, PSE&G Tower,
Spring St.
Block: 105 Lot: 5.

Calendar BOA 16-105-5

The applicant will provide a transcript.

Greg& Laura Sutton
15 Country Club Drive
Block 102.02 Lot18.

Calendar BOA 102.02-18

Mr. Vivona recused
Mr. Weston will serve as Chairman

Site Visit Report read into the record by Mr. Newman

Mr. Shaw asked if there was anything further that needed to be put into the proofs as to the need for the variance.

Mr. Sutton noted that the porch will be screened in to allow the use of the property. The porch is needed due to the close proximity of the Great Swamp and the great number of mosquitos that prohibit them to stay outside in good weather. The screened in porch will afford them the cover they need.

Mr. Shaw if they would agree to a condition to not add heat to the area. Mr. Sutton agreed.

Mr. Weston asked for further questions from the Board/Public. None Heard. He then asked for a motion regarding the relief requested.

Mr. Borsinger moved that the Board approve the application with stipulations as discussed, seconded by Mr. Style.

Roll Call: Mrs. Romano, Mr. Style, Mr. Borsinger, Mr. Newman – All in favor

Applicant was advised that a resolution of approval would be prepared for the March 17th.

Mrs. Sheehan
15 Falmouth Road
Block 89 Lot 4.

Calendar BOA 89-4

Site Visit Report was read into record by Mr. Vivona

Mr. Lyons (sworn) said the existing home has a deck six ft. deep. Their intention is to extend that to 12 ft. deep. The existing front yard setback is 43 where 25 ft. is required. The proposed is to create a space where they can set a table/chairs and grill outside. The rear yard would be 38.5 ft. from the rear property line when 45 is required. The rear yard they are creating is very similar to the neighboring properties..

Mr. Vivona felt that this was pretty straight forward and is not a huge deck and is in line with the neighbor across from him. No neighbors were present to voice any objections. He asked for questions from the Board/Public None Heard. He then asked if they asked if anyone would like to make a motion regarding this application.

Mr. Hyland moved to approve the variance as requested, seconded by Mr. Newman

Roll Call: Mr. Vivona, Mrs. Romano, Mr. Styple, Mr. Borsinger, Mr. Hyland, Mr. Newman – All in favor

Applicant was advised that their Resolution would be prepared for the next meeting. The resolution will reflect that the only variance they were seeking was for a deck.

Vikas Kapoor/Sabina Arbol
2 Kincaid Lane,
Block 62 Lot 88.1

Calendar BOA 15-88.1

Site Visit Report was read by Mr. Borsinger in to record

Jack Egarian (previously sworn). We are seeking for hardship due to steep slopes. Essentially his entire back yard is located in a steep slope area. The area of the pool being installed is best for the landscape design. There is a minimum detriment to putting the pool in this area as the storm water will not be affected. It discharge on both sides of the houses. The area disturbed will be restored. Over all what is proposed will benefit the property.

Mr. Vivona asked if the swales were going into drywells.

Mr. Egarian said no, there is a perforated wall going down the hill and it will discharge there.

Mr. Vivona asked, for the record, why the pool couldn't go on the level area on top.

Mr. Egarian said that if we put the pool on top of the hill but construction wise we would be disturbing more than necessary. Even worse they could not see it from the house which would be a safety hazard for them. They have small children and would want them closer to the house.

Mr. Vivona pointed out that the slope is not a natural feature, its was formed that way so the ground has been disturbed before. He also noted that the pool is probably about as close to the existing wall as it can be so the actual pool is not disturbing much of the slope. It's the retaining walls and draining features. He felt that the retaining walls are not very high, even if they are long. It would probably eliminate any draining problem you have now because it was probably pooled at that level area by the house.

Mr. Vivona thought Dorothy Stillinger had brought up conservation easement. Are you going to look into that?

Mr. Egarian said he knew Mrs. Stillinger had brought it up but he guessed they were not too keen about working at that end.

Mr. Vivona felt general it is a nominal space which is approx. 10 ft. from the property line.

Mr. Shaw thought she was talking more like a fifty foot conservation easement which would match the conservation on some other properties down the line.

Discussion ensued about conservation easement. It was noted that it could impact property values as it will restrict what you can build.

Mr. Vivona asked if the Environmental Commission have something specifically in mind or do they want to make a recommendation.

Mrs. Stillinger - the town is interested in preserving land where they can. Building is now done on steep slopes that had formally been not buildable. Steep slopes are now being disturbed. We try to preserve slopes when we can. The memo that the Environmental Commission sent showed that other properties on Kincaid Ave. do have conservation easements on steep slopes. It seems natural to try to extend that protection here for a couple of reasons. Preserving steep slopes whether they are manmade or natural protecting them seems proper. One of the conservation values is to create a barrier to things like the proposed cell towers on River Road. The

previous application proposed to put a tower on the other part of a property which was not too much different from this one. It's hard to say well there is no possibility of that happening here. The way steep slopes are being built on its not really possible to say well this can't happen when it could happen. The environmental commission tries to help wherever possible. This fits in with what has been done with what is done with the other properties along the road. As far as property values are concerned if there is a conservation easement on the property you can talk to the tax people to see if some adjustments can be made if you agree to a conservation easement on the property. You are basically giving up certain development rights. The steep slopes are there and variances could possibly be obtained but when you put it an easement on your property then you can make a case that property value can be distributed in some sense and the tax bill should reflect that. Some people in the Township have done that.

Mr. Vivona said he was trying to see what they can make work here. There is already a conservation easement on the property on the River Road side. The problem with the rear yard is the only level spot on this whole property is that plateau above where the pool is going. If we ask him to put a fifty foot wide easement there then he is losing the only level spot on the lot. Towards the very rear of the property there is a slope that if there were a request for an easement that might be a place to put it.

Mr. Shaw was reviewing the topo and rather than fifty feet if you went thirty feet that would take in the steepest piece in the back. This would take you to where the 350 ft. elevation is. From that point there is a very tight grade going up to 360-370.

Mr. Egarian noted that no one on the upper side has an easement. We would only lot to have a thirty foot conservation easement.

Mr. Shaw thought that this was kind of an obligation that if the applicant is not willing to accept it it would not be something we could impose on him.

Mr. Vivona said it was a suggestion. Normally the application we have done before was where the property was extremely steep, not buildable or sub-developable. I would not want to force someone to not have use of that piece. The steep slopes are so steep back there I don't think it would ever be developed.

Mrs. Stillinger noted again that the three adjoining properties have conservation easements in the back.

Mr. Vivona said he did not see it on what you submitted.

Mr. Newman said according to the drawing submitted the conservation easements up there are not on those properties.

Mrs. Stillinger said they are on the upper portion of those adjoining three lots.

Mr. Hyland what you are saying then is this lot extends up the hill to the top.

Mr. Hyland suggested that if the applicant was interested in the tax break they should tell us now or we could continue

Mr. Shaw – again, if it was a thirty foot wide conservation along the rear of the property line basically that would be around the 350 contour and everything above that is extremely steep and you would not be building there. That would still leave most of the flatter area available to you.

Mr. Egarian said it didn't have to be a perfect easement. We could refer to it in the metes/bounds and say from 352 to conservation easement and follow the contour.

Mr. Shaw felt that was a good idea. After the 352 contour it's closer to 25 ft.

Mr. Vivona felt it was a win win. He asked if the mechanicals to the pool would be located close to the house.

Mr. Egarian said the only noise will be from the blower for the spa.

Mr. Vivona asked Mr. Egarian to tell the Board about the water fall.

Mr. Egarian said it would be like three ft. tall in the centralized area. It is more for aesthetics.

Mr. Vivona said that after visiting the site I mentioned that it sounds a whole lot worse than it looks. Just because of the vast amount of steep slope that you will disturb but it is really confined to a short distance from the house. As far as the trees go if I had a tree fall next to my house I think I would want to do something about that As well. It is heavily wooded up top. He was comfortable with the way it was sitting and thought that since the walls are not extremely high it will not look like you are walking into a canyon. It will all be landscaped.

Mr. Egarian said it would all be landscaped with trees, evergreens, ornamental grass, etc.

Mr. Vivona had nothing else and asked Mr. Ruschke for his input.

Mr. Ruschke said his report indicated strict compliance with the towns lot grading, steep slopes requirements. During construction they must use of super silt fencing, etc. They have to set up the sequence for lot grading plan and identify stages at which they will complete a phase of construction. We will go out to do an inspection

and if it's done right we will tell them to continue. The worst thing that can happen is the entire site is completely destroyed and all the soil is exposed and with a heavy rain that would be disastrous. So what we do and the ordinance requires is that you basically minimize the amount of disturbance at one time. Theoretically people can avoid the steep slope variance and just do with small incremental changes. Then they continue to come back for permits. We want the construction to go in a systematic and manageable manner.

There is nothing in this application where I feel we have to go above and beyond the existing lot grading requirements.

Mr. Vivona asked if dry wells might be needed.

Mr. Ruschke said he has to comply with the storm water control ordinance. My recommendation would be that he submit a lot grading application to the Engineering Dept.

Mr. Vivona said the reason we bring this up is because we have had too many applications on steep slopes and the procedures weren't followed and people living below were inundated with mud/water flooded basements, etc.

Mr. Vivona said he had nothing else. He then asked for questions/statements from the Board/Public. None Heard.

Mr. Vivona asked for a motion for this application.

Mr. Borsinger moved to approve the permit subject to the twenty five foot easement based on the 352 ft. contour and grading plan, seconded by Mr. Newman.

Roll Call: Mr. Vivona, Mrs. Romano, Mr. Styple, Mr. Borsinger, Mr. Hyland, Mr. Newman – All in favor

Applicant was advised that a Resolution would be available at the March 17th meeting.

Mr. Shaw asked for a motion to adopt the Resolution to go into Executive Session to discuss a pending anticipated litigation and attorney client privilege.

Mrs. Romano made the motion to go into executive session, seconded by Mr. Styple
All in favor

Meeting Adjourned

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "Mary Ann Fasano".

Mary Ann Fasano
Transcribing Secretary

Meeting Adjourned

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Mary Ann Fasano".

Mary Ann Fasano
Transcribing Secretary