

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
FEBRUARY 25, 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.

Answering present to the roll call were Mr. Travisano, Mr. Franko, Mrs. Swartz, Ms. Hagner, Mr. Hoffmann, Mr. Kelly, Mr. Nelson, Mr. Sheth, Mrs. Ozdemir, Mr. Coviello and Mr. Tarasca. Also present was Board Attorney Steve Warner.

**Approval of Minutes**

Mr. Franko moved to approve the minutes of the February 4, 2019 meeting. Mr. Nelson seconded the motion, which carried unanimously. Those absent at the February 4, 2019 meeting abstained.

**Hearings**

PB: 18-75-1.04 Edward & Sherry Guy, 12 Williams Road, Block 75, Lot 1.04 Requesting Minor Subdivision

Mr. Michael Miller, the attorney representing the applicant, said that the applicant's planner informed him this afternoon that he would be unavailable to attend the meeting. He also said that he spoke with an attorney representing an objector, and the attorney consented to adjourning the hearing.

Mr. Warner said that a new date, time and place will need to be chosen within the month of March. The next scheduled Planning Board meetings are March 4<sup>th</sup> and March 18<sup>th</sup>.

The consensus of the Planning Board was to carry the hearing to March 18<sup>th</sup>, and the adjournment request was granted.

**Discussion**

Planning Board Bylaws

Mr. Travisano said that a revised draft of the proposed bylaws was distributed by Mr. Warner. He said that he received comments from Ms. Hagner and Mrs. Ozdemir on the proposed revised draft. Mr. Travisano also said that the draft bylaws were compared by Mr. Warner with existing ordinances.

Mr. Warner said that the Municipal Land Use Law (MLUL) requires land use boards to have bylaws. He noted that most of the content of the proposed draft is mandatory language required by the MLUL, and much of it also exists in the Township's land use ordinances. Mr. Travisano asked why duplication is necessary. Mr. Warner said that not everyone will read the MLUL, and it is therefore helpful to have separate bylaws. He also noted that bylaws can contain other discretionary rules and the MLUL contains much more statutory information other than the organizational and procedural information contained in bylaws.

Mr. Travisano asked about concerns raised by Mr. LaConte about the delineation between the Recording Secretary's role and the Board Manager's role. Mr. LaConte said that he worked with Ms. Wolfe from Mr. Warner's office to make the changes and he confirmed that the changes accurately delineated between the two roles.

Mr. Franko asked if there should be rules on how Planning Board members should comport themselves at site visits. Mr. Warner said that he can provide a list of Do's & Don'ts. Mr. Franko also asked if there is a difference between bylaws and rules & regulations. Mr. Warner said that they are the same thing, it's just that the MLUL refers to rules & regulations, and they are commonly referred to as bylaws.

Mrs. Swartz said that the proposed draft does not appear to provide useful information for the public to help them understand what to expect of the Planning Board. She said that she thinks most residents who lack experience in local government would want to review a simpler document. Mr. Warner said that the Planning Board's bylaws are a document for the Board members to review for the government of their conduct. He also said that an additional document could be developed to provide the public with guidance regarding Planning Board procedures.

Mr. Travisano asked what Mrs. Swartz wants the document to accomplish. Mrs. Swartz said that she wants a document that helps the public understand how the Planning Board works. Mr. Franko warned against having a document that oversimplifies the legal processes of the Board. Mrs. Swartz suggested that some FAQ's be developed for the public's benefit.

Mr. Kelly said that when the public attends for an application of interest, the Chairman can review some basic protocols for the public's benefit. Ms. Hagner said that such reviews have been provided in the past. She also said that she thought a pamphlet had been developed in the past to address such issues. Mr. Warner said that several municipalities have created such pamphlets having order of proceeding and code of conduct.

Ms. Hagner asked if the relevant ordinances should be in the bylaws. Mr. Travisano said that they could be included by reference or verbatim. Ms. Hagner also asked if the powers of the Board should be discussed in the bylaws. Mr. Warner said that he has a 30 page document discussing the Board's powers, and bylaws are usually only a few pages in total.

Ms. Hagner also noted the section stating that a vote would not be delayed so that a regular member could vote in place of an alternate member. Mr. Warner said that said provision is

consistent with the MLUL. Ms. Hagner also asked about a section stating that the Board Secretary gets paid, and that section will be deleted.

Ms. Hagner asked whether the Class IV member who is also an Environmental Commission member is first and foremost an Environmental Commission member or a Planning Board member, and if said member should be able to serve as chairperson. Mr. Warner said that, notwithstanding statutory provisions that say otherwise, case law (Petrock, etc.) have held that the Board is not required to have an Environmental Commission member, and, if it does, then said member would be Class II if there are a Zoning Board member and Board of Education member also serving on the Planning Board. Mr. LaConte read the sections of the Township Code addressing the matter, and noted that the ordinances are unclear whether they are a Planning Board member or an Environmental Commission member first. Mr. Warner said that when they are serving in that dual role, during Planning Board meetings they would be regarded as a Planning Board member. He also said that the Chair and Vice-Chair need to be a Class IV member. Mr. Travisano noted that there are not any Zoning Board or Board of Education members serving on the Planning Board.

Ms. Hagner said that the draft bylaws state that the first meeting of the month shall be a work meeting. She suggested that the language be modified to say that either meeting may be a work meeting. Ms. Hagner also asked for clarification in the voting procedures for the alternate members. Mr. Warner said that per the MLUL, in the case of the disqualification or absence of a regular member the member designated Alternate #1 is selected first as long as they do not have a conflict of interest and are present, and Alternate #2 would be the backup in case of the absence of Alternate #1.

Mrs. Ozdemir asked about the package of materials left for the Board members at this evening's meeting. Mr. LaConte said that the materials are for Board member review so that they will be prepared for upcoming hearings. Mrs. Ozdemir said that it would be helpful if a list of sent items was included so that Board members would know what they are receiving. Mr. Warner said that some towns include a transmittal letter, which also helps Board members know if anything is missing. He also said that it would be an administrative matter rather than a bylaw issue to have a transmittal letter included. Mr. Hoffmann said that there is a job description for the Board Manager position, and he will incorporate the transmittal letter request into that description.

Mr. Travisano said that he would like to have the Board Engineer be the official designee to determine application completeness. Mr. Warner said that it is usually the engineer or a technical review committee including the engineer to make that determination.

Mr. Warner said that a quorum of Board members cannot communicate with each other on Board business outside of a properly noticed open public meeting. He also advised against members communicating with each other about applications in numbers less than a quorum.

Mr. Travisano asked about having a vote on the proposed bylaws pending the changes made at this meeting.

Mr. Hoffmann asked how it is budgeted when the Board engages experts. Mr. Travisano said that the Board can engage experts subject to appropriations by the Governing Body. Mr. Hoffmann also asked how conditions set by the Board are enforced. Mr. Warner said that they would usually be enforced by the Construction Official, Zoning Officer or Township Engineer.

Mr. Warner said that any additional comments or questions on the draft can be sent to him.

Mr. Travisano asked if there is a motion to approve the draft bylaws as amended. The motion made by Mr. Kelly was not seconded.

Mr. Travisano raised a concern about how much time is being spent to approve bylaws. Mrs. Swartz said that she would prefer to see a revised draft before taking action. Mr. Travisano noted that the board had three weeks to send him comments, and only one member sent anything. He also said that the draft bylaws are based on the MLUL's template, and do not grant any new powers to the Planning Board.

The bylaws will be discussed again at the March 18<sup>th</sup> Planning Board meeting.

Mr. Kelly noted that the Township Committee is anticipated to adopt a resolution at the February 28<sup>th</sup> requesting the Planning Board to address the Housing Element and Fair Share Plan. Mr. Hoffmann said that said that action will need to be complete by July 21<sup>st</sup>. Mr. Warner said that he has worked with other municipalities on this process.

Ms. Hagner asked about efforts that had been made previously to cut down on the size of documents. She suggested that with a new Board Manager coming on, perhaps that can be accomplished. Mr. Coviello said that changing the size of the documents would render them no longer to scale.

Mr. Franko moved to adjourn at 8:45 PM. Ms. Hagner seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary