

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF CHATHAM  
MARCH 21, 2019**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:30 PM with the reading of the Open Public Meetings Act.

**Roll Call**

Answering present to the roll call were Mr. Vivona, Mr. Weston, Mr. Williams, Mr. Borsinger, Ms. Labadie, and Mr. Fitt

Also present were Township Engineer John Ruschke, Township Planner Frank Banisch and Board Attorney Stephen Shaw

Mr. Turco (Alt 1) and Mr. Newman were absent.

**Resolution**

**RESOLUTION OF THE ZONING BOARD OF ADJUSTMENT OF THE TOWNSHIP OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY, APPOINTING KATHLEEN NAGY-DE ROSA AS BOARD SECRETARY FOR THE ZONING BOARD OF ADJUSTMENT**

**WHEREAS**, the Zoning Board of Adjustment of the Township of Chatham, County of Morris, State of New Jersey, desires to appoint Kathleen Nagy-DeRosa as Secretary for the Board for the period commencing March 1, 2019 and ending December 31, 2019.

**NOW, THEREFORE, BE IT RESOLVED**, by the Zoning Board of Adjustment of the Township of Chatham, County of Morris, State of New Jersey, as follows:

1. Kathleen Nagy-DeRosa is hereby appointed as Secretary for the Zoning Board of Adjustment of the Township of Chatham, County of Morris, State of New Jersey, for the period commencing March 1, 2019 and terminating December 31, 2019.
2. The compensation to be paid to Kathleen Nagy-DeRosa for services rendered to the Board shall be in accordance with the salary Ordinance of the Township of Chatham; and
3. This Resolution shall take effect upon adoption; and
4. A certified copy of the Resolution shall be forwarded by the Secretary of the Board to the Township Committee.

Mr. Vivona said that the resolution is to appoint Kathleen Nagy-DeRosa as Zoning Board of Adjustment Secretary. Mr. Williams moved to adopt the resolution while Mr. Fitt seconded the motion. All in favor.

### **Approval of Minutes**

Mr. Vivona moved to approve the minutes of the January 17, 2019, February 13, 2019, and February 21, 2019 meetings. Mr. Vivona asked to record that the minutes from the February 21, 2019 meeting are limited because the tape recorder was not working and are based solely upon the Acting Board Secretary's notes. Mr. Williams moved to accept the minutes and Mr. Borsinger seconded the motion. All in favor.

### **Request to be Withdrawn**

BOA 18-33-34 Jennifer Voelksen, 75 Susan Drive, Block 33, Lot 4

Mr. Borsinger moved to approve the request to withdraw the application. Ms. Labadie seconded the motion. All in favor.

### **Hearings**

BOA 18-124-36 Daniel & Nicole Stratemeier, 17 Overlook Road, Block 124, Lot 36

Mr. Fitt and Mr. Weston recused themselves because they know the applicants.

Mr. Vivona read the Site Visit of March 16, 2019 into record. Mr. Vivona stated that the reason for the variance to construct a pool was due to hardship because of a large circular driveway that was installed prior to the applicants purchasing the home. The location of the pool will have plenty of screening for privacy and the fence was inside the property line. It was suggested that the applicant move the pump equipment back to screen it from view of the neighbors and add some bushes around it as a sound barrier.

Mr. Vivona also reminded the applicants to hire a licensed surveyor and not allow the pool company to stake out the pool in order to alleviate an incorrect survey and having to return to the board for another variance. John Ruschke concurred.

The applicants moved the pool slightly forward on their property to alleviate one variance.

John Ruschke asked if the applicant was going to move the filter equipment back 20 feet to remove one variance. Mr. Stratemeier stated they are asking for a 10 foot setback. Mr. Shaw stated that the applicant filed an amended application and notices to eliminate the rear yard variance and added a variance for the pool equipment structure. Mr. Shaw then asked Mr. Stratemeier to justify the reason for seeking the variance for the pool equipment for the record.

Mr. Stratemeier stated the original application was for three variances that he said he should not have been asked for. He said that the equipment was originally in the middle of the yard and they decided to move it back into an area shielded by trees and a fence and that arborvitae or skip laurels will be planted around it.

Mr. Shaw mentioned a comment from the Township Engineer regarding additional stormwater mitigation. Mr. Ruschke stated the lot grading plan will address those issues.

Mr. Vivona stated that a condition of this application will be that the pool will be plotted by a licensed surveyor and subject to a lot grading plan. Mr. Williams moved for a motion to approve the application. Ms. Labadie seconded the motion.

**Roll Call:** Mr. Vivona, yes; Mr. Weston, recused; Mr. Williams, yes; Mr. Borsinger, yes; Mr. Newman, absent; Ms. Labadie, yes; Mr. Fitt, recused; Mr. Turco, absent.

BOA 18-62.12-4 Deepti & Kush Teotia, 625 Fairmount Avenue, Block 62.12, Lot 4

Rosemary Stone-Dougherty, attorney for The Teotia's did not attend the initial hearing and will be calling Mr. William Scott, PE to testify on behalf of the applicant. She stated applicant has made some substantial revisions to the plans to shrink and orientate the house, to reduce impervious coverage and eliminate 10 variances.

Paige Labadie read the Site Visit report of March 16, 2019 into record.

Mr. William Scott, PE was sworn in by Mr. Vivona.

Ms. Stone-Dougherty asked Mr. Scott to recap the application. Mr. Scott stated that the latest revision of the plans was Revision 3 dated 3/6/2019. The property is in R-3 zone, 34,420 sf and rear slopes down to Fairmount Avenue, prior dwelling has been demolished. It's an irregular lot – longer than it is wide. It has an irregular common line with lot 5 which is a shared access easement and currently is a shared, steeply sloping driveway.

Ms. Stone-Dougherty asked Mr. Scott to describe the changes from the first plan to this current revision. Mr. Scott replied that the largest revision was the removal of the existing driveway which reduces the impervious coverage of Lot 4 by 2,707 sf, and Lot 5 by 1,136 sf. However, the new driveway will still disturb a steep slope on the Birch Hill Drive side. The house was reduced in size which brought it into compliance with building coverage, impervious coverage and all setbacks for the building. These revisions also bring the property down to seven variances. There are a Zone 4 variance, Zone 3 variance, Zone 2 variance, width variance distorted by the placement of the house on the lot (The home was situated equidistant to property lines to create a play area in the backyard.), length of driveway >150 feet creates a variance, grading within 5 feet of property line due to existing driveway being removed, and raising the elevation > 4 feet within 15 feet of property line due to number of steps coming down off of front of house to balance the steps and sidewalk at garage area.

Ms. Stone-Dougherty asked Mr. Scott to explain the stormwater drainage management for the proposed property. Mr. Scott stated that all leader pipes will collect and convey stormwater underground to the lowest point near Fairmount Avenue where a detention system will be designed to accommodate the water. Drainage improvements will also be done to easement area in the form of a curb to keep it from running onto Lot 6. This water will also be collected and conveyed into the detention system.

Mr. Ruschke questioned where the curb is located because it is not on the plan. Mr. Scott replied that the curb will be by the driveway ingress/egress as was stated at the Site Visit. Mr. Vivona stated that the applicant must submit revised plans depicting the curb and any other revisions discussed at the Site Visit.

Mr. Ruschke questioned the justification for all these variances in the first place. Mr. Scott stipulated that the lot is an irregular lot, the house was situated in the center of the widest part of the lot to maximize the distance between all the adjacent properties and reduced in size to alleviate the building coverage variance, and tried to provide usable rear yard area for the family. Mr. Scott also stated that the amount of stormwater runoff from the existing property will be greatly lessened because of the design of the new stormwater management system, the impervious coverage was brought into compliance, and the new design creates a safe ingress/egress onto Fairmount Avenue.

Mr. Ruschke questioned how the width of the house was derived. Mr. Shaw stated that the permitted maximum lot width is 70 feet facing Fairmount Ave. Mr. Ruschke stated that the ordinance only addresses regular lots with the front yard facing the right of way and that this lot is an odd ball lot because the house is facing the right of way, but on an angle, and that the ordinance is open to interpretation. Mr. Banisch stated that the intent of the standard was to put a halt to the building of houses that were too big for the lot and that the way the width was spread across the lot, it would be 86 feet in width.

Mr. Vivona brought up the fact that some of the variances are actually temporary disturbances caused by the removal of the driveway. The thousands of feet of disturbance will be restored. Mr. Scott agreed that it will be restored except about 20 feet of grading in the front and where the detention system will be constructed. However, over time, the detention system will be covered in grass. Mr. Vivona then asked for an explanation of the two easements. Mr. Scott complied. Mr. Vivona then asked about the fence on Lot 5 and Mr. Scott stated that the fence would not be moved or damaged when removing the driveway and that the Lot 5 owner will actually gain approximately 10 feet more of pervious coverage on the other side of the fence, as his property line runs down the middle of the driveway and will be converted to lawn.

Mr. Vivona asked if there are any stormwater drains on the Fairmount Ave. in case something does overflow. Mr. Scott stated that the applicant is proposing a tie into the inlet just on the other side of the driveway that goes into the driveway on Lot 5.

Mr. Vivona stated his appreciation for effort of the applicant making revisions to reduce the number of variances, taking the Board's recommendations and making changes, and for discussing the plans with neighbors. He then opened the floor to any questions regarding Mr. Scott's testimony.

Brett Levine of 7 Birch Hill Drive, Chatham, NJ, Lot 6 questioned the 50 foot right of way and if the new plan will show the grading and the curb. He stated the right of way pitches away from his house and he would like that to continue. Ms. Stone-Dougherty assured Mr. Levine that the applicant will maintain the pitch in the right of way. Mr. Levine also asked about the construction vehicles entering and exiting the property on the Birch Hill entrance and destroying the pitch while creating a water situation. Mr. Scott stated that there is a phasing plan where construction vehicles will be entering and exiting on Fairmount Ave. and limited traversing on the Birch Hill Drive side. Mr. Vivona assured Mr. Levine the applicant will provide packed gravel to create a temporary road and maintain the integrity of the property so as not to negatively affect Lot 6 and all the topography will be maintained and/or restored.

Amy Tierney of 629 Fairmount Avenue questioned the width of the house and why the house was situated on the property to face Lot 5 and why it is being allowed. Ms. Stone-Dougherty stated that it has to do with the applicant's religious beliefs there is more testimony to be provided by an architect that would answer the question.

Paul Rusen who was representing the Doles at Lot 8 asked if the 95 foot width was used in determining the square footage of the house. Ms. Stone-Dougherty stated that the applicant will be testifying and would better be able to answer the question.

Ms. Stone-Dougherty called the applicant Mr. Kush Teotia to discuss and explain the design of the house and Mr. Vivona swore him in.

Mr. Kush explained his Hindu beliefs of Vastu, a traditional Hindu architecture, and how it is incorporated into the architecture of the house. It tries to incorporate all the positive energies

into the structure for good, healthy living, and living in harmony. Vastu compliance aligns with the energy grid and the west facing direction of the house is the cardinal direction the applicant feels is best for him and his family. Ms. Stone-Dougherty stated Mr. Teotia did not realize how many variances his initial plans created until he received his review letter from John Ruschke and he revised those plans to alleviate the majority of the variances. She also stated that there is an extensive landscaping plan, fencing, and sloping to create distance and privacy between the neighbors, no setback variances, and the house and coverages were reduced.

Mr. Vivona stated that the orientation of the house best suits the irregular lot. However, he also stated that he did some research on Vastu, and it is not the house that must face west as Mr. Teotia's exhibit states, but the front door. Mr. Vivona stated that the town is becoming more filled with international families and cannot allow everyone to build what they want to build because of their beliefs. He went on to say that the town has these rules and regulations in place so that the town maintains its character.

Ms. Labadie asked Mr. Teotia if it would have been easier for him to purchase a lot that was more conducive to his Vastu beliefs. Mr. Teotia stated that he likes Chatham, the selection subset is somewhat limited, the lot is conducive to the house being oriented according to his plans, he's trying to make all his neighbors happy, and he would like to raise his family here.

Mr. Borsinger asked if the width of the house versus the ordinance resolved. John Ruschke stated the width is either an 80 foot or 75 foot variance. Mr. Shaw stated it is a 75 foot variance. Mr. Ruschke asked Mr. Teotia why he couldn't get the house into compliance with the width. Mr. Teotia stated that he does not believe that he can reduce the house down any further while maintaining his Vastu beliefs. He already shaved the house width down 13 feet (99 feet down to 86 feet) and he believes the angle of the house is his hardship.

Mr. Ruschke brought up about the house being so large and asked why Mr. Teotia couldn't comply with the width ordinance because there was no house on the lot and it was a blank slate. Mr. Teotia explained some of the principles of Vastu. (The house must be made up of 9 x 9 square grids. There are 9 equal squares in the grid except for the garage. Each square must have a cardinal direction. Etc.) Ms. Stone-Dougherty argued that the applicant has exercised great care and consideration in revising the plans to conform to the majority of the ordinances. Mr. Teotia added that he has conformed in every way except the width not because he wants a large house, but because he wants a westward facing house and he can hide it in the middle of the irregular lot. Mr. Shaw stated that the width is not the issue, the orientation is the issue.

Ms. Labadie asked why Mr. Teotia did not look for a different property that would have suited all of his needs and faced westward without having to come before the Board if he knew and felt that strongly about building within Vastu compliance. Mr. Teotia echoed his earlier comments that he has conformed in every way except width and that if he tried to fit a house that was perpendicular on the lot, there would be many more setback variances required from the Board.

Mr. Vivona opened the floor to questions on Mr. Teotia's testimony.

Amy Tierney of 629 Fairmount Avenue echoed Ms. Labadie's question and stated her disapproval at the design of the house. She stated that Mr. Teotia is eliminating almost all of her family's privacy while still getting everything he needs for his family. Mr. Teotia's proposed home is up on a slope, sitting above her fence line, peering down over Ms. Tierney's back yard and she believes that this will negatively impact her property value. Ms. Stone-Dougherty countered with the statement that the front of the Teotia home that faces the Tierney's yard will be rarely used.

Mr. Vivona swore in Mr. Timothy Klesse, architect for Mr. Teotia.

Mr. Klesse explained how the lot is deep enough to minimize the house's visual impact from the road and how the orientation would work on the site. He stated that any construction on this irregularly shaped lot would disturb a steep slope. If you are looking up the hill at the lot, the orientation of the house decreases the look of a huge block of building. Mr. Banisch asked how far the closest point of the house is from Lot 5. Mr. Klesse stated the distance is 85 feet. Mr. Banisch stated that the orientation of the house mitigates the house width issue and the distance with the landscaping on Fairmount Ave. allows the house to not be prominently seen from the road, but the extent of the negative impact on the adjoining neighbors needs clarification.

Mr. Ruschke started a discussion on removing/moving certain rooms in the house to alleviate more variances. Mr. Klesse felt those ideas would make the variances worse or unchanged from what the Teotia's were asking for in the first place. Mr. Ruschke suggested removing the playroom above the garage. Mr. Vivona agreed that it would lessen the huge wall of building. Mr. Teotia stated that in Vastu there can not be any up and down with the roof line of the structure. Mr. Vivona stated that the house must conform to more than Mr. Teotia wants to do and the garage does not have to be two stories. Mr. Teotia said he would take another look to rethink where he could make some changes. Mr. Borsinger stated the house was just too big for the lot at 91 feet long. Ms. Labadie stated that Ms. Stone-Dougherty is using the applicant's religion as an excuse to build what the applicants want on the lot and because they had such specific requirements for a house they should have researched more and found a more conducive and bigger lot to build on.

Mr. Fitt stated there has to be a compromise on the applicant's part regarding the size of the house because the size of the house is just too big.

After much debate about the interpretation of the ordinance regarding the width of the house, Ms. Stone-Dougherty requested a clarification on the building width. John Ruschke stated that he's open to either interpretation of measuring the lot width – Mr. Klesse was interpreting it as 75 feet and John Ruschke was interpreting it as 80 Feet. John Ruschke acquiesced to the interpretation of 75 feet.

Mr. Shaw said that the continuation will be moved to the April 18, 2019 meeting and that there are no further legal notices required.

Mr. Vivona suggested that Mr. Nair of 700 Fairmount Ave. be carried to the April 18, 2019 meeting and will be the first to be heard at that meeting.

BOA 18-70-33 Bill & Christie Crawford, 1 Crestwood Drive, Block 70, Lot 33

Mr. Vivona set up a Site Visit for Saturday, April 6, 2019 at 9:00 am.

Mr. Vivona swore in Mr. Bill Crawford of 1 Crestwood Drive and Mr. Brian Siegel, Chatham architect representing Mr. Crawford. Mr. Shaw noted that Mr. Siegel is accepted as an expert witness and has been before the Board on numerous occasions.

Mr. Siegel stated the key factor of the variance is a paper street that is a continuation of Williams Road. It is more of a walking path. This paper street makes the applicant's property a corner lot making the applicant's property a non-conforming lot size and non-conforming front yard setback. The application is for a whole house remodel, keeping the primary floor foundation and rebuilding the second floor in entirety. The addition out the back is one story on

one part and 2 ½ stories on another part. Mr. Siegel also stated that part of the corner of the property would be in possible wetlands and that local environmental engineer John Peele set up a boundary line and a portion of the addition is in the wetlands. A letter of waiver from the state has accompanied the application. Most of the addition is over an existing paver patio and walkway.

Mr. Borsinger asked how high the house is at the peak. Mr. Siegel stated it is 33.2 feet and at its absolute highest point from the driveway side it is 36 feet on average.

Mr. Shaw stated there would be a Site Visit on Saturday, April 6, 2019 at 9:30 am and the application is carried to April 18, 2019 with no further legal action notices.

BOA 19-105-5 T-Mobile "AT&T", 1 Spring Street, Block 105, Lot 5

John Ruschke brought out a sample of cable for the cell towers from New Cingular "AT&T" at 1 Spring Street. The color that was picked by the Board is gray and would match the surroundings, however Mr. Ruschke was told it was no longer manufactured. The new sample is much lighter. When asked by Mr. Vivona, Mr. Ruschke stated that it would be noticed. Mr. Ruschke also stated that the intent of the Board was that the cable would blend. The manufacturer stated they couldn't paint the cable because the paint would add too much weight. Mr. Vivona said to find another manufacturer and that he wants the look that the Board approved.

Mr. Vivona motioned to adjourn. Mr. Borsinger seconded the motion. All in favor.

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Kathleen Nagy-DeRosa  
Zoning Board Secretary