

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
April 20, 2015**

Mr. Thomas Franko called the Special 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 for a special meeting on March 23, 2015, was published in the *Chatham Courier* and the *Morris County Daily Record*, was posted on the bulletin board in the main hallway of the Municipal Building, and was filed with the Township Clerk.

**Roll Call**

Answering present to the roll call were Mr. Franko, Mr. Hurring, Mr. Brower, Mr. Ciccarone, Ms. Hagner, Mr. Ritter, Mrs. Swartz, Mr. Saluzzi, Mr. Travisano, Mr. Nelson and Mr. Murray.

Also present were Board Engineer John Ruschke, Township Planner Frank Banisch and Planning Board Attorney Steven Warner, Esq.

**Approval of Minutes**

Mr. Franko noted that he, Mr. Hurring and Mr. Warner review drafts of Planning Board minutes before they are distributed to the Board.

Ms. Hagner moved to approve the minutes of the March 23, 2015 meeting. Mr. Ritter seconded the motion, and it carried unanimously.

Mr. LaConte said that if Board members have comments on draft minutes, they can contact him prior to the meeting so that any edits can be made prior.

**Hearing**

Plan: 15-142-1&2(April 10, 2015) Normandy Fundsub Management Company, LLC – Treadwell Avenue, Block: 142 Lot: 1&2. Preliminary and Final Major Site Plan approval in connection with construction of a fence. Hearing. Escrow #79627

Nicole Madziak, an attorney on behalf of the applicant, said that the public notice for this hearing was not published in time, and they will re-notice for the new hearing date.

Plan: 14-93-5 (October 10, 2014) OZ – Custom Builders, LLC- 35 Rose Terrace, Block 93 Lot 5, Minor Subdivision w/variances. Completeness review. Revision on 12/30/2014. (Complete on 1/20/2015) Escrow #79429

Ms. Hagner indicated that she needs to recuse herself from discussion on this application. Mr. Ruschke and Mr. Banisch were both sworn in to give testimony.

Michael Tobia, a planner representing the applicant, was sworn in to give testimony and provided his qualifications as an expert witness.

Mr. Tobia presented new exhibits for the application. One exhibit showed the house currently on Rose Terrace. The proposed new house will be in the same footprint. Mr. Tobia also had an exhibit showing how existing vegetation will be used to soften the visual impact of the new home. Mr. Ciccarone asked about the height of the trees and the existing structure.

An exhibit was also presented to show the proposed building envelope for lot 5.02.

Mr. Tobia also presented the subdivision plan, and described the proposed houses. He said that the driveway on lot 5.02 will be moved to be further away from the bike path.

Mr. Ciccarone asked about the size of the proposed new houses in comparison to the houses on the west side of Rose Terrace. Mr. Tobia provided information on the average lot and house sizes in the area. Uniform front-yard setbacks were used in the proposed footprints for the houses.

Mr. Brower asked if there are any parking restrictions near the pump station on Chatham Street. Mrs. Swartz said that there are not any No Parking signs in the area.

Mr. Tobia also addressed the patios to be installed in the rear of each property, and said that each would have a full basement. He also commented on the projected sale prices of the homes.

Mr. Tobia further commented on the zoning regulations, particularly lot size, and said that the proposed properties are undersized. He also said that the existing parcel would fit better into the neighborhood if it were subdivided into two lots.

Mr. Travisano asked what obligation the Board has to consider the zoning of the neighboring Chatham Borough lots. Mr. Tobia said that the Borough lots are an area of influence.

Mr. Brower asked about drainage from the Chatham Street lot into Chatham Borough.

Mr. Tobia argued that a C2 variance would be most appropriate for this application. He also remarked on the potential property value of the proposed new homes. Mr. Tobia also discussed how property owners are not bound to preserve land in a park-like setting for the benefit of their neighbors.

Mr. Page, an engineer representing the applicant, provided additional testimony. He spoke about the proposed drywells and the topography of the site. The front line and rear line of Lot 5.02 are not parallel. He also suggested shifting the lot line five feet away from Rose Terrace. Mr. Page also said that the application meets the Township's standards, and that Mr. Ruschke's office will also need to be satisfied with the drainage measures.

Mr. Tobia said that the application said that the application must prove that there will not be a substantial impairment on neighboring properties. He also said that the proposed houses are a permitted use in the zone, and the homes would not be a detriment to the neighborhood.

Mr. Brower inquired about parking for the Chatham Street home. Mr. Tobia said that there would be space in the driveway for four cars, plus space for two cars in the garage. Mr. Brower also asked if there will be any water runoff onto the neighboring properties in Chatham Borough. Mr. Ruschke said that there is a requirement prohibiting building within five-feet of a property line. He also said that when he reviews applications, he compares the current drainage situation with the proposed drainage. Mr. Page added that the proposed drywells will improve the stormwater drainage. Mr. Ruschke spoke about stormwater mitigation measures.

Mr. Franko opened the floor to the public.

1. Marilyn Murray, 182 Lafayette Ave, said that the proposed new homes look like they will dwarf the existing homes in the neighborhood, and she asked what the height of the Chatham Street house would be compared with the neighboring homes in Chatham Borough. Mr. Tobia said that the proposed house will be 28 feet high, and that the ordinance allows 35 feet. He also addressed the height of the neighboring houses. Mrs. Murray said that the application property is higher, adding to the relative height. Mr. Tobia said that the neighborhood is relatively flat. Mrs. Murray also asked if the proposed patio would add additional impervious coverage which might exacerbate drainage problems. Mr. Page explained how impervious coverage is calculated, and said that the figures are submitted to Mr. Ruschke's office for review. Mrs. Murray also asked about home businesses, and if home businesses would be allowed on the smaller lots if variances are granted. She also asked if the buildings could later be built to the extent of the building envelope. Mr. Tobia said that specific houses would be built, and the Board can set restrictions in the approval resolution. Mr. Brower said that the houses should be restricted to be residential, and he does not think that any sort of professional would choose the particular houses for a home office.
2. Eileen Scanlon, 49 Meadowbrook Road, asked if there is a request for a backyard variance or height variance on the proposed lot 5.02. Mr. Tobia said that variances as such are not being requested. Mrs. Scanlon said that she has not heard enough testimony regarding drainage, and she would like to know about the site visit. She also said that there has not been any discussion about any buffers. Mr. Page addressed drainage from lot 5.02, and said that the conceptual plan shows the drywells to be installed, as per Township requirements. He also said that the drywells will improve drainage conditions. Mrs. Scanlon asked what the recourse for neighbors would be if the drainage measures do not work. Mr. Page said that the Township Engineer and building inspectors would review the drainage measures as they are being installed. Mr. Ruschke noted that the Township's ordinances regarding drainage would have to be satisfied before a permit will be issued.
3. Mrs. Murray asked about the amount of tax revenue that will be generated from the proposed houses. Mr. Ciccarone said that the Township has over \$3 billion in tax ratables, and the amount of ratables from these properties will not drive the Board's decision. He also addressed Mrs. Murray's earlier question about home offices, which are allowed as a conditional use for medical professionals, and the lot would need to be a full-size lot in its zone in order for there to be a home office permitted. The two proposed lots are substandard in size, therefore home offices would not be allowed without further variances.

4. Mrs. Scanlon asked if moving the lot line would cause further difficulty. Mr. Page said that moving the lot line would not create more difficulty.
5. Dot Stillinger, Chairwoman of the Chatham Township Environmental Commission, asked if the applicants think anyone will take this application seriously. She also asked if they have any knowledge of the history of the zoning in Chatham Township and Chatham Borough. She also asked if the applicant thinks it is ok to double the amount of impervious coverage on the subject property. Mr. Page addressed the allowable building coverage based on lot size, and said that the denial of this application would not mean that this property will not be redeveloped. Mrs. Stillinger also addressed wildlife in the PSE&G corridor and the Woodland Park property. Mr. Ciccarone said that a wood turtle had been found on the Woodland Park site, but it is unknown where the turtle's habitat actually was.
6. Eileen Scanlon was sworn in to give testimony. Mrs. Scanlon commented that much of the discussion at this meeting has presupposed that the legal standards for a variance have been met, but the statute for a variance requires that the purposes of the statute have to be advanced by the deviation from the zoning regulation, and the benefits of the deviation have to substantially outweigh any detriment. She also said that the benefits of the deviation would be a benefit to the developer, and there would be a detriment to the neighbors by way of drainage.

Mr. Shaffer provided his summation on the application. He said that the financial benefit is not the basis of the proofs for the application, and the bases of the proofs were the C1 and C2 arguments. Mr. Shaffer also said that there is a uniqueness to the property. He also noted that the applicant is not requesting an impervious coverage variance. Mr. Shaffer also said that a house can be comfortably developed on the proposed lots, and that the application would be preferable to what could possibly be developed on the lot if it is not subdivided. He also said that the proposed deviations are offsetting some exiting deviations. Mr. Shaffer also noted that courts have determined landowners cannot be forced to maintain their property in a park-like manner for the benefit of their neighbors.

Mr. Franko polled the members of the Board as to whether they want to vote on this application at tonight's meeting, or if they want to further discuss this application at a future meeting. The consensus was to carry the discussion to the next meeting. The hearing was declared closed. The matter will be discussed again at the May 4, 2015 meeting.

The Board took a recess at 10:04 PM.

The meeting was called back to order at 10:09 PM.

## **Discussion**

### **Ordinance 2015-10 Prohibiting Pipeline**

Mr. Franko said that the Township Committee has introduced Ordinance 2015-10 regarding prohibited uses. The Board has been directed to make and transmit to the Township Committee a report identifying any provisions of the ordinance which may be inconsistent with the Master Plan, and to make recommendations on any such inconsistencies.

Mr. Banisch reviewed with the Board a draft letter to the Township Committee stating that the ordinance is not inconsistent with the Master Plan.

Mr. Brower asked if the ordinance could be written such that there could not be any variance applications for pipelines. Mr. Ciccarone said that it cannot be written that way, and that landowners will always have a right to apply for variances.

Mr. Ciccarone moved to authorize Mr. Franko to send a letter to the Township Committee stating that the ordinance is not inconsistent with the Master Plan. Mr. Travisano seconded the motion.

**Roll Call:** Mr. Franko, Aye; Mr. Hurring, Aye; Mrs. Swartz, Aye; Mr. Brower, Aye; Mr. Ciccarone, Aye; Ms. Hagner, Absent; Mr. Ritter, Aye; Mr. Saluzzi, Aye; Mr. Travisano, Aye; Mr. Nelson, Aye; Mr. Murray, Aye.

Mr. Ciccarone moved to adjourn the meeting at 10:18 PM. The motion was seconded, and it carried unanimously.

---

Gregory J. LaConte  
Planning Board Recording Secretary