

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
MAY 21, 2018**

Ms. Nicole Hagner called the Regular Meeting of the Planning Board to order at 7:33 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 2018, and January, 2019 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.

Roll Call

Answering present to the roll call were Ms. Hagner, Mr. Brower, Mr. Nelson, Mr. Sullivan and Mr. Nevin. Mr. Hurring, Mrs. Swartz, Mr. Ciccarone, Mr. Franko, Mr. Travisano and Mr. Tarasca were absent.

Also present were Board Attorneys Steve Warner and Amanda Wolfe

Mr. Sullivan made a motion to excuse the absences from this meeting. Mr. Nelson seconded the motion, which carried unanimously.

Approval of Minutes

Mr. Nelson moved to approve the May 7, 2018 minutes. Mr. Brower seconded the motion, which carried unanimously.

Resolution of Approval

Plan: 18-33-17 (April 3, 2018) Primavera Hills at Chatham, 111 & 115 Longview Avenue, Block: 33, Lots: 17 & 20 Amended subdivision approval

Mr. Warner noted that feedback was not received from the applicant's attorney regarding the draft resolution, however a draft was provided to him so that the Board could move forward with adopting the resolution.

Mr. Brower asked if there is a sunset provision attached to Board approvals that would come into play if the developer fails to begin work. Mr. Warner said that when variance relief is granted, applicants typically have one year to commence work, and up to three 1-year extensions can be granted. From final approval of a subdivision or site plan, there is a 2-year protection from ordinance changes, after which the benefits of the approval can be lost if extensions are not granted. However, there are not any provisions for the approval to be overturned altogether.

Mr. Brower also asked about creeping changes in a project over time. Ms. Hagner said that amended site plans are subject to Board approval. Mr. Brower noted that conceptual architectural drawings presented to the Board may look very different from what is actually built.

Mr. Sullivan asked about a provision limiting landscaping equipment to machines the same size as a lawnmower. Ms. Hagner said that the condition was based on concerns the Board had when Mr. Gunn appeared before the Board, and was related to encroachment and slope disturbance that had occurred.

Mr. Nelson moved to adopt the resolution. Mr. Sullivan seconded the motion.

Roll Call: Ms. Hagner, Aye; Mr. Hurring, Absent; Mrs. Swartz, Absent; Mr. Brower, Aye; Mr. Ciccarone, Absent; Mr. Franko, Absent; Mr. Sullivan, Aye; Mr. Nelson, Aye; Mr. Travisano, Absent; Mr. Nevin, Aye; Mr. Tarasca, Absent.

Public Comment

Ms. Hagner opened the floor to the public.

1. Susan Ligertwood, 26 Heritage Drive, said that she thought the potential Dixiedale Farm Property redevelopment was to be discussed at this meeting. She said that it was a while ago when the developer's concept plan for Dixiedale and affordable housing were last discussed, and she asked if she had missed any meetings at which any matters were resolved. Mr. Sullivan said that there have not been any public meetings on that matter since the presentation before the Township Committee in December. Mrs. Ligertwood asked if there is any anticipation of when the Dixiedale property might be discussed by the Planning Board again. Mr. Sullivan said that some of the affordable housing matters need to be resolved first, after which the developer can submit an application to the Planning Board. Ms. Hagner noted that the official application has not yet been submitted. Mrs. Ligertwood asked if 2019 is the earliest that any site work might be done. Ms. Hagner said that considering an application has not yet been submitted, 2019 is likely the earliest that any work would begin. Mrs. Ligertwood also asked about aspects of the plan such as traffic and stormwater. Ms. Hagner said that those details will be part of the application when submitted. Mr. LaConte suggested to Mrs. Ligertwood that if she signs up for the Township website's update notifications, she will be notified when Planning Board agendas are posted.

Seeing no further comment, Ms. Hagner closed the hearing of citizens.

Discussion

Potential Land Use Ordinance Recommendations

Ms. Hagner said that periodically the Board revisits some of the Land Use ordinances to see if changes need to be made, particularly for clarity. She mentioned fencing as one item that should be reviewed for clarity on how height is measured and some design aspects.

Regarding below-grade garages, Ms. Hagner said she is unsure if there is a problem in the Township. Mr. Brower suggested that good public planning should preclude below-grade garages. Ms. Hagner asked if garages on properties with slopes might wind up being considered below-grade. Mr. Sullivan raised a concern about builders circumventing height restrictions by having the below-grade garages. Ms. Hagner said that Mr. Ruschke had addressed this matter in some memoranda in which he indicated that home designs were flawed, however the current ordinance does not prohibit the below-grade garages.

Mr. Brower addressed fences by suggesting that limiting the extent of fences can address other concerns.

Mr. Sullivan said that he is concerned by some gradual changes that have occurred in the Township, and he said that there is less respect for streetscape than there used to be. He also said that he does not want the Township to be overly restrictive as to what a homeowner can do with their property.

Regarding fencing, Ms. Hagner said that she would like to see the Township avoid having all properties in the Township fenced in. How fence height is measured was also discussed. Mr. Brower asked about the distinction between walls and fences.

Ms. Hagner said that floor-area ratio is not recommended for residential properties, as D-variances would be necessary. She also said that New Providence enacted an ordinance in which side-yard setbacks are proportional to the height of a structure. Mr. Warner said that in towns where there are floor-area ratio (FAR) restrictions in residential zones, residents have to spend a lot of money applying for D-variances. He addressed the floor-area ratio regulations adopted by New Providence. Mr. Warner described regulations in which the setback on a side-yard has to be proportional to the height of a structure.

Mr. Nevin said that there are architects and builders who will request twice as many variances as are actually needed, so that the sacrifice of the unneeded variances will seem like a compromise. He also referred to a comment made by Mr. Sullivan at a Township Committee meeting that the Township cannot regulate taste, and opined that perhaps regulations could be put into place to try to limit poor taste.

Ms. Hagner suggested that there be a standard for having house numbers on houses to make them more visible in case of emergency.

Mr. Sullivan said that there have been situations in which builders waited up to a year to start work on a project in which a house to be demolished sat boarded up. He would like to see a requirement that the house to be demolished should be taken down within 60 days, and that the lot not be allowed to sit vacant for extended periods of time unless the property is maintained. Mr. Brower said that there are properties in Madison in which properties were leveled and maintained as open fields before new homes were built.

Ms. Hagner asked the Board about forming subcommittees to address various areas of concern. Mr. Sullivan, Mr. Nevin and Mr. Brower volunteered to be on the subcommittee. The goal of the subcommittee will be to report back to the Planning Board by the end of June.

There was a discussion on the need to address what Mr. Sullivan described as diamond-shaped lots, particularly regarding the degree to which the front of the structure should be parallel to the front of the property. Ms. Hagner asked about front stoops and porches, and how they are impacted by the front yard setback. Mr. Warner said that some towns allow for an unenclosed stoop to encroach into the front yard setback. Ms. Wolfe read from the Township codebook the current regulations about what can project into a setback without a variance being necessary.

Mr. Sullivan asked if it would need to be codified that home-based businesses in Green Village would need to cease if the property on which the activity is occurring changes hands. Mr. Warner said that there is case law at the Supreme Court level that a home occupation cannot expire on the transfer of ownership of property. He also described how a home occupation variance is defined, and the limitations of a home occupation. Mr. Warner also said that pre-existing non-conforming uses can obtain a certificate of non-conformity to prove they have a right to continue the particular business activity. Intensification of the use of a pre-existing non-conforming business would require a D2 variance.

Ms. Hagner said that the subcommittee's report is expected for the end of June. She also said that a report on the Circulation Plan might also be ready soon.

Mr. Nelson moved to adjourn at 8:44 PM. Mr. Brower seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary