

**Zoning Board of Adjustment
Regular Meeting**

**Township of Chatham
May 22, 2014**

Mr. Vivona called the Regular Meeting of May 22, 2014 to Order at 7:30 P.M with the reading of the Open Public Meetings Act

Roll Call:

Mr. Tony Vivona	Mrs. Kathryn Surmay Kenny	Mr. Glen Nelson
Mr. Jon Weston	Mr. Richard Williams	Thomas Polise, Alt#1
Mr. William Style, Alt. #2	Mrs. Tina Romano	

Absent: Mr. William Style, Alt. #2 Mrs. Tina Romano

Professionals Present: Steven Shaw, Attorney
John Ruschke, Engineer
Robert Michaels, Planner

Minutes: April 9, 2014 Wireless Transcript
April 9, 2014 Special Meeting

April 9, 2014 Special meeting minutes were carried to June 19th meeting.
Mr. Nelson moved to approve the Transcript as submitted, seconded by Mr. William. All in favor

Hearings:

Mr. & Mrs. Donoghue
692 River Road
Block: 39 Lot: 65.

Calendar BOA 13-39-65

Ms. Stone Dougherty, Attorney
Mr. Frederick Meola, Professional Engineer and Planner

Site Visit read into the record

Ms. Stone Dougherty said the report outlined their entire case. The applicant is really looking to raise or demo the existing deck which is in poor condition and raises a safety concern. Where the deck comes in to the rear door of the house is very narrow. Tonight we only have one professional, Mr. Meola, Engineer who will just go through the variances.

Mr. Meola, Licensed Profession Engineer, Planner, Certified Municipal Engineer and Flood Plain Manager. The site plan last revised February 17, 2014. There will be variances required as a result of the patio configuration along with the non-conforming pre-existing conditions on the site. The drawing, on the left side of the page shows the existing conditions and on the right side is what is proposed. The shed, 12.9 ft. from the property line is in the northwest corner of the property. What we are proposing is to take out the existing deck which needs to be totally redone or change it to something that works better on the lot. The owner feels a paver patio

would fit better. We propose to come out approximately 17.5 ft. from the wall with two corners basically on a forty five where it meets the bump out in the home. The other one basically is on a forty five until it meets the extension of the existing sidewalk. That is the other variance. The sidewalk is 12.9 ft. off of the property line. Not to make it look peculiar and put a jog they thought that it would be better to extend this so it comes out on a forty five and where ever they hit, they hit. It is much more uniform. That is really the project. He did agree with the board members comments regarding the unsafe deck. Technically there are five variances. Two which are created by the patio (coverage) and the side yard setback. The pre-existing conditions related to the principal structure (coverage) and the rear yard setback regarding shed location and the minimum lot depth of 200 ft. It has been double checked by my office. He thought a patio was better used space than a deck. The owner is doing a good job with the brick pavers so while the ordinance says you are over when you have a brick paver patio water does seep in. Many towns count pavers as 85% impervious (Madison). Technically it is over but the type of patio he is putting in doesn't have the same impact as a concrete patio.

Mr. Vivona noticed a large crack in the cement sidewalk. Is it part of your plan to incorporate this into the plan?

Mr. Meola said he had not noticed it but knowing the applicant and the monies he is investing he was sure it will be done the right way. If he has to replace that piece he will do it. He also pointed out that the sump pump would have to be relocated. It probably would be extended and go onto the driveway to River Rd.

Mr. Meola pointed out that this is a young growing family with children and the patio will probably be a multi-purpose patio. The children will use it to play on as it is a family patio. With the grade of the property it is the only level area in the rear yard.

Mr. Vivona asked how one would exist from the rear door. Mr. Meola thought there would be a few steps at the door down to the patio. If it should exceed two foot in height then a railing will be installed. Many times railings are installed just as a safety factor.

When questioned about the sanitary sewer Ms. Dougherty said that if any reason it had to be dug up it would be at the applicants cost.

Mrs. Kenny referred to Mr. Ruschke's comments about replacement trees; she did not recall talking about that.

Ms. Dougherty said what happened was the builder had constructed two homes side by side. My clients are one of them. This was a situation where the applicant closed with a temporary CO when they purchased from the builder. Shortly thereafter the builder went under and did not finish many things so we ended up having to work with the Township so that my client could actually have the final CO. During that process it added the trees that the builder should have provided for or forgiven for not having to be replaced. If you go to the site you will see that the rear of the property has a nice tree line.

Discussed Bonds and fees.

Mrs. Kenny had another question regarding number two of the amended application. I know there are nice shrubs in back but I don't think the house on the left is concealed.

Ms. Dougherty said it doesn't say all of the properties... it says other properties. If you look at the property to the left the view they will have is lesser than the deck. The patio is a flat grade and there is quite a distance between the applicant's property and their house. On the adjacent property to the right there is no view. From the rear, because of the grade, you may see a little through the trees.

Mrs. Kenny asked if the applicant would agree to put some sort of planting/tree there.

Ms. Dougherty did not think the applicant – there is really no difference in the view from the neighbor that is there now who sees the deck vs. the patio. It would mean planting in the sanitary sewer easement.

Mrs. Kenny said this was an ordinary comment when asking for a variance. She thought some forsythia would be a choice.

Mr. Meola noted that they would be in the easement. It is rare that work has to be done in the easement but if it should these plants would have to be damaged if not destroyed.

Mrs. Kenny said she was just trying to look out for the neighbor on that side of the property. The patio will be closer to that home.

Mr. Meola pointed out that the side in question was actually the side of the garage before you got to the actual living space. He did agree that if they are in their back yard and walking around they could see the patio.

Ms. Dougherty said they are friends with the neighbor and if the neighbor requested if from them then they would work with the neighbor. She did not think this was necessary as a condition of approval.

Mr. Ruschke disagreed with the statement regarding my comment with the seven replacement trees. My recollection was that the applicant did have an extremely difficult time with the builder and there were a lot of issues as outstanding. Ultimately the CO was issued. The tree was a requirement for tree replacement so it shouldn't be said that we agreed to not plant trees. He thought it was a matter of we didn't really aggressively pursue that being implemented in closing out the lot grading. In my opinion they should just ask for that waiver so I can close that lot grading. That is not required. It was never dismissed but more of an open issue.

Mr. Vivona asked if they were to agreeing to plant trees.

Mr. Ruschke said it would be at their discretion.

Discussed trees.

Ms. Dougherty said they would ask for a waiver on that but again the representation that was made was not one to be misleading but as you indicated there were numerous issues. Some trees were put in we just disagree that we had 7 remaining trees that hadn't been done. Our understanding was when the CO was finally issued that we had come to a resolution with the Township as to all the outstanding items that the builder had left behind. There was quite a list.

Mr. Ruschke said he agreed to it being quite a list.

Mr. Vivona noted that a request had been made for a waiver regarding trees from the prior grading plan he then asked if there were any more questions/comments from the Board/Audience. None heard. He asked if anyone wanted to make a motion on this application.

A motion was made by Mr. Nelson and seconded Mr. Williams to approve the application presented with the inclusion of the waiver as discussed.

Roll Call: Mr. Williams, Mr. Polise, Mr. Weston, Mr. Nelson, Mr. Vivona – in favor

Mr. Weston, Recused from the application

Mrs. Kenny – not in favor

Mr. & Mrs. Straka

9 Peppermill Road

Block: 48.06 Lot: 16. .

Calendar BOA 14-48.06-16

Mr. Richard Schomer, Engineer

Ms. Cheryl Straka, Homeowner

Mr. Joel Straka, Homeowner

Mr. Art Palombo, Architect

Site Visit Report read into the record by Mr. Vivona.

Mrs. Straka said they were ten year residents and loved the area. Their children are in the school system. They went from one child to number five so our 4 bedroom colonial stopped working for them. We are looking for opportunities to expand.

Mr. Palombo, Architect said this home is compatible with the homes immediately surrounding it. The massing of the house is compatible as well. The overall size and massing to the house are similar. We have discovered through the mass of this lot that we are not conforming in building height which is the only variance we are seeking. If this lot were a level lot we would not be here as it would be compatible. We are actually under the building height. Designs that I used to lower/minimize the massing of the house are: Stone base water table, flair siding, we layer up to the gutters and I have brought the height of the gutters down below the normal plate height of the house to bring the roof down lower. The roof design presents a more picturesque house but it also lessens the mass of the roof as it is presented to the neighborhood. We investigated the number of alternative designs to try to not have to get a variance at all. One was to expand the building footprint. There are about 300 sf allowable for us but we felt that the green space

surrounding the house is far more valuable than spreading the house out. We wanted a house that was similar in scale to what we are taking down and the applicants wanted to be able to utilize the lawn/yard for their children. Another device that would allow us to expand the house without the need of a variance would be the introduction of a flatter roof pitch – raising the plate height up for that roof. That is a horrible design. It reminds you of one of those 50's-70's track houses. It also would create a greater mass to the house because the walls are higher and the roof was flatter. We felt this was much more picturesque, much more of an enhancement to the neighborhood. We wanted to replace the existing house with something that is significantly better than what we are taking away. The materials we are using are: the roof has not been decided yet but it will be a 5 tab dimensional household shingle roof if not split cedar; there is natural cedar siding; natural stone and a lot of details including natural wood shutters to give it the feeling that it has been there a long time.

Mr. Schomer put up a rendering of the variance plan (A13) dated April 9, 2014. We are dealing with a standard lot in terms of shape and conformance. As you can see the existing house is situated is basically where the proposed house will be. In terms of location it will be basically the same. It is an existing two story house being replaced with another 2.5 story house. The house has a garage under so as you look at the house from the street on the right hand side there is a turnaround drive on the end of the house. It is consistent with other houses along the street. If you go west from here there are a series of houses that were built around the same time and you have a series of those types of garages under houses. The property was excavated for that type of garage under. The plan is to take the existing house down and put up the proposed in its place basically in the same location. The setbacks conform, coverage is conforming and we are only seeking one variance for the height. We have to deal with the ordinances in calculating the height with the lowest point being 15 ft. We have as a low point (on the right hand side) because of the garage under and the original construction, and when we average our low point we find ourselves over on the height. This existing condition, the low point from the garage under from the original construction presents a technical difficulty and the hardship we have to deal with. As previously pointed out, if you look at the front of the building from the street, left hand side or the back, the house will appear to be conforming and will be conforming in terms of height. It only exceeds the height on the right side because of the low elevations. Mr. Palombo also pointed out the design considerations he went through and the appearance of the house. He pointed out the good architectural techniques to help reduce the appearance of the height so it fits in with the neighborhood. The hardships were mention with respect to this he felt it could also be a C1 variance or C2 where you have a better design with this proposal which requires relief compared to a conforming design. A conforming design had been considered and it would have to be an appearance of a house which would look more massive than what is proposed and really would not be in character with the other houses along the street. You have a consistency of housing types and housing in the neighborhood. To create a conforming structure when that design was considered really would be out of character. It wouldn't look like the other houses or nearly as nice as the proposed house. Talking from a variance stand point a C2 criteria where the benefits outweigh the detriment applies. In terms of detriment, the only side where you exceed the height is on the right and only one neighbor might see the height. The neighbors have been supportive of this application. No neighbors have objected to this application. They have been supportive and have been looking for them proceeding with the application. For those reasons we think the application is appropriate. No other relief is requested other than what has been

explained. We feel that allowing the house in this location, with this configuration will be very similar to what is there. Grading will not change significantly. We are just replacing the house. You will have a nice appearance. We feel this house is a positive for the location and the neighborhood.

Mr. Palombo said there were a couple of things for the Board to consider. The proposed height of our design from the street is under 33 ft. so under the 35 ft. allowable. The other consideration we had of extending an "L" of another 300 sf. which would be allowable under the zoning would create a much larger mass to the neighbors immediately to the north (left of house as you face it). We felt very strongly that while this is a bit taller to expand the house to reduce the height would present a much larger scale which would be a lot less desirable for the neighborhood and immediate neighbors as well. That was a consideration given this house when it was being designed.

Mr. Ruschke said a full lot grading plan was needed.

Mr. Vivona noted that 2 trees were coming down and you were planning other plantings. You had mentioned something about revamping.

Mrs. Straka said the trees had been lost in the hurricane. At that time, the neighbors were doing some construction so they wanted to clear out and restart. We told them that we were hoping to get started with the project. We got together and decided to wait until both projects were done and then figure out a way to do something that would give both homes privacy but also allow the children to get through from one property to another.

Mr. Vivona asked about what would be done on the driveway side.

Mr. Straka said they are in the process of acquiring a landscape architect to work on those. There is only so much we can do. Our property ends directly across but in the back we will be doing something.

Mrs. Straka said the neighbors to that side have a raised deck and what they did was create a patio underneath with a fire pit. They have a landscaped wall that comes around and sort of covers them in. The tree that we are losing is more decorative and doesn't shield them from any view in our yard. If we were to do anything it would probably some sort of plantings around the patio that would in essence be the same as them.

Mr. Straka pointed out that if the Board members had come another week or two later when the leaves came out you would have seen a wall of trees in the back of our property. Now that the trees have bloomed you cannot see the homes behind us.

At Mrs. Kenny request the elevations were outlined.

Mrs. Kenny asked how far you would have to go back to comply. She was advised it would be 20 ft. which is an awful lot. It changes the character of the proposed. It not only impedes/encroach on the rear property it eliminates a considerable amount of green area that is

currently there. It also presents a much larger façade to the neighborhood. There are 2 neighbors immediately to the north that would be impacted by that.

Mrs. Kenny said she agreed but was trying to get an idea. This is a fairly deep lot.

Mr. Palombo said there was a tree stand which is a good portion of the property. It is not clear to the property line. One thing I did not mention, on the southerly side (the façade at issue) there is a deep roof overhang that we placed over the garage which tends to break up the scale as well. At the side the stone veneer we are placing is relatively tall. We have used every device that we could imagine to minimize the impact to the neighbor. Between Rusty's office and mine we did a lot of wiggling around with the various heights, literally down to the quarter inch, trying to see how we could bring everything down as much as possible. The geometry of the gamble as you probably have seen through your travels manifest themselves in many ways. We tried striking a balance between something that we both found aesthetically pleasing. All in all what we are trying to do is to provide something that is considerably better in what we are replacing. We want to treat this as an enhancement to the neighborhood. We want this to be a place that for years to come might be something inspirational when these houses change in character.

Mrs. Starka said one of challenges we gave him when we sat down was that we wanted to keep the structure as similar to the house we were living in. Our whole goal was the back yard for the kids to play in and we needed a bigger kitchen. At the same time we did not want to take away from running across to the neighbor's house by them having to run out the back door, go around the house. Right now they look out the back yard and they see the kids playing and they can easily join them. We did not want to be blocked off. Something that Art kept struggling with in terms of fitting everything in for us.

Mr. Palombo said they had looked at a number of alternatives. We kept coming back to something like this. We also looked at the possibility of garage on the northerly side of the house. It still didn't eliminate or diminish the fact that we have the cut out that was done in the 70's or when the development went in. Even filling in the grade and trying to re-grade was not practical because of the consideration to the neighbors to the south.

Mr. Vivona said he like the fact that you are keeping it as small as possible. The design of the house is very nice. As there are no further questions and no one objecting in the public He felt they should bring it up for a motion.

A motion was made by Mr. Williams, seconded by Mr. Nelson to grant the variance as requested.

Roll Call: Mr. Williams, Mr. Polise, Mr. Nelson, Mr. Vivona, Mrs. Kenny – All in favor.

**New Cingular Wireless
PCS LLC (AT &T)**
63 Buxton Road
Block: 62 Lot: 105

Calendar BOA 13-62-105

Minutes/Transcriptions will be submitted by applicant

Respectfully Submitted,

Mary Ann Fasano
Transcribing Secretary