

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF CHATHAM  
JUNE 20, 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. Borsinger, Mr. Newman, Ms. Labadie, Mr. Fitt, and Ms. McHugh

Also present were Township Engineer John Ruschke, Joanna Slagle for Frank Banisch, and Board Attorney Stephen Shaw

Mr. Williams, Township Planner Frank Banisch, and Mr. Turco (Alt 1) were absent.

**Memorialization of Resolutions**

**BOA 19-31-1 Ivan Levitskiy, 20 Mountainside Drive, Block: 31 Lot 1**

A motion was made by Ms. Labadie to adopt the Resolution as submitted and seconded by Mr. Fitt.

**Roll call:** Mr. Vivona – yes; Mr. Weston – yes; Mr. Williams – absent; Mr. Borsinger – yes; Mr. Newman – yes; Ms. Labadie – absent; Mr. Fitt – yes; Mr. Turco – absent; Ms. McHugh - yes

**BOA 19-35-1 Daniel Yang, 16 Dogwood Drive, Block 35, Lot 1**

A motion was made by Ms. McHugh to adopt the Resolution as submitted and seconded by Mr. Weston.

**Roll call:** Mr. Vivona – yes; Mr. Weston – yes; Mr. Williams – absent; Mr. Borsinger – yes; Mr. Newman – yes; Ms. Labadie – yes; Mr. Fitt – yes; Mr. Turco – absent; Ms. McHugh - yes

**Hearings**

**BOA 19-105-5 T-Mobile Northeast LLC, Block 105, Lot 5**

Mr. Vivona read the Site Visit Report into record.

Allyson Kasetta for Mr. Meese, attorney for T-Mobile, introduced Planner, Tim Kronk who was sworn in at the previous meeting. Mr. Kronk stated that the cables on the PSE&G tower across the street from Gloria Dei on Shunpike Road are the same light gray color as the cables that were installed on the T-Mobile tower on Spring Street.

Mr. Vivona asked Mr. Kronk which tower has the regular gray cables and what manufacturer sells the regular gray cables. Mr. Kronk said he had no idea. Mr. Kronk said he checked the color of the cables down the street on Fairmount Avenue and saw that they were the blue gray, but hadn't been installed yet. Mr. Kronk believed that the cables installed across from Gloria Dei on Shunpike were the correct color, checked the manufacturer, and found that those cables in that color were the same cables used on Spring Street and on Sunset Road. Mr. Kronk produced photographs of the manufacturer's number on the cables. Mr. Vivona stated that the Zoning Board members would have to investigate and find

the manufacturer color number of the cable color the Board originally approved. Mr. Kronk presented color photos from the cable manufacturer which Mr. Shaw marked into exhibits as A-23 and A-24.

Mr. Weston stated that the color of the cables at the Spring Street location were really not an issue as there are not many houses or people around that specific area. Mr. Vivona stated that many neighbors came out to contest the color of the cables on Fairmount Avenue because it is in a more centralized and populated location. Mr. Vivona also mentioned that the Board is trying to do their due diligence in keeping the color uniform throughout the Township and would like the darker color from this point forward.

Mr. Borsinger moved to approve the light gray cable for this tower. Mr. Newman seconded the motion.

**Roll call:** Mr. Vivona – yes; Mr. Weston – yes; Mr. Williams – absent; Mr. Borsinger – yes; Mr. Newman – yes; Ms. Labadie – yes; Mr. Fitt – yes; Mr. Turco – absent; Ms. McHugh - yes

BOA 19-62-56 Frank Francese, 580 River Road, Block 62, Lot 56

Mr. Vivona swore in Mr. Frank Francese.

Mr. Vivona explained the process of appearing before the Board of Adjustment, asked Mr. Francese to mark out the house on the property and scheduled the site visit for July 13, 2019 at 9:00 am. Mr. Shaw asked Mr. Francese to specifically mark out the steep slope portion of the variance. Mr. Francese countered that he could either mark out the steep slope or move the proposed house forward on the property so as not to affect the steep slope, but he would then need to seek a variance for the front yard setback. Mr. Francese stated that the neighbors' houses on either side are closer to the road than his proposed house would be.

Mr. Francese stated he is proposing to construct a single family home approximately 3800 sf with a two-car garage and that the only variance he is seeking is for the steep slope.

John Ruschke stated that it is a very unique and large piece of property. Mr. Vivona inquired whether there was any wetlands issue and Mr. Ruschke said no. Mr. Francese stated that he did have a letter of interpretation from the DEP regarding the wetlands.

Mr. Shaw announced that this application would be carried to the meeting of July 18, 2019 without any further public notices.

BOA 19-61-12, Lara & Will Kanjo, 43 Sunset Drive, Block 61, Lot 12

Mr. Vivona swore in Will Kanjo and set up a site visit for July 13, 2019 at 9:30 am.

Mr. Kanjo stated that his wife had a firm commitment at work and was not able to attend the meeting. He went on to state that since purchasing the home five years ago, their family has grown and they have outgrown the home. Mr. Kanjo stated that they are looking to add a home office for his wife who works at home several days per week, move the bedrooms to a separate story, and expand the kitchen.

Mr. Vivona Swore in Anton Hajjar, PE.

Mr. Hajjar stated that the first variance is a pre-existing, non-conforming front yard setback. The setback requirement is 50 feet and the house is setback 40.1 feet. Mr. Banisch asked if the building will be removed and Mr. Hajjar answered that the house will just be added on to and the front building wall will remain in place. The second variance is for the rear yard setback due to the second story addition.

Mr. Hajjar stated that the house is 43.7 feet from the property line, and because the property line jogs in 5 degrees in a southwesterly direction, the house is 43.1 feet from the property line. Mr. Vivona asked if the proposed addition is going straight up or over and if it would be encroaching more into the setback. Mr. Hajjar stated the addition will go straight up and they are adding a little bit of house to the west. Mr. Shaw marked the colorized rendering as exhibit A-7.

Mr. Vivona asked if the lot was under 20,000 sf and Mr. Hajjar stated the lot is 26, 220 sf, but very wide and very shallow. Mr. Hajjar stated that they are also proposing to add on to the existing retaining wall to create a lawn area, construct a patio with a fire pit, the existing front porch will be replaced with a slightly bigger porch, and they are adding a third story. The existing height of the house is 24 feet and will be 27.87 feet after the proposed work. Mr. Vivona inquired why the engineer was referring to the top floor addition as a third story and Mr. Hajjar stated that it is because more than 50% of the basement foundation is exposed but the attic was designed to be less than a half story. Mr. Vivona deferred to Mr. Ruschke.

Mr. Ruschke stated it meets the definition of a third story and that in other applications the applicants were given every opportunity to cover more of the first floor. He stated that changing the elevations around the house can mitigate that issue of a third story. Mr. Vivona asked how much percentage of the current foundation is exposed. Mr. Hajjar stated that when he was designing the addition he did not take the garage into account, and the percentage of the current foundation that is exposed is 56.43%. Mr. Hajjar said that it would take too much fill to regrade and lower the percentage to bring it under 3 stories. Mr. Vivona and Mr. Ruschke concurred that the foundation percentage exposed should be below 50% so as not to be an additional story.

Mr. Borsinger asked what the maximum height from foundation to the top of the roof is. Mr. Hajjar said that the average height is 27.87 feet. Mr. Vivona ascertained that the house backs up to the woods and that there are no rear neighbors.

Mr. Vivona stated that the site visit serves to ascertain how to make the house not be 3 stories high. He also stated that the variance is for the rear yard due to the property line curving in a little bit. Mr. Hajjar stated that there are actually (4) variances being sought: rear yard setback for the addition, rear yard setback for the second story addition, the 3-story issue, and 90 sf of steep slope greater than 3:1. Mr. Vivona asked if the back yard is sloped uphill or downhill. Mr. Hajjar said it slopes downhill.

Mr. Vivona swore in Hildie Lazar, Architect for Mr. Kanjo.

Ms. Lazar stated that the goal was to maintain the character and charm of the house and in keeping with fitting into the neighborhood. She also stated that from the rear grade to the top of the house ridge in the back is still less than 30 feet. Ms. Lazar gave a general overview of the current floor plan of the house. She stated that the walls at ground level not including the garage are approximately 50%, but they did consider working the grading so they would not have a story variance. Ms. Lazar concluded that it would take much more money and soil disturbance to achieve that. She stated that the 300+ sf covered porch that already exists in the rear yard setback will be removed to lessen the severity of the variances being requested.

Mr. Vivona stated that the back of the house looks like a dormer. Ms. Lazar stated that because the property slopes in it exacerbates the non-conformity for the 3 sf in the rear of the proposed addition and it is very minor.

Mr. Fitt asked if the bump out addition is causing the extra 6% increase in height (referring to the 56.43%, the current percentage of the current foundation that is exposed) and causing the additional story. Mr. Hajjar stated that on the easterly side, the entire foundation is exposed. Ms. Lazar stated that the overage is because of the rear wall and the side wall by the garage is exposed. Mr. Borsinger asked where they would put the fill Mr. Hajjar mentioned earlier in order to alleviate some of the foundation exposure and how much fill would be needed. Mr. Hajjar said the only place the fill could be placed was on the westerly side and it would be about 4 feet high of fill. He also said that the 6% is equivalent to 115 sf. Mr. Borsinger opined that it would be possible to put some fill near the back. Mr. Hajjar stated that it would require building a retaining wall.

Mr. Vivona vehemently stated that the house cannot be 3 stories. Either fill would have to be brought in, or the house would have to be redesigned to less than 50% of the foundation exposed. Mr. Ruschke told the applicant to be more creative by possibly building a shallow landscaped wall and bringing fill in to cover some of the foundation and mitigate the 3 story issue. Mr. Banisch concurred with Mr. Ruschke and told the client that it is just a matter of finding the strategy to fit into the Township rules to make their dream house a reality.

Mr. Hajjar stated that the 6% could be achieved and then asked if the garage was counted because if the garage was counted, the percentage would jump up to 15% instead of the 6%. Mr. Shaw stated that the garage did count because it is part of the structure. Mr. Hajjar countered that there is conflicting information because the basement is mentioned in the ordinance, but not the garage. Mr. Ruschke stated that the garage is part of the overall structure because it is under the house, even though that is a gray area in the ordinance.

Mr. Vivona stated that this would all be considered at the site visit. Mr. Hajjar asked what to mark out and Mr. Vivona requested that the 3 foot encroachment be highlighted. Ms. Lazar questioned how hard she should be looking to redesign the house. Mr. Vivona said that she should not be redesigning the house, but instead, redesigning the landscaping. Ms. Lazar stated that Ms. Kanjo put together photos and exhibits from the neighboring homes showing how they look like three stories high. Mr. Banisch informed Ms. Lazar that the Chairman is giving her a heads up on what she should be focusing on, and that she should hold on to the photos until after the site visit and revisions. Mr. Vivona stated that those houses may look like 3 story homes, but because of the math less than 50% of their foundation is exposed and therefore they conform to the ordinance.

Mr. Shaw stated that the application will be carried to the next meeting without any further legal notice.

Mr. Vivona motioned to adjourn. Mr. Williams moved to adjourn.

All in favor.

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Kathleen Nagy-DeRosa  
Zoning Board Secretary