

**MINUTES  
ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF CHATHAM  
JULY 18, 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. Newman, Ms. Labadie, and Ms. McHugh.

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

Mr. Borsinger, Mr. Fitt, and Mr. Turco (Alt 1) were absent.

**Approval of Minutes**

A motion was made by Mr. Williams to approve the May 16, 2019 minutes and seconded by Ms. Labadie. All in favor.

**Memorialization of Resolutions**

**BOA 19-105-5 T-Mobile Northeast LLC, 1 Spring Street, Block 105, Lot 5**

A motion was made by Ms. Labadie to approve the resolution as submitted and seconded by Mr. Weston.

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

**Hearings**

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

Mr. Vivona read the Site Visit Report into record.

Mr. Vivona swore in Mr. Joseph Mianecki of Mianecki Engineers, 9 Montvale Road, Towaco, NJ.

Mr. Vivona asked Mr. Mianecki if he moved the house forward on the property by 15 feet, would the steep slope in the rear yard still have to be disturbed. Mr. Mianecki said the steep slope disturbance would be just about cut in half, but there would still be approximately 4,000-5,000 sf of steep slope disturbance necessary and retaining walls to mitigate the steep slope disturbance. Mr. Vivona asked how far forward the house would have to be moved so as not to disturb the steep slope. Mr. Mianecki answered that he did not believe he could move the house any further forward, but he had not researched it yet. He went on to state that the septic system was placed in the front yard while maintaining the 25-foot required setback from the adjacent neighbor's property line on lot 55. Mr. Mianecki also said that the drywells are placed in the only spot available while maintaining the required 50-foot setback from the proposed septic system, and 50 feet from the adjacent neighbor's septic system. He stated that there was a possibility of moving the house forward 15 or 20 feet at best.

Mr. Vivona asked how large the property is and Mr. Mianeckci stated it was 10 ½ acres. Mr. Shaw asked if there was a specific alternative with retaining walls and setbacks that the applicant is requesting or is the applicant proceeding with his original application. Mr. Mianeckci stated that Mr. Francese would like to move the house forward and the cost of the walls would probably be decreased by 1/3 if the house was moved forward approximately 15 or 20 feet, but he reiterated he had not researched it or drawn it out. Mr. Vivona asked if the second tier retaining wall could be omitted if the house was moved forward. Mr. Mianeckci said it would be difficult to ascertain without calculating it because the ordinance regarding retaining walls is tricky. He also opined that he would probably be able to lose some of the wall on the top, but the walls on the sides would need to remain to stabilize the steep slope and that this was a difficult site to work with.

Mr. Shaw stated that if the Board would rather prefer a front yard variance and a reduction in the steep slope disturbance, then revised plans would need to be submitted. He also stated that the Board could not take action without knowing what the plans are. Mr. Vivona stated that an alternate option would be to prepare the resolution ahead of the next meeting and have it ready when the revised plans are submitted for approval at the next meeting. Mr. Shaw stated he would accept that as long as he had the correct numbers from the revised plans ahead of time to put into the resolution for approval at the next meeting. Mr. Mianeckci stated that it would be prudent for the Township Engineer to review the revised plans when they are submitted and that he may not have enough time prior to the next meeting to prepare the revised plans.

Mr. Vivona asked if the applicant would mind waiting and revising the plans and moving the house forward on the property to alleviate some of the steep slope issues and postponing the project until Mr. Mianeckci revises the calculations and drawings. Mr. Shaw stated that if the applicant consents, the application will be carried to the meeting on September 19, 2019 without further notice. Mr. Francese asked that his application be carried to the following meeting of August 15, 2019 so if the revisions are done quickly, he will be on the agenda sooner and that if he does not make the deadline for the August 15, 2019 meeting, he will carry to the September 19, 2019 meeting. Mr. Shaw agreed.

Mr. Vivona asked Mr. Nolte if he had any concerns or comments. Mr. Nolte mentioned a 10 foot slope away from the house that would have to be regraded or would be another variance, and that when more than 5,000 sf of steep slope is disturbed, Soil Erosion & Sediment Control is required.

Mr. Shaw asked what the front yard distances of the neighboring houses are and Mr. Mianeckci stated the setbacks are approximately 51 feet for the house on the left, and approximately 38 feet for the house on the right. Mr. Vivona stated that the applicant should move the house forward somewhere between 15 and 25 feet to alleviate as much steep slope disturbance as possible, but that is the exact measurement the Board needs on the revision. Mr. Vivona also reiterated that the resolution can be fast-tracked if the revisions are done quickly and submitted in time.

Mr. Shaw stated that the matter will be carried to the August 15, 2019 meeting without further public notice.

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

Mr. Vivona swore Ms. Kanjo in.

Mr. Weston read the Site Visit Report into record.

Hildie Lazar submitted revised drawings as exhibit A-10. She stated that originally four variances were sought, but now two of them have been alleviated. The rear yard setback and the story variance have

been eliminated by reducing the existing attic space. Ms. Lazar stated that the only variance the applicant is asking for is the 3 sf at the rear corner of the house because of the property line tapering back. Mr. Hajjar stated that they are not disturbing any of the steep slopes and the applicant is saving as many trees as possible. Mr. Hajjar submitted a color picture which was marked into exhibits as A-11. Mr. Hajjar stated that the applicant even improved on the rear yard setback since the last meeting.

Mr. Vivona stated that the applicant has done a nice job of changing things to alleviate variances. Mr. Nolte asked that the applicant be cognizant of and raise the sanitary manhole.

Mr. Vivona asked for a motion to approve the variance. Mr. Newman motioned for approval of the variance and Mr. Weston seconded the motion.

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

BOA 19-7-5 Yevgeny & Erin Ruzhitsky, Block 7 Lot 5

Mr. Vivona swore in Mr. Ruzhitsky.

Ms. McHugh Recused herself.

Mr. Ruzhitsky stated that the steep slope in his back yard divides his yard in half. He is proposing to put a retaining wall along the steep slope to protect the area and create two level areas for his four boys to safely play in the yard. He also said that the pool shown on the drawing is not part of the plan and that the only thing he presently proposes to add to the yard is a shed. Mr. Ruzhitsky stated that the previous owners did not keep up with the back half of the yard, creating an eyesore for his neighbor. Mr. Ruzhitsky plans on clearing out the dead trees and brush to beautify the area and create privacy for his neighbor.

Mr. Vivona asked how high the proposed walls are. Mr. Ruzhitsky stated they are 4 feet high and there are three of them.

Mr. Kevin Nolte inquired if the new wall will be tying in to the existing wall. Mr. Ruzhitsky stated that the existing wall will be removed because he will be cutting into the existing hill in his yard to make it more usable. Mr. Nolte also reminded Mr. Ruzhitsky that over 5,000 sf disturbance of steep slopes will need a soil erosion certification.

Mr. Ruzhitsky stated that he would also like to install french drains around his property to protect any more soil from running onto his neighbor's property. Mr. Nolte asked if the water daylight on Mr. Ruzhitsky's property and then drains into the street. Mr. Ruzhitsky said yes. Mr. Shaw asked if the water is allowed to drain into the street. Mr. Ruzhitsky stated that that is how all of his neighbors have it on their properties. Mr. Nolte inquired if there was a drain for the water to tie into, and Mr. Ruzhitsky stated that there is no drain to tie into and that the water just runs to the street that is on a slope. Mr. Nolte asked Mr. Ruzhitsky to provide calculations for the water flow.

Mr. Vivona stated that a site visit is set up for August 3, 2019 at 9:00 am and asked Mr. Ruzhitsky to mark out where the walls are proposed to be constructed.

BOA 19-31-19 11 Club Road LLC, 11 Club Road, Block 61 Lot 12

Mr. Vivona swore in Mr. Scott Carlson, attorney and Mr. Brett Rothamel.

Ms. McHugh Recused herself.

Mr. Rothamel stated that he is proposing to construct a second story addition on the existing home. The front yard setback is currently 40 feet and the requirement is 50 feet. Mr. Rothamel is proposing to use the existing footprint, add a second story, and add a half story above the second story. Mr. Rothamel claimed the driveway and the site conditions will not be changed.

Mr. Carlson reiterated Mr. Rothamel's testimony and added that there is lot depth variance which is a pre-existing condition.

Mr. Vivona asked if there was a pool on the property, and Mr. Rothamel stated there was and that it would remain. Mr. Rothamel also stated that the height of the proposed house averaged at 34.3 feet. Mr. Vivona asked if the house will be razed and then the foundation utilized, or if the addition will just be added on top of the existing house. Mr. Rothamel stated that he would prefer to raise the height of the first floor from currently 8 feet to 9 feet and then build on top of the existing structure. It is currently a ranch with garages below.

Mr. Vivona summed up the two variances as being the front yard setback and the lot depth. Mr. Rothamel stated that the brick that is there will remain and that the chimney will remain and just be added on to make it higher.

Mr. Vivona set up the site visit for August 3, 2019 at 9:30 am. Mr. Nolte and Mr. Vivona also warned Mr. Rothamel that if by chance he should disturb any of the steep slope, a Stop Work Order would be issued and that Mr. Rothamel would have to start all over again with the Board and it would delay his project by three months or more.

Mr. Shaw stated that the application will be carried to August 15, 2019 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