

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
OCTOBER 7, 2019**

Attorney Steve Shaw called the regular 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 of a Resolution setting forth the schedule of meetings for the year 2019, and January, 2020 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.

Answering present to the roll call were Mrs. Swartz, Ms. Hagner, Mr. Hoffmann, Mr. Nelson, Mrs. Ozdemir and Mr. Sheth. Mr. Tarasca arrived late.

Mr. Travisano, Mr. Franko, Mr. Kelly and Mr. Coviello were absent.

Also present were Township Planner Frank Banisch and Acting Board Attorney Steve Shaw.

Mrs. Swartz nominated Ms. Hagner to serve as temporary chairperson for this meeting. Mr. Nelson seconded the motion, which carried unanimously.

**Approval of Minutes**

Ms. Hagner proposed that approval of the minutes be deferred to the next meeting since so many members of the Board are absent. Consensus of the Board was to wait for the October 21<sup>st</sup> meeting.

**Master Plan Consistency Review Pursuant to Section 26 of the MLUL**

Ms. Hagner said that two recently introduced ordinances have been referred to the Planning Board for a Master Plan consistency review. She noted that the members of the public present will be given an opportunity to give comment. Ms. Hagner also said that Mr. Banisch has submitted draft memoranda for the Board's consideration.

Mr. Banisch said that the two ordinances are components of the settlement agreement with the Fair Share Housing Center.

**Ordinance 2019-14**

Mr. Banisch reviewed the components of the memorandum that had been submitted for the Board's review. He said that the ordinance provides funding for affordable housing mechanisms to meet the Township's obligation. Mr. Banisch also said that the Master Plan calls for a balance of housing types for all segments of the population, and his opinion is that the ordinance is not inconsistent with the Master Plan.

Ms. Hagner said that the Township already has a developer fee ordinance, and said that it is difficult to determine what is being changed. She also said that she was on the Township Committee when it was stipulated that homeowners would not need to pay a developer fee when adding modest additions and decks to their homes. Ms. Hagner also spoke against having developer fees apply to homeowners for additions to existing dwellings. She further opined that the cubic-feet volume provision will be difficult for people to understand.

Mrs. Swartz spoke against having residents having to fund an unfunded mandate. Ms. Hagner said that the application of the developer fee to additions is inconsistent with the Master Plan, and said that the memorandum to the Township Committee should explain why it is inconsistent so they can determine if it should be amended. Mr. Shaw said that the Township Committee would need a reasons resolution to adopt the ordinance if the Planning Board deems it inconsistent with the Master Plan. Ms. Hagner also said that development fees have not been collected. Mrs. Swartz spoke against collecting fees in anticipation of future needs. She also addressed the Planning Board's obligation to review this ordinance.

Mr. Hoffmann asked that the Board discuss the provision regarding cubic feet. Mr. Sheth said that percentage of existing dwelling can be considered for measuring intensity of an addition. Mr. Hoffmann asked Mr. Banisch how other towns are measuring. Mr. Shaw said that the Tax Assessor can ascertain the intensity. Mrs. Swartz asked about bringing the remainder of a home up to code when an addition is put on. Ms. Hagner said that only the new area would have to meet the updated code.

Mr. Shaw said that the Planning Board's examination must be according to the current Master Plan rather than to any proposed amendments.

Mr. Hoffmann asked what percentage increase should be considered an intense addition. Mr. Banisch addressed the application of exemptions.

Mrs. Swartz asked if the Township could assess the amount of money needed first and then determine an appropriate developer's fee afterward. Mr. Shaw said that the next ordinance discusses the Township's obligations. Mr. Hoffmann said that an affordable housing project could have multiple funding sources.

Mr. Banisch asked if the consensus of the Board is that the ordinance is technically inconsistent with the Master Plan, but that it is in keeping with the intent of the Master Plan and that developer fees should only be levied on new homes and additions greater than a percentage to be determined. Having the percentage be limited to additions to living space was also discussed. The Board discussed having the percentage be 50%, and exclude decks, patios and garages.

Mr. Hoffmann made a motion to change the wording of the memorandum as described by the Township Planner. Mr. Nelson seconded the motion.

Ms. Hagner opened the floor for the public to give comment.

1. Nancy Style, 97 Ormont Road, thanked the Board for their service. She also said that collecting a fee from property owners is inconsistent with the Master Plan, and fees should be collected only from developers.
2. Jack Kint, 187 Southern Boulevard, said that modifications to existing homes should be excluded from the developers fees. He also addressed the problem in trying to define “intense” as it relates to development. Mr. Kint acknowledged that the Township is striving to comply with the settlement agreement with the Fair Share Housing Center, and he advised that the Township should still comply with the Master Plan as well.

Seeing no further public comment, Ms. Hagner closed the floor.

Ms. Hagner asked Mr. Banisch to reread the recommendation. Mr. Banisch said the proposal is for the fee to be charged on new homes and additions expanding a home by 50% or more. He said that the Board can consider only having it apply to new homes. Mr. Shaw noted that it is ultimately up to the Township Committee to decide where the fee should apply. Ms. Hagner said that the ordinance can include exemption. Mr. Banisch said that the exemptions would need to be specified, and the Planning Board can make recommendations to the Township Committee.

Mrs. Style asked if fees had been collected. Ms. Hagner said that the fees were not collected because there was not an approved spending plan. Mrs. Style said that the regular residents are hurt by the fee. Mr. Sheth said that the Board is in agreement that only developers should be charged the fee.

Mr. Hoffmann withdrew his motion when it became clear that the majority of the Board members present did not agree with the Township Planner’s recommendations.

Mrs. Swartz moved to deem Ordinance 2019-14 inconsistent with the Master Plan, and to recommend that the fee only apply to new homes. Mr. Nelson seconded the motion.

Mr. Hoffmann asked if the motion could be broken into two motions. He also said that there is a municipal obligation for affordable housing, which will be funded by the taxpayers if it is not funded by the developers fee. Ms. Hagner asked why only a small portion of residents should have to pay for the affordable housing. Mrs. Swartz said that the Township has funded other initiatives through creative means.

**Roll Call:** Mr. Travisano, Absent; Mr. Franko, Absent; Mrs. Swartz, Aye; Ms. Hagner, Aye; Mr. Hoffmann, Aye; Mr. Kelly, Absent; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Sheth, Aye; Mr. Coviello, Absent; Mr. Tarasca, Aye.

#### Ordinance 2019-15

Mrs. Swartz asked what changes are being made that need to be reviewed for consistency with the Master Plan. Mr. Hoffmann said that the Township will now need to submit annual reports regarding several aspects of affordable housing compliance. He also noted that the Township is

required to have a Municipal Housing Liaison, who will need to be qualified through a training program.

Ms. Hagner asked if this ordinance stems from the settlement agreement, and Mr. Banisch said that it does. Ms. Hagner said that she is surprised by how some of the numbers are calculated. Ms. Hagner asked about the 74 units to be built, and Mr. Hoffmann said that they are consistent with the Master Plan. Ms. Hagner said that she would have preferred more flexibility in the ordinance.

Mr. Sheth said that one of the challenges the company he works for has seen is the limits on rental fees, which varies from town to town. He said that some towns have not determined the fees before plans are generated, and he suggested that the Township look into that early.

Mrs. Swartz asked about owner-occupied units. Administrator Hoffmann said that rentals and units for purchase are being discussed. Mr. Banisch said that Vernon Grove units are owner-occupied. Ms. Hagner opined that the ordinance is so precise that it may not be easily followed, and future ordinances might be needed for compliance. She also suggested that the ordinance refer to “sites to be determined later rather than “a site to be determined later” so that the Township maintains some flexibility.

Mr. Hoffmann moved to deem the ordinance consistent with the Master Plan. Mr. Nelson seconded the motion.

**Roll Call:** Mr. Travisano, Absent; Mr. Franko, Absent; Mrs. Swartz, Aye; Ms. Hagner, Nay; Mr. Hoffmann, Aye; Mr. Kelly, Absent; Mr. Nelson, Aye; Mrs. Ozdemir, Aye; Mr. Sheth, Aye; Mr. Coviello, Absent; Mr. Tarasca, Aye.

Mrs. Swartz asked if the Planning Board can draft a memorandum at a later time to make additional recommendations. Mr. Shaw said that will depend on the action taken by the Township Committee.

Mr. Shaw noted that there is a pagination error in the ordinance that will need to be fixed.

### **Public Comment**

Ms. Hagner opened the floor for general public comment.

1. Mrs. Style asked if there is a limit in the affordable housing ordinance on how many people can live in a unit. Mr. Banisch said that there is a limit of two people per bedroom. Mrs. Style asked who would enforce that restriction. Ms. Hagner said that Piazza & Associates would be the enforcing agent. Mrs. Style also noted that she agrees with the Board that the ordinance is too specific. Mr. Shaw noted that such ordinances tend to be very specific, and it is not uncommon for such ordinances to be revisited when new developments are being proposed.

Seeing no further public comment, Ms. Hagner closed the floor to public comment.

Ms. Hagner noted the next meeting is scheduled for October 21, 2019. Mr. LaConte reminded the Board that the next meeting will be the continuation of the Arbor Glen and Dixiedale applications.

Mr. Tarasca moved to adjourn at 9:01 PM. Mr. Nelson seconded the motion which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary