

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
DECEMBER 3, 2018  
DRAFT**

Ms. Nicole Hagner 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 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. Hurring, Mrs. Swartz, Mr. Brower, Mr. Franko, Mr. Nelson, Mr. Sullivan, Mr. Travisano and Mr. Tarasca. Mr. Ciccarone and Mr. Nevin were absent.

Also present were Engineer John Ruschke, Planner Frank Banisch and Attorney Amanda Wolfe substituting for Board Attorney Steve Warner.

**Approval of Minutes**

Mr. Franko moved to approve the minutes of the November 19, 2018 meeting. Mr. Travisano seconded the motion, which carried unanimously.

**Hearings**

PB: 18-75-1.04 Edward & Sherry Guy, 12 Williams Road, Block 75, Lot 1.04 Requesting Minor Subdivision

Ms. Hagner described the Planning Board hearing process for the members of the public present.

Mr. Michael Miller, an attorney representing the applicant, described the application. The applicant desires to demolish the existing home and subdivide the lot into two residential lots. A variance for minimum lot area for each proposed lot is requested as part of the application, as both of the proposed lots are smaller than the required 10,000 Sq. Ft in the R-4 Zone.

Ms. Wolfe asked if there were any attorneys present representing any of the objectors to the application. Mrs. Rosemary Stone-Dougherty, Esq was present representing Michael & Elizabeth Henne, who own an adjacent lot.

Mr. William Hollows, the engineer for the applicant, was sworn in to give testimony and was accepted as an expert. Mr. Hollows noted that he will be giving engineering testimony, and not planning testimony. Mr. Ruschke was also sworn in.

Exhibit A-1 was entered into the record, which shows the existing conditions on the site. Exhibit A-2 was also submitted, which shows the subdivision detail.

Mr. Hollows described the current conditions on the subject property, and he said that there are not any steep slopes or wetlands on the property. Mr. Hollows also noted that the lot area of the proposed lots would be undersized because of a regulation stating that lot area is measured at a point 115 feet from the right-of-way, and they would otherwise conform to the minimum lot area regulations. The current side-yard setback variance would be eliminated if the application is approved, and the proposed lots would meet the setback requirements.

Exhibit A-3 was submitted, which shows the 41 lots in the R-4 Zone. Mr. Hollows noted that 29 of the lots do not meet the minimum lot area requirements, with 25 being smaller than the larger of the two proposed lots. In order to get building permits, the applicant would need to submit a revised lot grading plan, and each lot would have stormwater management upgrades as part of that process. Mr. Hollows also said that the proposed lots are in keeping with the neighborhood.

Mr. Sullivan asked about keeping the proposed houses parallel to the street, and if additional variances would be necessary. Mr. Hollows said that the current proposal shows placeholders to demonstrate that conforming houses can be built on the proposed lots.

Mr. Hurring asked how the setbacks compare to adjacent lots. Mr. Hollows said that the house next door was taken down. Ms. Hagner asked if the other lots are conforming to the front yard setback.

Mr. Brower asked if it would be more appealing to the Board to see what the proposed houses will look like. Mr. Hollows said that they are not yet at that point in the process. Ms. Hagner asked if there could be an impervious coverage issue. Mr. Ruschke said that the applicant is not requesting variances for that, and it is reasonable to assume at this point that the applicant will build houses that will conform to impervious coverage standards. He also noted that an application could be made to the Board of Adjustment at a later time.

Mr. Brower said that there will be a different impact between one big house and two smaller houses. Mr. Nelson said that the Board should consider the whole neighborhood and not just the particular zone, as the subject property is on the line between two zones.

Mr. Sullivan asked about lots with shared driveways. Mr. Banisch was sworn in, and addressed flag lots. He said that there would not be a presumption that flag lots would be allowed. Mr. Banisch said that an applicant could request a variance to do so if needed.

Mr. Franko asked about the reason for the depth of measurement. Mr. Banisch said that it is to make sure that there are not irregularly shaped lots that have enough area to be a lot but cannot accommodate a house. Mrs. Swartz raised a concern that if the lots are sold to one developer,

the houses built will look like row houses. Mr. Hollows cited some houses which he has worked on in Chatham Township, and said that they fit in the respective neighborhoods.

Mr. Hollows indicated that Township Committee approval would be sought for a new sewer connection if the lot is subdivided.

Ms. Hagner opened the floor to the public.

1. Rosemary Stone-Dougherty, an attorney representing the owners of 3 Whitman Drive, asked if Mr. Hollows was testifying only for engineering, or if he was testifying as a planner as well. Mr. Hollows said that he could comment on the characteristics of the neighborhood, but would not be testifying on planning. Mrs. Stone-Dougherty asked if the lots would need 87 feet in width to be fully compliant. Mr. Hollows said that figure had been stated by the Township Engineer. Mrs. Stone-Dougherty asked about the front-yard setback, and the definition of a corner lot. Mrs. Stone-Dougherty asked about the location of HVAC units. Mr. Hollows said that information has not yet been determined, but variances are not being sought for the location of HVAC units. She also asked about the proposed utility connections, particularly the proposed gas line. Mr. Hollows said that the proposed utility lines are on the engineering drawings, and the current drawings are conceptual. Mrs. Stone-Dougherty asked if some trees would need to be removed for the gas lines to be installed. Mr. Hollows said it is unlikely that the trees would need to be removed. He also commented on where the proposed water lines enter the houses. Mrs. Stone-Dougherty how many trees will be removed, and Mr. Hollows also said that 14 trees are proposed for removal. Mrs. Stone-Dougherty asked about seepage pits, and Mr. Hollows said that the pits on the plan are conceptual based on the soil characteristics as determined by soil logs. He also commented that when the seepage pits fill up, additional stormwater would hypothetically flow to the rear of the property and the grade of the property is not being changed. Mrs. Stone-Dougherty asked that any planning testimony be disregarded, and asked for clarification about the prevailing front yard setback. Ms. Wolfe noted that the applicant is not requesting front yard setback variances.
2. Matthew Reindel, 1 Whitman Drive, commented on drainage, and said that stormwater does not drain as well as was testified by Mr. Hollows. He asked if the impact that grading would have on his property was considered. Mr. Hollows reiterated that the drawings presented are conceptual, and a detailed lot grading plan would be submitted in order to get a building permit.
3. Bill Crawford, 1 Williams Road, asked about the traffic impact of the application.
4. Peter Flynn, 18 Williams Road, asked about the application process involving conceptualls. Ms. Hagner said that the application generally complies but requires a variance for lot size, and she said that an application that meets the regulations cannot be denied. She also said that property owners can apply to land use boards for variances. Ms. Wolfe described C1 and C2 variances.

Mr. Brower said he can sympathize with a property owner who wants to maximize the resale value of their property, however the impact on the neighborhood also has to be considered. He also said that it would be preferable to see what the proposed houses would look like, and that it should not be a cookie-cutter house. Ms. Wolfe noted that profit cannot be the motive for granting a variance. Mr. Sullivan said that he would like to hear from the neighbors what they think about the alternative of having one large house on the property rather than two smaller homes.

5. Keith Blanchard, 7 Williams Road, said that his house is a historic home, and he took great pains to not knock down and rebuild. He asked if anyone could explain the benefits of the proposed subdivision for the tax base. Mr. Banisch said that planning testimony has not been offered yet, which would address the question of benefits. Ms. Wolfe said that it would be for the applicant to address the potential benefits.
6. Rich Terranova, 19 Williams Road, asked about water drainage. Mr. Hollows described how stormwater runoff will flow. Mr. Terranova noted that there is a spot in the road where water collects. Mr. Hollows said that the stormwater management will be designed so as to have no negative impact. Mr. Terranova also asked about the frontage for the proposed lots. Mr. Hollows said that one is 76.4 and the other is 78. He also said that the testimony has been that a house can be built on the proposed lots, and that setback requirements will be met. Mr. Terranova addressed the narrowing of the road, and raised a concern about adding an additional driveway.

Mr. Hollows noted that 70% of the properties in this zone do not comply with the setback requirements. Mr. Sullivan asked about the history of the neighborhood, and if the non-conformity was created by the original subdivision or through a series of variances.

7. Edelson Cattaruzzi, 11 Williams Road, asked if he should have been aware that his lot was not conforming before he purchased the property. Ms. Hagner said that many lots have pre-existing non-conforming conditions, and the Zoning Board exists for property owners to seek variances.

There being no more questions from the public, Ms. Hagner closed the public the floor to the public.

Mr. Edward Guy, the applicant, was sworn in to give testimony. Mr. Guy said that his house was built in 1949, and he moved in during the 1990's. He looked at making updates to the house, but found it would be more efficient to sell to a builder. Mr. Guy said that a builder has shown interest contingent upon the subdivision. Mr. Guy addressed the size of the proposed properties, and said that although a variance is requested, 70% of the properties in that zone are also non-conforming. He also opined that the two smaller houses would fit the neighborhood better than one larger house, and the stormwater management controls would improve drainage, and new homes would also add to the tax base and be more energy efficient.

Mr. Banisch noted that Mr. Guy was offering personal opinion rather than expert testimony, and though the opinions were offered under oath and should not be discounted, the Board should not substitute personal opinions for expert testimony when making findings.

Mr. Nelson asked Mr. & Mrs. Guy would still live in the area or if they would move away. Mr. Guy said that they intend to still be in the area. Mr. Nelson said that he does not like the proposal, and he does not think that it fits in the neighborhood.

Ms. Wolfe noted that none of the Planning Board members live within 200 feet of the subject property or the zone.

Mr. Tarasca said that the application, if approved, would change the neighborhood. He also said that the two proposed houses combined are larger than one house on the existing lot.

Ms. Hagner opened the floor to the public to ask questions.

1. Mrs. Stone-Dougherty asked her client, Mr. Henne, if the majority of the neighborhood has houses in the 1930's style. Mr. Henne said that he is not the best person to answer that question. Mrs. Stone-Dougherty asked Mr. Guy about the vacation of Lawrence Avenue and the conveyance of additional land to the subject property. Mr. Guy said that the proposed subdivision would not be possible if that vacation had not occurred. Mrs. Stone-Dougherty said that the lot was not originally intended to be large enough for two houses. She also said that Mr. Guy testified that the application is a monetary decision motivated by profit.
2. Rich Terranova asked what methods that the Guys used to try to sell their house. Mr. Guy said that realtors and brokers were contacted. Mr. Terranova said that a neighboring house sold to a builder within a month. He also offered an opinion that the neighborhood extends beyond the zoning boundaries.

Ms. Wolfe noted that this a period for questions for the witness.

The applicant rested their case.

The floor was then opened for the public to offer testimony.

Michael Henne, 3 Whitman Drive, was sworn in to give testimony. Mr. Henne said that his property is directly behind the subject property of this application. He also said that many of the non-conforming homes were built in the 1930's and 1940's. Mr. Henne also described the character of the neighborhood.

Exhibit O-1 was entered into the record, which had 23 photographs. Mr. Henne reviewed the photos with the Board, and testified that they show the potential impact of tree removal. Mr. Henne also said that when the neighborhood was originally built, the developer alternated colonial homes with cape style homes so that there would not be identical looking homes next to each other. Mrs. Stone-Dougherty asked Mr. Henne about privacy issues. Mr. Henne said that

the second story of a new home on the Guy's property would look down toward his patio and bedroom, which would negatively affect his privacy. He also said that he would prefer that there be one larger home built on the Guy's property rather than two smaller homes. He also said that he does not currently experience any drainage problems, but he is concerned about how the proposed drainage will affect his property.

Exhibits O-2 and O-3 were submitted. Mr. Henne described the homes pictured in Exhibit O-2, which are homes in the subject neighborhood. He also discussed Exhibit O-3, which are also homes in the neighborhood which demonstrate the diversity in the area.

Mr. Henne said that he sympathizes with the applicants wanting to maximize the value of their property, but he thinks it can be accomplished in a different way. He asked the Board to vote against this application.

Mr. Miller asked Mr. Henne if there would still be a privacy issue if the trees remained. Mr. Henne said that privacy would remain for part of his house, but there would still be an issue when leaves come down in the fall. Mr. Miller asked if anyone testified what trees will be removed. Mr. Henne said that the engineering drawing showed x's on some trees. Mr. Miller asked if different looking houses on the subdivided lots would fit into the neighborhood. Mr. Henne said that two smaller houses would be an abrupt change compared to what might be built next door.

Mrs. Stone-Dougherty asked Mr. Henne about his concern regarding trees. She said that if a smaller house is built closer to the property line, it may affect the roots of a large, mature tree that provides privacy screening. Mrs. Stone-Dougherty also said that Mr. Henne is concerned about how seepage pits will affect the root systems of the trees in the vicinity.

Mr. Miller said that the current house is closer to Mr. Henne's property than what is proposed. Mr. Henne said that the proposal will affect the privacy of patios on two properties.

Ms. Hagner opened the floor to questions of the witness.

1. Ed Guy, 12 Williams Road, asked Mr. Henne about a comment he made about leaves falling from trees. Mr. Henne said that there is a shrub growing under two conifers, and the shrub loses its leaves.
2. Stewart Carr, 3 Crestwood Drive, asked Mr. Henne if he would prefer to see one large, ugly McMansion built or two beautiful smaller homes built. Mr. Henne said that he would need to see what the proposed houses would look like. He said that without the benefit of knowing what the houses look like, he would prefer one larger house to two smaller houses.

Mr. Ruschke said that the applicant appears willing to adjust the subdivision line to have the houses be more perpendicular to the street, and appears to be willing to agree that the structures will not be too similar in appearance. Mr. Ruschke also said that the setbacks will be similar to

neighboring lots across the street. He also noted that there is not a maximum building width in the R-4 zone, which could potentially lead to a very wide house if there is only one large home.

Mr. Miller asked if the hearing could be adjourned so that the applicant can have a planner testify.

1. Craig DiTommaso, 16 Williams Road, provided background on the purchase of his home. He also provided said that he will be building a McMansion on his property. Mr. DiTommaso also commented on tree removal.
2. Lori Read, 9 Williams Road, was sworn in. She raised a concern about the appearance of the garages on the proposed new homes. Mrs. Read also cited that there are drainage problems on Williams Road, and that the drywells will likely fill up. She also said that her house is on the market, and she is concerned how the potential change to the character of the neighborhood will affect the resale value of her property.
3. Matthew Reindel said that he has not yet heard the benefits of the application. He also said that a non-conforming side yard setback is proposed to be removed, which will have a negative impact on his property. Mr. Reindel also commented on the character of the neighborhood.
4. Rich Terranova was sworn in. He said that he would prefer to see Mr. & Mrs. Guy continue to live in the neighborhood. Mr. Terranova said that he had made a Planning Board application when he built his own house, and received useful suggestions from the Board at the time. Mr. Terranova said that he does not think there are any benefits to the application, nor is there a hardship. He also asked that the whole neighborhood be considered.
5. Stewart Carr was sworn in. He asked if the Township can require additional notice for neighbors when applications are submitted over the summer. Ms. Wolfe said that the Municipal Land Use Law requires 10 day notice. Ms. Hagner added that Board usually does not hear potentially controversial applications during the summer months. Mr. Carr commented about the lot size and setback requirements. He also commented on the paper street that was vacated in 1979, and that the argument at the time was a desire for less density. Mr. Carr also opined that one large house would be preferable to two houses, regardless of the appearance of the houses.
6. Jeff Burke, 21 Williams Road, was sworn in. He said that the Planning Board should plan for the whole town, not particular zones. Mr. Burke said that the lot in question is a transition lot between two zones, and the application seeks to put two small lots next to one large lot, and he would rather that the lot not be subdivided.
7. Peter Flynn said that the character change will have a material impact on his property. He also said that the trees in the former paper street are part of the neighborhood's landscape.

Ms. Hagner closed the public comment section.

Ms. Hagner asked if a site visit is deemed necessary by the Board, but it was not deemed to be needed.

Mr. Miller asked that the hearing be carried to the January 28, 2019 meeting.

Mr. Brower asked about requiring the applicant to bring in a planner when the application may be turned down. Ms. Hagner said that the applicant is requesting to bring in a planner.

Mr. LaConte said that the January meetings are scheduled for January 7<sup>th</sup> and January 28<sup>th</sup>. Ms. Wolfe said that the hearing will be continued until January 28<sup>th</sup>.

Mr. Carr asked if new information will be presented on January 28<sup>th</sup>. Ms. Hagner said that planning testimony will be offered.

Mr. Franko moved to adjourn at 10:16 PM. Mr. Travisano seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary