

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
November 2, 2015**

Mr. Thomas Franko called the Regular Meeting of the Planning Board to order at 7:33 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 2015, and January, 2016 was published in the *Chatham Courier* and the *Morris County Daily Record*, a copy was filed with the Municipal Clerk, and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Franko, Mr. Hurring, Mrs. Swartz, Mr. Brower, Mr. Ciccarone, Ms. Hagner, Mr. Travisano and Mr. Nelson. Mr. Saluzzi and Mr. Murray were absent. Mr. Ritter arrived a couple minutes late.

Also present was Amanda C. Wolfe, Esq, filling in for Board Attorney Steven Warner until his arrival. Board Engineer John Ruschke and Township Frank Banisch were also present.

Approval of Minutes

Mr. Ciccarone moved to approve the minutes of the October 19, 2015 meeting. Mr. Nelson seconded the motion, and it carried unanimously.

Hearing

Plan: 15-61-10 (March 11, 2015) Bhee Properties, LLC – 697 Fairmount Avenue, Block: 61 Lot: 10. Minor Subdivision.. Incomplete on 4/20/15. Complete 9/09/15. Hearing . Escrow# 11299

Attorney Steve Barcan was present to represent the applicant, Bhee Properties. The application is for a two lot subdivision, and an application was previously submitted but withdrawn without prejudice. The current application is for a subdivided lot with access from Fairmount Ave. The proposed houses conform with setback requirements. Variances relate to the grading on the property. The proposed lots will conform with the zoning requirements for lot size.

Mr. Franko noted that the applicant has a stenographer present, but those transcripts will not be the official record of this meeting.

Engineer Robert Moschello was sworn in to give testimony on behalf of the applicant, and was accepted as an expert witness. Mr. Ruschke and Mr. Banisch were sworn in as well.

Mr. Moschello presented an aerial photograph of the area of the subject property, on which the current lot lines were delineated. He said that the lot is wholly contained within the R-3 residential zone and encompasses 55,000 square feet of lot area. Mr. Moschello also presented an exhibit showing the existing conditions on the site. If the application is approved, there will

be a 5,000 square foot dedication to Morris County for a right-of-way. There is an existing house on the property, with a driveway on the western side of the lot. The exhibit also shows the slope grades on the property, and there are two sets of man-made slopes. Mr. Moschello also noted that there are not any wetlands, riparian zones or floodplains on the site. A tree survey was also conducted on the property. Also presented was a compilation of the grading utility plan and the soil erosion sediment control plan. Mr. Moschello also described the proposed driveway.

Mr. Ciccarone said that the Township code allows a house to have 2.5 stories and be 35 feet tall, and he asked if the third floor would be a half story or attic space. Mr. Moschello said that the architectural plans show attic space.

Mr. Hurring asked Mr. Moschello to comment on the man-made slopes. Mr. Moschello said that the slopes were created when dirt was moved to build the existing house. There is one such slope in the front yard, and one in the back yard. The front yard slope is steeper than the back yard. The average slope is 19% to 20%. The entire slope is not man-made, but a portion is made from fill that was originally on the site.

Mr. Moschello said that the applicant will be discussing the proposed driveway width with Morris County, but they will otherwise comply with the Subdivision Report of the Morris County Planning Board dated August 20, 2015. The County has shown a preference for only one driveway cut as to minimize the disturbance to the right-of-way. Mr. Banisch commented on the difference between a paired driveway and a shared driveway.

Mr. Hurring asked about the height of the retaining walls on the side of the proposed driveway. Mr. Moschello said that there are two sets of retaining walls at the rear of the homes. One is where the garages meet the rear yard, and the second is at the rear of the yard at the proposed conservation easement.

Mr. Moschello said that there will be separate stormwater management systems for each proposed lot. He also noted that the existing lot does not have any stormwater management controls, and he described the proposed measures for the lots. Existing utility connections coming from Fairmount Ave would be used if possible, and any additional connections would also come from Fairmount Ave.

Mr. Warner said that it was implied that the Board has accepted the recommendation from Mr. Ruschke that the requirement of the submission of an LOI and an Environmental Impact Statement be waived for the application to meet completeness standards.

Mr. Moschello presented the proposed design standards. One waiver is for usable lot area, and both properties fall short of the minimum usable lot area due to slopes on the properties. There are also ten variances being requested. One variance is for the amount of steep slope being disturbed. The applicant is also requesting a variance for the height of the principal structure. Mr. Warner noted that a D-Variance would be required. Mr. Ciccarone asked why the application exceeds the allowable height by three feet if the third floor will only be attic space. He suggested that perhaps the roofline could be modified to conform to the zoning regulations. Mr. Moschello said that he would speak with his client to see if they could change the pitch of the roof to lessen the proposed height.

Mr. Moschello said that a variance is requested for the minimum setback distance for a structural retaining wall from a dwelling. He said that twenty feet are required, and zero feet are proposed. Mr. Moschello also addressed a variance for a lot grade change. Tree removal was also addressed.

Mr. Brower asked about the construction schedule. The applicant indicated that construction would be done in the spring. Tree removal was also discussed.

Mr. Franko opened the floor to the public to ask questions.

1. Charles Philipp, 52 Sunset Drive, asked if there is an agreement to maintain the proposed conservation easement in an improved state. Mr. Ruschke said that the Township has a property maintenance ordinance, and Mr. Ciccarone said that neighbors need to stop dumping refuse in that area. Mr. Warner mentioned that the conservation easement would prevent the property owner from maintaining the area in any manner other than in its natural state.

The Planning Board discussed when to schedule the site visit for this application.

2. Patricia Moran, 35 Sunset Drive, said that the proposed easement area is not cleaned up by the property owner, and asked who will be responsible for vegetation that falls in the street. Mr. Barcan said that the property owner would not be responsible for leaves that fall in the street. Mrs. Moran recommended that somebody should be responsible for removal of the leaves so that they do not wind up pushed into her driveway during snow plowing. Mr. Banisch said that a condition of the approval can be that whatever is currently in the easement area gets cleaned up. Mr. Ciccarone said that the Township tries to stay out of disputes between neighbors.
3. Ruth Dunan, executrix for Donald Engesser of 707 Fairmount Ave, said that the plans appear to show that the drainage for the proposed lots run under her driveway. Mr. Ruschke said that the pipe appears to be in the right-of-way, and the County would be able to give permission for the work to be done as long as restoration work is performed.
4. Susan O'Brien, 6 Sunset Terrace, asked what she would see from her backyard if the project is completed. Mr. Banisch suggested that Mr. Moschello prepare a drawing of what Mrs. O'Brien would see from her property, and that the drawing be presented during a Board meeting.
5. Patricia Philipp, 52 Sunset Drive, commented on the maintenance of the proposed conservation easement area, and asked who would monitor the maintenance of it. Mr. Banisch said that the Township will not be monitoring the removal of leaves that fall from this property into the street. Mrs. Philipp asked who would monitor the construction at the site. Mr. Banisch said that the Township Engineer and the Construction Official will monitor the construction. Mr. Ruschke said that if this application is approved, a resolution will be adopted setting forth various conditions that must be met prior to the issuance of a certificate of occupancy. Mr. Brower commented on the problem of neighbors dumping refuse on the subject property.

There being no further public comment, the floor was closed.

The site visit for this application will be scheduled for December 5, 2015 at 9:00 AM. The hearing will be carried until the December 7, 2015 meeting.

Discussion

Fair Housing Update

Mr. Ciccarone said that an executive session is not necessary for this topic, as litigation strategy will not be discussed. He updated the Planning Board that the Township filed a motion for temporary immunity, which was granted. The Township also filed for an extension, which was granted, and the Township has until March to submit a Fair Share Plan. Mr. Banisch is working on a concept plan to meet the Township's obligation. The Planning Board will eventually need to adopt an updated Housing Plan.

Mr. Ciccarone moved to adjourn at 9:35 PM. Mr. Travisano seconded the motion and it carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary