

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
July 11, 2016**

Mr. Thomas Franko called the meeting of the Planning Board to order at 7:32 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 2016 and January, 2017 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, Mr. Nelson and Mr. Murray. Mr. Sullivan arrived a couple minutes late. Ms. Hagner and Mr. Travisano were absent.

Also present were Township Engineer John Ruschke, Township Planner Frank Banisch and Amanda C. Wolfe, Esq.

Approval of Minutes

Mr. Nelson moved to approve the minutes of the June 20, 2016 meeting. Mr. Brower seconded the motion, and it carried unanimously with an abstention by Mr. Ciccarone.

Discussion

Zoning Designation for Chestnut Road (R3 vs. R4)

Mr. Ciccarone said that he received an inquiry from a resident whose property is for sale, and he explained that builders have demonstrated reluctance to purchase the property because of bulk requirements in the R3 zone. Mr. Ciccarone said that there are several non-conforming lots on Chestnut Road, and he said he feels it appropriate for the Planning Board to consider recommending that the subject properties be rezoned into the R4 zone. Mr. Ciccarone showed on a map which properties are proposed for rezoning. Building coverage and lot coverage would not be impacted by the change because they are set at a percentage ratio of property size. Mr. Ciccarone noted that there are some properties on Chestnut Road which meet the R3 requirements, and he does not propose they be rezoned because the change would open them up to subdivision.

Mr. Nelson asked if there are any potential ramifications to changing the zoning designation for the proposed properties. Mr. Ciccarone said that the rezoning would allow for the lots to be redeveloped without the need for variances.

Mr. Brower asked if there are other sections of the Township where such conditions might exist and if relief could be sought from the Board of Adjustment. Mr. Franko said that variances are available and making the change would open up the properties to redevelopment. He also said that redevelopment could change the character of the neighborhood.

Mr. Ciccarone suggested that Board members visit the site to see for themselves that the lots have more in common with the R4 zone. Mr. Ruschke said that if the properties are rezoned as R4, then greater uniformity in redevelopment can be achieved.

Mr. Banisch said that usually he would be concerned about a proposal like this due to the potential for overdevelopment, but in this instance he does not think that overdevelopment is a risk. Mr. Murray asked about the larger lots on Chestnut Road that could potentially be subdivided with the zoning change. Mr. Banisch said that he is not concerned about those lots. Mr. Brower asked about spot zoning. Mr. Banisch said that the change would not be spot zoning because the lots would be moving from one zone into an adjacent zone.

Mr. Ciccarone reiterated that the zoning designation for the subject lots appears to have been a mistake. He surmised that when the zoning map was created, the zoning boundary line was accidentally drawn on the wrong side of the lots. Mr. Brower said that someone could feasibly buy two lots and build one house on a combined lot, and that such a reduction in housing stock would lead to a reduction in the number of school-aged children.

Mr. Ciccarone moved to table the discussion so that the members of the Planning Board can consider the issue for future discussion. Mr. Nelson seconded the motion, and it carried unanimously.

Hearing

Plan: 16-9-1 (March 21, 2016) Longview at Chatham, LLC, Longview Ave, Block 9, Lots 1 & 1.01, Block 32 Lot 2, Block 33 Lots 1, 1.01, 1.02, 14, 14.01, 17 & 20. Variance relief from certain conditions contained in June 4, 2012 Prior Planning Board Approval and Engineering conditions detailed in review dated January 29, 2016.

Mr. Ciccarone and Mr. Sullivan recused themselves from this application and subsequently left the meeting.

Mr. Schaffer, an attorney representing the applicant, provided a recap of the testimony provided thus far regarding this application.

Mr. Brower asked about utility poles in the project. Mr. Schaffer said that the utilities for the new homes will be underground in accordance with the Township's ordinance. The original plan was for utilities to go underground at the Blumenthal's house, however the utility companies would not allow the lines to go underground at that point due to a stormwater inlet. A new utility pole was installed so that the utility lines could go underground at a different spot.

Lisa Mahle-Greco was present to continue her testimony regarding the detention basin. She addressed the safety factor of the basin. Mrs. Mahle-Greco said that she also sent samples of the existing soil to a lab for a direct shear test, and she described the tests that were performed.

Mr. Brower asked what would happen if the undersurface in the detention basin were to fail. Mrs. Mahle-Greco said that the base of the basin is basalt rock, and it is stable. Mr. Ruschke said that he does not have any concerns about the base below the liner.

Mr. Schaffer said that with the grid system, the safety factor is at or above 1.5 except for limited areas at 1.4, and Mrs. Mahle-Greco offered her professional opinion that this is acceptable. Mr. Brower asked what would keep the top soil in the grid. Mrs. Mahle-Greco said that the grid system itself stabilizes the soil, and root structures of grass will also help stabilize the soil. Mr. Franko asked if the areas at 1.4 are significant or de minimis. Mrs. Mahle-Greco explained the difference between the safety factor of 1.4 and 1.5, and said that there would not automatically be failure.

Mr. Hurring asked about the complexity of the grid system. Mrs. Mahle-Greco explained how the grid is installed, and one good supervisor can keep the work crews on track.

Mr. Brower asked if the proposed detention basin will be as big as was originally approved or if the Planning Board would be making a compromise by approving this design. Mr. Ruschke said that the original approved design would be more stable, and the safety factor was much higher. He also addressed the failures that have already occurred in the detention basin.

Mr. Schaffer said that he thought the goal was to achieve a 1.5 safety factor. He asked Mrs. Mahle-Greco if her testimony is that the detention basin will function with the 1.5 safety factor. Mrs. Mahle-Greco said that it will function, and she suggested that she and Mr. Ruschke meet at the site for further calculations.

Mr. Murray said that the applicant keeps coming back with half-measures, and he asked if the previous failures have been fixed. Mrs. Mahle-Greco said that her calculations are based on the current conditions with the repairs that were made.

Mr. Brower said that if the detention basin had been installed properly, then this hearing would not be necessary. Mr. Schaffer asked if the proposal is an acceptable compromise. Mr. Ruschke said that the proposal is a corrective action which would help stabilize the soil. Mrs. Swartz asked if this proposal would have been approved if it were part of the original plan. Mr. Ruschke said that the proposal would have seemed unorthodox and a textured liner would have been suggested. Mr. Schaffer said that the proposal is to retrofit a different liner in the detention basin. Mr. Murray noted that the proposal is for an overlay to the existing liner. Mr. Schaffer said that it appears punitive to reject the proposal if the engineering standards are met. Mr. Franko said that the question is if the proposal is the substantive and practical equivalent of the original design. Mr. Brower asked if a performance bond for the proposed detention basin could be required. Mr. Franko said that it is possible, however it would likely take several months for an underwriter to issue a bond.

Mr. Banisch said that the photos of the failed detention basin suggest that the spots of failure are random. He said that having too steep a slope will increase the likelihood of future random failures. He also suggested that Mr. Ruschke's office investigate this.

Mr. Brower asked about fencing around the drop-off at the detention basin. Mr. Ruschke said that a gate still needs to be installed at the largest open area. There is also an area that remains open due to a field change requested by the Fire Department.

Mr. Schaffer said that there is a three-tier plan for the Mountainside Drive area. Mrs. Mahle-Greco described the geoweb material proposed for installation. Mr. Brower asked if the stakes holding in the cells are made of galvanized steel. Mrs. Mahle-Greco said they are not galvanized, but are 5-inch thick rebar. Mr. Ruschke recommended that the Board require that the geoweb be installed by an approved contractor.

Richard L. Miller, a landscape architect, was sworn in to give testimony. Mr. Miller provided his qualifications, and was accepted as an expert witness.

Mr. Miller said that his services were retained by Primavera, and he has been to the site. He said that the intent is that if the proposed landscape plan is approved, then subsequent lots will have similar species and designs with native plant materials. Mr. Miller also described the species that have been selected in the design.

Mr. Miller asked if the Township has a list of preferred trees. Mr. LaConte said that the tree protection ordinance contains a list of recommended trees.

Mr. Miller further noted that some of the species would spread, but they will also need to be planted during the correct planting season. Mr. Hurring asked if the plants are low-maintenance. Mr. Miller said that the plants would be best served to be left alone.

Mrs. Swartz asked what will be planted in the steepest slopes. Mr. Miller said that part of the steep slope will be the driveway, and the other area will have the plant species which he discussed with the Board.

Mr. Ruschke inquired about the plans for tree removal for the lot in question. Mr. Miller said that the plan is based on a topographical survey, which is why it does not show existing trees to remain or be removed. The slopes will remain the same, and trees will be planted in the existing slope. Mr. Ruschke suggested that a condition be stipulated that the tree planting be done by hand, and the applicant agreed to the stipulation.

Mr. Fonseca of Primavera said that some type of machinery will be needed to clean the slope so that the trees can be planted. Mr. Miller said that the shrubs themselves can be planted by hand. Mr. Fonseca said that the landscape plan was developed at the request of Mr. Ruschke to make the slope look more presentable. He also said that the area will need to be cleaned of brush in order to do plantings properly. A small excavator would be used to clear the brush from the site. Mr. Ruschke expressed a concern about the sequence of work, and he wants to see the planting done simultaneously with the clearing. Mr. Fonseca said that the landscaping on the slope will

be performed only after the homes are built. Mr. Ruschke requested that an amended lot grading plan be submitted. Mr. Fonseca said that the brush and weeds on the slope are not worth saving, however the landscape plan can be downsized if need be.

Mr. Schaffer asked Mr. Miller to comment on the need for irrigation. Mr. Miller said that an irrigation system would not be needed if perforated hoses are used as a drip line to water the plants.

Mr. Nelson said that the brush will need to be cleaned from the slope prior to the plantings, and Mr. Fonseca said that the grade of the slope will not be changed.

Mr. Brower commented on the lack of coordination between the builder and the landscape architect.

Mr. Ruschke said that if the Board is going to allow for more disturbance of the slope, then perhaps the merits of the plan itself need to be reexamined.

A straw poll of the Planning Board was conducted to assess if the Board members prefer requiring that the plantings be done by hand or if the use of an excavator should be allowed.

Mr. Hurring said that he prefers the slope be cleared by hand. Mr. Nelson asked how difficult the installation of an irrigation system would be, and Mr. Fonseca described the installation process. Mr. Nelson said that he would prefer the slope be cleared by hand, but that the irrigation system should also be installed. Mr. Hurring amended his opinion to allow for the use of a Bobcat. Mr. Brower voted for having the slope cleared by hand. Mrs. Swartz said that she would like to see the work done by hand as to have less disturbance on the slope. Mr. Murray said that he supports allowing the use of a Bobcat. Mr. Franko also opined in favor of allowing use of a Bobcat so that the work can be performed correctly.

Mr. Banisch noted that the straw poll indicates the need for the applicant to request an additional variance.

An extension of the application to July 25, 2016 was agreed upon.

Mr. Nelson moved to adjourn at 10:06 PM. Mr. Hurring seconded the motion, and it carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary