

A#3

Memorandum

To: Chatham Township Committee
From: Francis J. Banisch III, PP/AICP
Date: November 23, 2016
Re: Ordinance 2016-19

Pursuant to N.J.S.A. 40:55D-26a, at its meeting on November 21, the Planning Board reviewed introduced Ordinance No. 2016-19 for consistency with the Master Plan and determined that it is not inconsistent with the Land Use Plan as amended in 2011. The 2011 Land Use Plan, the most recent amendment to the Master Plan, includes the subject area in the R-3 single-family residential district. The proposal would relocate the subject lots from the R-3 District to the R-4 District. While the zoning densities vary between these zones (20,000 square feet per home in the R-3 and 10,000 square feet in the R-4), this neighborhood area is intended in the Master Plan for moderate density single-family residential development.

The proposed zoning amendment fine-tunes the location of this line between R-3 and R-4 to better reflect current conditions. It does not, however, alter the intent of the Master Plan that this be an area for single-family residential use. Thus, this proposal is not inconsistent with the Land Use Plan or any other element of the Master Plan.

cc: Greg LaConte, Township Clerk, for distribution to Township Committee and Planning Board

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
November 21, 2016**

Mr. Thomas Franko called the meeting of the Planning Board to order at 7:31 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, Mr. Ciccarone, Ms. Hagner, Mr. Travisano, Mr. Nelson and Mr. Murray. Mrs. Swartz and Mr. Brower were absent. Mr. Sullivan arrived a few minutes late.

Also present were Township Planner Frank Banisch, Board Attorney Steve Warner and Amanda C. Wolfe, Esq.

Approval of Minutes

Mr. Nelson moved to approve the minutes of the October 17, 2016 meeting. Ms. Hagner seconded the motion, and it carried unanimously.

Discussion

Ordinance for Re-Zoning of Chestnut Road

Mr. Franko said that the Township Committee has introduced an ordinance to rezone a section of Chestnut Road, and it has been referred to the Planning Board to review consistency with the Master Plan. Ms. Hagner noted that the Planning Board has already recommended that the zoning change be made.

Mr. Banisch explained that the ordinance is not inconsistent with the Master Plan because the 2011 Land Use Plan reaffirmed the R3 and R4 zone districts for medium density residential character. The ordinance in question does not change the intention of the Master Plan.

Mr. Warner said that a formal resolution is not required, but the Planning Board should still send a formal memorandum from the Township Planner to the Township Committee explaining why the ordinance is not inconsistent with the Master Plan.

Mr. Travisano moved to authorize Mr. Banisch to draft a memorandum to the Township Committee stating why the ordinance is not inconsistent with the Master Plan. Mr. Nelson seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Hurring, Aye; Mrs. Swartz, Absent; Mr. Brower, Absent; Mr. Ciccarone, Aye; Ms. Hagner, Aye; Mr. Sullivan, Aye; Mr. Travisano, Aye; Mr. Nelson, Aye; Mr. Murray, Abstain.

Resolution for Development of Block 48.16, Lot 117.27

Mr. Franko said that the Planning Board has essentially been asked to have Mr. Banisch's office perform a study on the need for redeveloping the Skate Park property. Mr. Banisch said that such a declaration would facilitate the development of affordable housing by a third party developer on that site.

Mr. Murray asked why the Township Committee did two resolutions rather than one, as the matters are linked. Mr. Warner said that each resolution is asking for something very different, and deal with different statutes. Mr. Banisch said that the link is that the same developer will be involved in both projects. Ms. Hagner asked why it would be necessary to declare the property in need of redevelopment. Mr. Warner said that the designation would be necessary in order to have a Payment In Lieu of Taxes (PILOT) agreement. Mr. Sullivan said that if the PILOT was not a factor, then the designation would not be necessary.

Ms. Hagner said that the property is already zoned for affordable housing, and further questioned the need for declaring the property in need of redevelopment. Mr. Ciccarone said that the bulk requirements are not adequate for the proposal.

Mr. Murray asked if it would be possible to go forward with declaring the property in need of redevelopment and then advise against rezoning the Dixiedale Farm property.

Mr. Ciccarone said that the Dixiedale Farm property is already zoned for residential use, and the proposal is to have residential development similar to the Rose Valle condominiums. He also explained that this first came to the Township Committee's attention in the context of trying to meet the affordable housing obligation.

Mr. Sullivan said that the Planning Board is being asked to move forward with an analysis without full disclosure of all information. He also asked if this topic would be under discussion if the PILOT were not necessary. Mr. Ciccarone said that the discussion would be different, but it would still be necessary.

Mr. Banisch said that the Township cannot receive a vacant land adjustment to meet the affordable housing obligation.

Mr. Franko said that a report from Mr. Banisch is necessary for all Board members to be able to intelligently participate in this discussion.

Ms. Hagner asked if it would be worthwhile to have another Planner perform the study, as Mr. Banisch has already made recommendations to the Township Committee on this matter. Ms. Hagner also commented on the developers fee ordinance. Mr. Ciccarone said that the Township has not collected any developers fees.

Mr. Franko cited from the Township Committee resolution that the Planning Board has been directed to conduct a study on the need to redevelop the Skate Park.

Mr. Warner described the public hearing process for any recommendation to be made by the Planning Board on this matter.

Mr. Sullivan asked what legal ramifications the Township would potentially face if the Planning Board and the Township Committee go against the advice of the Township Planner and a challenge is brought forward in court. Mr. Warner asked who would challenge that action.

Mr. Ciccarone stressed the importance of moving this process forward, and said that the developer will still need to come before the Planning Board with a full application.

Ms. Hagner asked again why the designation of an area in need of redevelopment is needed if the land is already zoned for affordable housing. Mr. Warner said that the designation offers the opportunity for a PILOT, yet a PILOT would not be required by the designation. Ms. Hagner asked if the Township would have the ability to have a PILOT anyway, and Mr. Warner said that the designation of an area in need of redevelopment is necessary for that opportunity.

Mr. Sullivan commented on the litigious nature of this topic, and said that it is important to have the correct first steps. Mr. Franko said that the Planning Board is only being asked to perform a study. Mr. Ciccarone said that the process is nowhere near having an application for review.

Mr. Travisano asked if there would be any benefit to delaying the decision on the rezoning issue until the designation and redevelopment plan is further along.

Mr. Ciccarone suggested that Board members visit the Melrose and Rose Valle condo developments to get an idea of what the developer is proposing for the Dixiedale property.

Mr. Travisano said that there would be a disadvantage to have someone other than Mr. Banisch perform the requested study. Mr. Sullivan said that he trusts Mr. Banisch, however he thinks the outcome of the study is obvious.

Mr. Nelson moved to authorize Mr. Banisch to perform a study to determine whether Block 48.16, Lot 117.27 is or is not an area in need of redevelopment under the criteria set forth in *N.J.S.A. 40A:12A-1 et seq.* Mr. Travisano seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Hurring, Aye; Mrs. Swartz, Absent; Mr. Brower, Absent; Mr. Ciccarone, Aye; Ms. Hagner, Nay; Mr. Sullivan, Nay; Mr. Travisano, Aye; Mr. Nelson, Aye; Mr. Murray, Nay.

Resolution for Re-Zoning of Dixiedale Farm, Block 66, Lot 1

Mr. Ciccarone said that this request generated from a developer, and he suggested that the developer should present to the Planning Board what they are seeking. Mr. Warner said that he is unsure if the applicant is ready to make an application.

Mr. Warner said that the MLUL does not have a specific procedure for the hearing of a request for rezoning. Although the Township does not have an ordinance requiring a presentation for such a request, the Planning Board is not precluded from hearing such a presentation.

Mr. Franko asked the representative of the applicant to come forward to address the Board.

Attorney Douglas Henshaw of Day Pitney LLC, representing Sterling Properties/Sun Homes said that he learned of this meeting the day prior to the meeting. He said that he is willing to put together a package of documents for the Board professionals and members. Mr. Henshaw said that he is also willing to make a presentation to the Board if requested. He also said that the rezoning request and redevelopment designation are separate matters, however the affordable units would need to be built in sequence with the market-rate units, and he reiterated his client's commitment to produce affordable housing at the Skate Park site in the event that the site is designated an area in need of redevelopment and a corresponding redevelopment plan is subsequently adopted, and the requested zone change for the Dixiedale Farm property is granted and a corresponding site plan is subsequently approved. The presentation for the requested zone change will be scheduled for the December 19, 2016 meeting.

Resolution

Mr. Warner read into the record the NOW, THEREFORE clauses of the resolution authorizing Mr. Banisch to perform the study for redevelopment of the Skate Park property. The cost of the study is not to exceed \$10,000.00.

Mr. Ciccarone moved to approve the resolution. Mr. Travisano seconded the motion.

Roll Call: Mr. Franko, Aye; Mr. Hurring, Aye; Mrs. Swartz, Absent; Mr. Brower, Absent; Mr. Ciccarone, Aye; Ms. Hagner, Abstain; Mr. Sullivan, Abstain; Mr. Travisano, Aye; Mr. Nelson, Aye; Mr. Murray, Abstain.

Mr. Ciccarone moved to adjourn at 8:46 PM. Mr. Travisano seconded the motion, and it carried unanimously.


Gregory J. LaConte
Planning Board Recording Secretary

CHESTNUT ROAD
BLOCK: 54 LOTS: (27 Lots)
R-3 to R-4 Residential Zone

Adopted October 17, 2016

The Planning Board examined a series of lots along Chestnut Road to determine whether they are appropriately designated as part of the R-3 Zone (20,000 square foot minimum) or whether they would be more appropriately designated as a part of the R-4 Zone (10,000 square foot minimum). These 27 lots are between Mountainview Avenue and Meyersville Road, currently parcels in the R-3 Zone, 12 of which conform to the R-3 standards; 8 of which are between 15,000 and 19,999 square feet; 5 of which are between 10,000 and 14,999 square feet, and 2 of which are less than 10,000 square feet.

The Board has undertaken a review of the of the subject properties along Chestnut Road presently designated as part of the R-3 Zone, the current bulk requirements of the R-3 Zone, and the bulk requirements of the R-4 Zone.

The Board has made the following Findings of Fact:

1. The Board reviewed the July 6, 2016 Memorandum of Francis J. Banisch, P.P./A.I.C.P., Board Planner. Mr. Banisch addressed same during hearings on both July 11, and September 26, 2016.
2. Mr. Banisch explained that a number of lots presently located in the R-3 Zone along Chestnut Road had a shallow depth and cannot meet the 100 foot combined front (50 feet) and rear (50 feet) yard setback required in the R-3 Zone and still have room for a dwelling. He further explained that, in the R-4 Zone, the combined front (25 feet) and rear (45 feet) yard setback was 75 feet. Mr. Banisch opined that if the subject properties were deemed part of the R-4 Zone, of the 27 parcels, 25 would be conforming (the two remaining lots are less than 10,000 square feet).
3. Jean Cowburn and John Giuliano, 14 Chestnut Road (Block 54, Lot 14) both expressed their support for the proposal to modify the zoning districts in the subject area. Steven C. Klemp, 9 Mountainview Road (Block 54, Lot 10) joined in expressing his support for the proposed modification.

The Board finds that the existing zone map shall be amended in accordance with the memorandum and chart prepared by Francis J. Banisch.

Resolution memorializes action taken by the Board adopted at the October 17th, 2016 Planning Board public meeting.

SKATE PARK
BLOCK: 48.16 LOT: 117.27
Affordable Housing Zone

December 19, 2016

Southern Boulevard

The Township Committee has authorized the Planning Board to conduct an investigation to determine whether a 3.8 acre of the property commonly known as Block 48.16, Lot 117.27 on

RESOLUTION PB-2016

CHATHAM TOWNSHIP PLANNING BOARD
RESOLUTION RECOMMENDING AMENDMENT OF THE ZONE MAP
(CHESTNUT ROAD; R-3 v. R-4 ZONE DESIGNATION)

WHEREAS, the Chatham Township Planning Board (the "Board") held meetings on July 11, and September 26, 2016, in accordance with the requirements of the Open Public Meetings Act (N.J.S.A. 10:4-6 to 10:4-2), regarding whether a series of lots along Chestnut Road are appropriately designated as part of the R-3 Zone (20,000 square foot minimum) or whether they would be more appropriately designated as a part of the R-4 Zone (10,000 square foot minimum); and

WHEREAS, between Mountainview Avenue and Meyersville Road, there are 27 parcels in the R-3 Zone, 12 of which conform to the R-3 standards; 8 of which are between 15,000 and 19,999 square feet; 5 of which are between 10,000 and 14,999 square feet, and 2 of which are less than 10,000 square feet; and

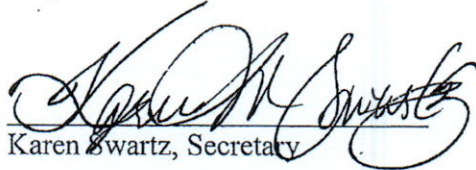
WHEREAS, the Board has undertaken a review of the of the subject properties along Chestnut Road presently designated as part of the R-3 Zone, the current bulk requirements of the R-3 Zone, and the bulk requirements of the R-4 Zone; and

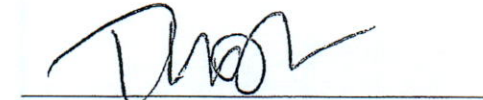
WHEREAS, the Board has made the following Findings of Fact:

1. The Board reviewed the July 6, 2016 Memorandum of Francis J. Banisch, P.P./A.I.C.P., Board Planner. Mr. Banisch addressed same during hearings on both July 11, and September 26, 2016.
2. Mr. Banisch explained that a number of lots presently located in the R-3 Zone along Chestnut Road had a shallow depth and cannot meet the 100 foot combined front (50 feet) and rear (50 feet) yard setback required in the R-3 Zone and still have room for a dwelling. He further explained that, in the R-4 Zone, the combined front (25 feet) and rear (45 feet) yard setback was 75 feet. Mr. Banisch opined that if the subject properties were deemed part of the R-4 Zone, of the 27 parcels, 25 would be conforming (the two remaining lots are less than 10,000 square feet).
3. Jean Cowburn and John Giuliano, 14 Chestnut Road (Block 54, Lot 14) both expressed their support for the proposal to modify the zoning districts in the subject area. Steven C. Klemp, 9 Mountainview Road (Block 54, Lot 10) joined in expressing his support for the proposed modification.

WHEREAS, the Board finds that, by a vote of 6 to 0, the existing zone map shall be amended in accordance with the attached memorandum and chart prepared by Francis J. Banisch; and

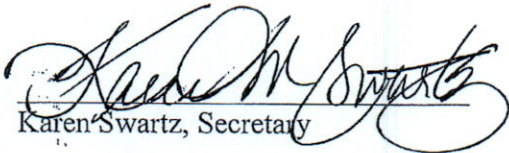
NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of Chatham on this 17th day of ~~September~~^{October}, 2016, that a recommendation to adopt the aforesaid amendment to the zone map shall be submitted to the Township Committee of the Township of Chatham, by this Board, for its consideration.


Karen Swartz, Secretary


Tom Franko, Chair
THOMAS

I, Karen Swartz, Secretary of the Planning Board of the Township of Chatham, Morris County, New Jersey, hereby certify that the foregoing is a true and complete copy of a resolution duly adopted by the said Board at a meeting held on September 17th, 2016.

October


Karen Swartz, Secretary

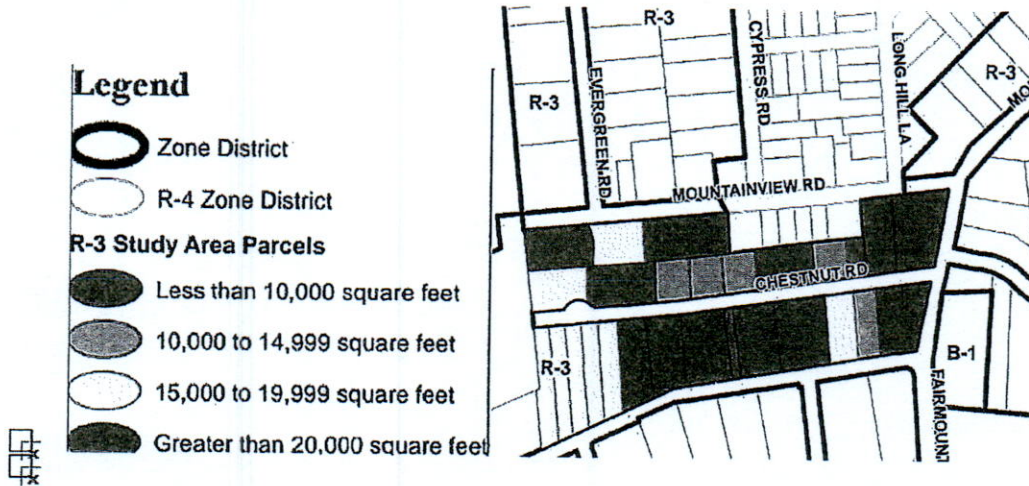
Memorandum

To: Chatham Township Planning Board
 From: Francis J. Banisch III, PP/AICP
 Date: July 6, 2016
 Re: Rezoning Question – R-3 vs. R-4

Basis for the Investigation

We have been asked to examine whether a series of lots along Chestnut Road are appropriately included within the R-3 Zone (20,000 square foot minimum) or whether it would be more appropriate to include any undersized lots in this area within the R-4 Zone (10,000 square foot minimum). A number of lots with shallow depth in this area cannot meet the 100' combined front (50') and rear (50') yards required in the R-3 Zone and still leave room for a dwelling. R-4 setbacks (25' front, 40' rear) add up to 75'.

The mapping below illustrates the affected lots by lot size range:



The lot standards for the R-3 and R-4 Zones are as follows:

Zone	Primary Use	Maximum Stories	Height Feet	Minimum Lot Area (sq. ft.)	Maximum Depth of Meas'mts.(ft.)	Minimum Lot Width		Minimum Yards (ft.)		
						Street Line (ft.)	Setback Line (ft.)	Front	Rear	Side
R-3	One-Family									
	Conventional	2-1/2	35	20,000(10)	200	90(7)	100	50	50	15
R-4	One-Family									
	Conventional	2-1/2	35	10,000	115	75(9)	75	25	45	15

Lots adjoining R-4 Zone

It appears that there are only three lots adjacent to the R-4 zone that are undersized. One lot (red) is less than 10,000 sf and the other two are in the range of 10,000-15,000 sf. Another two undersized lots (10,000-15,000 sf) adjoin these lots.

Lots between Mountainview and Meyersville Roads

Nearly all lots in this area are developed. In total, of the 27 parcels in the R-3 between Mountainview and Meyersville Roads:

- (a) 12 lots conform to the R-3 standards
- (b) 8 lots are between 15,000 and 19,999 sf
- (c) 5 lots are between 10,000 and 14,999 sf
- (d) 2 lots are less than 10,000 sf



Summary

The basic question for the Planning Board and Township Committee is whether this relatively small number of developed undersized lots warrants a change to the zoning to make them more conforming or whether the owners seeking to expand their dwellings should be required to seek a variance.

Since the lots with deficient depth have a hardship in not being able to meet the local requirements, the facts needed to prove a variance probably exist on these lots. Alternatively, the rezoning of lots between 10,000 and 15,000 sf into the R-4 zone might encourage the removal and replacement of existing dwellings with larger homes.

