

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
MARCH 20, 2025**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:33 PM.

Adequate Notice of the meetings of the Zoning Board of Adjustment 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 2025 and January, 2026 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 Mr. Vivona, Mr. Borsinger, Mr. Fitt, Mr. Silva, Mr. Huke and Mr. Bhatia

Mrs. Chang was absent.

Also present were Board Attorney Amanda Wolfe, Board Planner Frank Banisch and Engineer Erica Vigliorolo in place of Board Engineer John Ruschke.

Approval of Minutes

Mr. Borsinger moved to approve the minutes of the February 20, 2025 and March 12, 2025 meetings. Mr. Fitt seconded the motion which carried unanimously.

Resolutions

Resolution BOA-2025-014 - Calendar BOA-24-011 Jessica Yankelunas & Jordan McIntyre, 103 Long View Avenue, Block: 33 Lot: 14

Ms. Wolfe provided an overview of the resolution. She also reviewed the conditions for approval.

Mr. Borsinger asked about a retaining wall near a tree. Ms. Wolfe said they can curve the wall to protect the tree, however, the tree will need to be removed if it cannot be protected.

Mr. Huke moved to adopt Resolution BOA-2025-014. Mr. Borsinger seconded the resolution.

Roll Call: Mr. Vivona, Aye; Mr. Borsinger, Aye; Mr. Huke, Aye; Mr. Bhatia, Aye; Mrs. Chang, Absent.

Mr. Fitt and Mr. Silva were not eligible to vote

Hearings

Calendar BOA-24-013 Robert Ortmann III, 355 Green Village Road, Block: 48.17 Lot: 137.

Nicole Magdziak, an attorney representing the applicant, provided a summary of the application. She said that the property has been used for a landscaping business since a time prior to 1979.

Robert Ortmann III was sworn in to give testimony. Mr. Ortmann said he purchased the property in June 2007, and he chose it because it is a unique property that had a landscaping business on site. Mr. Ortmann described his landscaping business. He also provided history of the use of the property for landscaping businesses. Mr. Ortmann further provided details on the current use of the property and how the business works.

Mrs. Magdziak addressed a zoning violation notice in 2013 about the use of the property. Mr. Ortmann addressed his response to the notice of violation.

Mr. Vivona asked about visibility of the business from the street. Mr. Ortmann said that the business is not visible from the street, and there is a fence in the rear of the property that also provides screening.

Mrs. Magdziak addressed a comment in the technical review memo about installation of appropriate fencing to provide screening. Mr. Ortmann indicated he will stipulate to add additional fencing to any areas where necessary. Mr. Banisch said that there is not likely to be any areas where additional fencing would be needed, and a site visit would allow that determination to be made. Mr. Banisch also said that it sounds like the applicant intends to continue operating the same way they have for several years.

Mr. Vivona spoke in favor of having a site visit so that everything is on the record. The site visit will be scheduled for April 5th at 9:00 AM.

Mr. Borsinger asked if there is any restriction of a residence on a commercial property. Ms. Wolfe said normally there would need to be a variance, however this is a preexisting nonconforming use. Mr. Borsinger asked about definitions of a landscaping business. Mr. Banisch said that the Township Code Book does not have a definition. Mr. Borsinger asked if they could open a farm stand. Mrs. Magdziak said that for the zoning certificate sought, the use cannot change.

Mr. Vivona opened the floor to the public.

1. Glen Deter, 347 Green Village Road, was sworn in to give testimony. Mr. Deter said that the information presented to the Board is true. He also said that sometimes there are other companies that use the property for commercial purposes.

Seeing no further comment, Mr. Vivona closed the floor.

Daniel Miller was called as a witness. Mr. Miller was sworn in to give testimony. Mr. Miller said that he was a neighbor of the property from 1965 to 1988. He confirmed that the property was used for a landscaping company during that time.

Mr. Borsinger asked what the property looked like in 1979 and how it has changed since. Mr. Miller said that the landscaping property was always at the rear of the property, and he is unaware of any changes in scope. He also said that the commercial use was not an impedance to neighbors.

Former Mayor Nicole Hagner was called as a witness. She was sworn in to give testimony. Mrs. Hagner described her activities as Mayor at the time that Mr. Ortmann received a zoning violation notice in 2013. She also described how the zoning violation was discovered.

Mr. Vivona reopened the floor to the public.

1. Glen Deter described how the business operations on the property have changed since 2001. He particularly noted how a vehicle turnaround was installed, which partially impedes his property with water.

Mr. Vivona asked if Mr. Deter could attend the site visit to show where the water issue is located.

Mr. Silva asked if the applicant would stipulate that his landscaping company be the only one to use the property. Mrs. Magdziak stated that only the applicant's company will use the site.

Mr. Vivona asked if there is an accessory structure in the rear of the property. Mr. Ortmann said that there are not any rental companies on the site. He also said that there is a 10x15 shed, but there are not any garages for the vehicles. He also confirmed that he does not plan to expand his business.

Mr. Banisch said that there are not any variances requested. Mrs. Magdziak said that the requested certificate would acknowledge the existing business. Mr. Banisch asked where vehicle maintenance and repairs are performed. Mr. Ortmann said that there might be minor repairs on site, but general repairs and vehicle maintenance is performed at a mechanic's garage. Mr. Ortmann also said that some trucks come to the site for deliveries.

2. Kevin Sullivan, Stafford Road, said that he served on the Township Committee when the prior zoning violation notice was sent to Mr. Ortmann. Mr. Sullivan addressed discussions that were held at the time around use of property in Green Village and instances of grandfathered purposes. He also provided some history on enforcement of zoning in Green Village and how a former Township Administrator had handled such matters.
3. Brad Cheney, 348 Green Village Road, was sworn in to give testimony. Mr. Cheney said that he lives across the street from Mr. Ortmann's property and only sees the landscaping trucks during a small window of time when they are leaving in the morning or returning in the evening. He also said that you would otherwise not know that there was a business on the property.

Seeing no further public comment, Mr. Vivona closed the floor.

Ms. Vigliorolo addressed comment number 2 on the technical review memorandum. Mr. Ortmann said that any changes to the property have been caused by storm damage.

Mr. Vivona said that the Site Visit will be on April 5th at 9:00 AM.

Continuation of the hearing will be on April 9, 2025.

Calendar BOA 24-007 494 Southern Blvd., LLC, 494 Southern Blvd. Block: 128 Lot: 6.

Ms. Wolfe indicated that the hearing was properly noticed and the Board has jurisdiction to hear the application.

David Brady, an attorney representing the applicant, provided an introduction of the application. He described the existing conditions on the site. The proposal is to reconstruct a more modern single-family house. A D-variance is needed, as well as bulk deviations. Mr. Brady acknowledged receipt of a review memorandum from Mr. Ruschke's office. He also discussed the reconstruction process.

Mr. Vivona asked why a framed shed is requested. Mr. Brady said it is an existing shed that the applicant wants to keep. Mr. Vivona asked if it will be a rental property. Mr. Brady said an estate is involved, and the property will likely be sold to a builder once approvals are granted. Mr. Banisch asked if there is a proposed builder, and said they may want to seek approvals that meet what a potential builder may want to construct.

Mr. Vivona opened the floor to the public.

1. Saverio Allocca, Madison, NJ, said he owns the adjacent property. Mr. Allocca described drainage issues that were created when Juniper Village was built. He said he does not want the grade changed at 494 Southern Boulevard in such a way that would affect his property. Mr. Allocca also said that the house should be moved toward the south side of the property.

Mr. Vivona said that the site visit will be held to assess any potential issues. He also commented on the need for the applicant to submit a lot grading plan.

Mr. Allocca reiterated his concerns about a potential negative impact on his property.

Mr. Brady said he took note on Mr. Allocca's concerns.

Mr. Vivona said that the Site Visit will be on April 5th at 9:30.

Continuation of the hearing will be on April 9, 2025

Calendar BOA-24-008 Heritage Development, LLC, 2 Daniel Street, Block:134 Lot:6.

Mr. Huke read the Site Visit Report into the record.

Richard Oller, the attorney for the applicant, said that the subject property is in a neighborhood that is in transition.

Fred Stewart, an engineer representing the applicant, was sworn in to give testimony. Mr. Stewart provided his qualifications and was accepted as an expert witness.

Mr. Oller provided an overview of the application. Curbing was discussed. Walkways on the back of the property have been removed, and a shed will be removed. Mr. Oller reviewed the setbacks.

Hildie Lazar, an architect representing the applicant, was sworn in to give testimony. Mrs. Lazar provided her qualifications and was accepted as an expert witness.

Mrs. Lazar discussed the current conditions on the site. Exhibit A-1 was entered into the record, which was a board having a map showing the neighborhood. Pictures of several newer homes in the neighborhood were included in the exhibit.

Mrs. Lazar presented drawings of the proposed new home. She discussed how the proposed house would fit in the neighborhood.

Mr. Vivona opined that the proposed house would improve the neighborhood. He also said that the applicant has gone above and beyond to address drainage.

Mr. Vivona opened the floor to the public. Seeing no public comment, Mr. Vivona closed the floor.

Mr. Banisch addressed the portico, and said it gives a dignified look to the house.

The applicant signified they agree to the conditions in the memo from Mr. Ruschke's office.

Mr. Fitt moved to approve the application subject to the stipulated conditions. Mr. Huke seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Borsinger, Aye; Mr. Fitt, Aye; Mr. Silva, Aye; Mr. Huke, Aye; Mr. Bhatia, Aye; Mrs. Chang, Absent.

Mr. Vivona said that the resolution will be considered at the April 9th meeting.

Mr. Borsinger moved to adjourn at 9:35 PM. Mr. Vivona seconded the motion which carried unanimously.

Gregory J. LaConte
Recording Secretary