

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
JUNE 20, 2024**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:38 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 2024, and January, 2025 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. Sood, Mr. O'Brien and Mr. Huke.

Mr. Fitt and Mr. Silva were absent.

Also present were Board Planner Frank Banisch, Board Engineer John Ruschke and Board Attorney Amanda C. Wolfe.

Minutes

Mr. O'Brien moved to approve the minutes of the May 16, 2024 meeting. Mr. Borsinger seconded the motion which carried unanimously.

Hearings

Calendar BOA 24-002 Patrick Hamer, 75 Ormont Road, Block: 32 Lot: 14

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

Charles Witzak, an engineer representing the applicant, was sworn in to give testimony. He provided his qualifications and was accepted as an expert.

Mr. Witzak provided some background on the site and the current conditions. He described the proposed retaining wall to mitigate the slopes and drainage in the rear yard. Mr. Witzak said that there is an application submitted to the township for soil erosion sediment control.

Mr. Hamer said that since his house was built, there has been additional runoff onto a neighboring property. Mr. Witzak said that the proposed project should improve the drainage, and some of the water should be recharged. Mr. Vivona asked if the land on top of the retaining wall would be leveled out. Mr. Witzak said it cannot be leveled out, as the wall would need to

be too high. He addressed the proposed slope and turf cover. Mr. Vivona asked visibility of the work from neighboring properties. Mr. Witzak said that there will be vegetative screening. He also noted that the drainage will be directed away from one of the neighbors. Mr. Witzak said that there will not be much visibility from the front yard. Mr. Vivona asked about tree removal and replanting. Mr. Witzak said that there are not plans to plant anything, as the roots might get into the geogrid and cause problems. Mr. Borsinger asked about vegetation to secure the slope. Mr. Witzak addressed the potential shrubs that may be planted.

Mr. Borsinger asked if the drywells and plantings are part of the lot grading. Mr. Ruschke said that they are part of the lot grading planning. He also said that something will need to be done to address the increase in impervious coverage. Mr. Witzak said that either a drywell or recharge system will be used to meet the stormwater management regulations.

Mr. Ruschke said that land disturbance is usually done in stages, and asked how the applicant will comply with those requirements. Mr. Witzak said that the wall can be stabilized, and the grading done once that happens.

Mr. Borsinger asked if Mr. Ruschke has any recommendations to mitigate the issues from a prior lot grading. Mr. Ruschke said he can investigate the matter.

Mr. Borsinger asked about having a two tiered wall to protect child safety. Mr. Witzak addressed the stepping that would need to be done and the problems associated therewith.

Mr. Banisch said that ordinarily he would not recommend too much tree removal, however with this application, he supports the proposed tree removal. He also said that the lot is wooded to a point that there are not many good places to put replacement trees, however some diminutive trees or shrubs could direct people from the high points of the wall.

Mr. Banisch said that the lot could hypothetically be subdivided, and addressed the possibility of a conservation easement. Mr. Hamer said that he does not have any plans to subdivide, however he said he is willing to consider a conservation easement. Mr. Ruschke addressed the slopes in the subject area. He also pointed out existing conservation areas in the vicinity. Mr. Hamer asked if there are tax implications for a conservation easement. Mr. Ruschke deferred to the tax assessor's office for a definitive answer. Mr. Vivona said that if there were a conservation easement, Mr. Hamer would maintain possession of the property.

Ms. Wolfe asked if the applicant will stipulate to the conditions in Mr. Ruschke's memorandum. Mr. Witzak said that he addressed the comments, and there was not anything that could not be stipulated. Mr. Ruschke said that there is a fence that encroaches onto a neighboring property which should be noted in the resolution.

Mr. Hamer said that he and his neighbor have spoken and they are not concerned about the fence.

Mr. Banisch said that he does not have any additional comments to what Mr. Ruschke had addressed in his memorandum.

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

Mr. Vivona said that he thinks all the Board's questions have been satisfied. He also inquired about the height of the retaining wall. Mr. Witzak confirmed that the majority would be less than six feet high. The majority would be four feet high, and a 20-foot section would be six feet high. Mr. Vivona suggested that planters can be used to help keep people from stepping over the wall.

Mr. Banisch commented on the hardship criteria for the variance. He commented on Mr. Witzak's testimony about the negative criteria.

The conditions for approval were summarized as being as follows:

1. Follow the recommendations in Mr. Ruschke's memorandum.
2. Consider a conservation easement.
3. Submission of a lot grading plan.
4. Staging of the construction.
5. Installation of landscaping.

Mr. O'Brien moved to approve the application. Mr. Huke seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. Silva, Absent; Mr. Sood, Aye, Mr. Huke, Aye; Mr. O'Brien, Aye.

Ms. Wolfe said that she will have a resolution ready for adoption at the next meeting.

The next meeting is scheduled for July 10th. Mr. Ruschke said that there might be an application ready for the next meeting.

Mr. O'Brien moved to adjourn at 8:28 PM. Mr. Huke seconded the motion which carried unanimously.

Gregory J. LaConte
Recording Secretary