

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
DECEMBER 7, 2022**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:37 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 2022, and January, 2023 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. McHugh, and Mr. O'Brien.

Mr. Fitt, Mr. Silva, Mr. Sood and Mr. Teotia were absent.

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

Approval of Minutes

Mr. O'Brien moved to approve the minutes of the November 9, 2022 meeting. Mr. Borsinger seconded the motion which carried unanimously.

Resolutions

Calendar BOA-22-005 Mr. & Mrs. Boyd 51 Meadowbrook Road Block 93 Lot 3

Ms. Wolfe said that the resolution was reviewed by the applicant's architect and they did not have any comments.

Mr. O'Brien moved to approve the resolution. Mr. McHugh seconded the motion.

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

Request to be Withdrawn

Calendar BOA 21-016 Mr.& Mrs. Mendrzycki, 25 Garden Street, Block: 109, Lot: 29

Ms. Wolfe said that the applicant has requested to withdraw their application.

Mr. Borsinger moved to approve the withdrawal of the application. Mr. O'Brien seconded the motion.

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

Hearings

Calendar BOA 2022-011 Janice & Adam Smith 28 Mountainview Road. Block 51, Lot 1.03

Mr. Vivona stated that this hearing will be postponed to the January 19, 2022 meeting. Ms. Wolfe stated that the hearing will be re-noticed.

Calendar BOA 2022-018 Andrew Englander, 134 Candace Lane, Block 39 Lot 43

Mr. Vivona provided an overview of the Zoning Board's process. He stated that the Site Visit will be at 9:00 AM of January 7, 2023.

The applicant, their professionals and the Board professionals were sworn in to give testimony.

Mr. Englander provided an overview of the application. He stated that the existing retaining wall is made of wood and is decaying, which has created an unsafe condition. Mr. Englander said that the proposed plan requires variances.

Tyler VanderValk, an engineer representing the applicant, provided his qualifications and was accepted as an expert.

Mr. VanderValk presented the Lot Grading Plan. He said that there are two variances requested. The first relates to the height of the retaining wall. Mr. VanderValk asked for clarification on the height calculation. Mr. Ruschke said that he had not received the revised plan and his comments were based on the original plan.

Mr. VanderValk discussed how the application intends to increase the usable area of the back yard. He also said the second variance is for the disturbance of steep slopes and he described the proposed disturbance. Mr. VanderValk said that it is his opinion that the two variances have a de minimis impact on the area while improving slope stability. He said they are warranted due to the hardships of the area and the shape of the property. Mr. VanderValk also further described the retaining wall. Mr. Vivona asked if a two tiered wall was considered. Mr. VanderValk said a two tiered wall was considered, however that would result in having the same available yard area.

Mr. Vivona asked about drainage. Mr. VanderValk said there is not and proposed recharge because there is not any additional impervious coverage. Mr. Vivona noted that the reduction in slope would reduce water flow onto the neighboring property.

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

Mr. Vivona asked that the area be marked out for the Site Visit. The hearing will be continued at the January 19, 2023 meeting.

Calendar BOA 22-015 Ginny & Eric Dorflinger, 12 Lori Lane, Block 48.14 Lot 7

Mr. Vivona provided an overview of the Zoning Board's process. He stated that there will be a site visit and the hearing will be continued on January 19, 2023.

The applicant and their professionals were sworn in to give testimony.

Mrs. Dorflinger provided an overview of the application.

Cindy Boerner-Lay, an architect representing the applicant, provided her qualifications and was accepted as an expert.

Mrs. Boerner-Lay presented the floor plan for the home. She also addressed drainage.

Mrs. Boerner-Lay stated that rear yard setback variances are needed for the deck and the addition. She also said there is a hardship of an undersized corner lot with a lot depth which is an existing non-conforming condition. She noted that the rear yard setback is reduced on one side of the property. The proposed building and lot coverage area are within allowable limits.

Exhibit A-1 was entered into the record which was a Google Maps aerial image of the property and neighborhood. Mrs. Boerner-Lay addressed the vegetation in the area.

Mrs. Boerner-Lay said that the C-Variance criteria is satisfied with hardship and positive criteria without negative effect. The proposal is conforming with the neighborhood with similar additions and renovations in the neighborhood. Mrs. Boerner-Lay said that the proposal would have a positive impact by improving the housing stock in the neighborhood and updating a 1982 home.

Mr. Vivona asked if there would be a basement or a slab. Mrs. Boerner-Lay said there would be a crawlspace. She also further addressed the pre-existing nonconforming condition. Mrs. Boerner-Lay noted that it will be difficult to mark out the proposed addition. Mr. Vivona asked for the setback to be marked out.

Mr. Ruschke said there is a discrepancy regarding whether the existing deck encroaches into an easement. He asked that there be validation if there is an encroachment. Mrs. Boerner-Lay said she believes it does encroach. Mr. Ruschke said that the Township Committee would need to approve any encroachment into the easement. He suggested that a surveyor verify if there is indeed an encroachment. Mrs. Boerner-Lay further showed on the plans the location of the existing deck and the proposed deck. Mr. Ruschke said he would take another look and said it appears to be a minor encroachment.

Mr. Borsinger asked if the impervious coverage is being changed. Mrs. Boerner-Lay stated there is an approximate increase of 363 square feet of lot coverage. Mr. Borsinger asked where the drainage will go. Mrs. Boerner-Lay said it is going to downspouts. Mr. Dorflinger said the downspouts drain to the street. Mr. Borsinger noted that the area floods a lot. Mr. Dorflinger noted that the drains empty toward the storm drains.

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

Mr. Vivona stated that the Site Visit will be on January 7th at 9:30 AM. The next hearing will be on January 19th.

Calendar BOA 22-013 Reza Sharif, 180 Southern Blvd. Block: 102.11 Lot 23,01

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

Mr. Vivona noted that the fence is offset from an existing fence on school property. He also said that the applicant has tried to minimize any slope disturbance which is why the pool is proposed to be at the rear of the lot. Mr. Vivona further noted that drainage was discussed at the site visit.

The applicant's processional and the Board professionals were sworn in to give testimony.

Daniil Turitsyn, an engineer representing the applicant, and Mary Sadrakula, an associate of Everclear Pools, provided their qualifications and were accepted as expert witnesses.

Mr. Vivona said that the application proposes a level pool in a sloped yard without a retaining wall, and asked if the retaining walls are not necessary due to the gradual slope. Mr. Turitsyn presented the property survey that was submitted with the application. He showed where the proposed pool would be located. Mr. Turitsyn addressed the ability to put in a patio as well as the slope in the area where the pool would be located. He said that if the location of the pool were to be moved, there would be more disturbance of the slope. It was noted that the shed will be moved into compliance in a new location. Mr. Turitsyn said that the pool equipment will be by the shed and the entire pool will be fenced in.

Mr. Vivona noted concerns about drainage. Mr. Turitsyn noted that the property slopes to the street. Mr. Vivona said that there does not appear to be an issue with surface runoff, and there are storm drains on Southern Boulevard. Mr. Turitsyn noted the presence of trees. Mr. Vivona discussed erosion retention and said that some of the trees that were removed should be replaced. Mr. Sharif noted that there were permits for the tree removal. Mr. Vivona said that his suggestion is to prevent future drainage issues.

Mr. Vivona noted that the corner of the existing deck is supposed to be at least 15 feet away from the property line, and the variance will be added to the application to legalize the deck.

Mr. Ruschke noted that other comments on the grading have been addressed. He said that a stipulation should be included about the landscaping if it is required by the Board.

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

Mr. Vivona stated that the only condition is inclusion of landscaping on the side of the property after the pool is complete to mitigate erosion and stormwater management. The landscaping will be approved by Mr. Ruschke's office.

Mr. Borsinger moved to approve the application subject to the landscaping stipulation and to include the deck variance. Mr. O'Brien seconded the motion.

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

Mr. Vivona said that a memorialization resolution will be considered on January 19th after which permit applications can be submitted.

Calendar BOA 22-012 Christopher Costner, 35 Rose Terrace. Block: 93 Lot; 5.01

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

Mr. Vivona said that the Costner's bought the property as-is, and it had been previously subdivided. He said that the Costner's were unable to get a CO without a variance due to a wall that had been constructed by the prior owner. Mr. Vivona said that there were problems due to the subdivision and the poor design from the original builder, and steps have been taken to mitigate the problems. Mr. Vivona said that it was felt that forcing the Costner's to bring the property into compliance would cause greater problems.

Mr. Ruschke said that there are also some punch list items to address as part of the CO process however they are minor.

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

Mr. McHugh moved to approve the application. Mr. O'Brien seconded the motion. Mr. Vivona stated that there are not any conditions of approval.

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

Mr. Vivona said that a memorialization resolution will be considered on January 19th after which final inspections can be scheduled.

Calendar BOA 22-009 Mr. Elmekki, 36 Woodlawn Drive, Block 52 Lot 7

Mr. Borsinger recused from this application. Due to quorum concerns, Mr. Vivona said that the hearing could begin, and other members of the Board can listen to the recording so as to be eligible to vote. Mr. Elmekki said he is ok with moving forward at this meeting.

Mr. Ruschke confirmed that the application is for setbacks and there are not any major issues with this application. Height also needs to be addressed in testimony.

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

Mr. Vivona said that the lot is a small, tight lot. The variances are for side yard setbacks.

Ms. Slagle was sworn in to give testimony.

Mr. Ruschke addressed the amount of the basement wall that can be exposed before it is considered a story.

Mr. Elmekki said that he will sell the house that is built.

Mr. Vivona opined that the application will max out the proposed home and it will not benefit the neighborhood. He also said the Board generally does not approve over 35 feet in height, 3 stories and bathrooms next to pools.

Mr. Ruschke said there has not been any testimony to justify the variances under a hardship. Mr. Elmekki said it is a small lot. Ms. Wolfe said that the applicant should have professional testimony to address the variances.

Mr. Vivona addressed the amount of exposed basement wall that is allowable.

The hearing will continue on January 19, 2023.

Mr. Vivona opened the floor to the public.

1. Diana Curtis, 35 Woodlawn Drive, was sworn in to give testimony. Mrs. Curtis asked if there was a dormered second floor if it would better fit in the neighborhood. Mr. Vivona said the basement is the problem. He explained how a better design is needed.

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

Mr. Vivona explained that revised plans are needed.

Other Business

The proposed meeting dates for 2023 were reviewed. The meetings will still be via Zoom. The dates will be discussed again when more members are present, and the schedule will be adopted in January.

Mr. McHugh moved to adjourn at 9:33 PM. Mr. O'Brien seconded the motion, and the motion carried unanimously.

Gregory J. LaConte
Recording Secretary