

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
DECEMBER 13, 2023**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:45 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 2023, and January, 2024 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. Silva and Mr. Sood arrived late.

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

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

Minutes

Mr. Borsinger moved to approve the minutes of the November 8, 2023 meeting. Mr. O'Brien seconded the motion which carried unanimously.

Hearings

Calendar BOA 23-010 Ivan Levytskyy, 32 Mountainview Road, Block: 51 Lot: 4

Mr. Vivona provided an overview of the Zoning Board's process. He said that the Site Visit for this hearing will be at 9:00 AM on January 6th.

Ms. Wolfe reported that the notice for this hearing was sufficient and the Board has jurisdiction to hear the application.

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

Jess Symonds, the architect for the applicant, provided his qualifications and was accepted as an expert.

Mr. Symonds said that the applicant was before the Board previously for other variances for the portico. As constructed, the portico is larger and extends further into the front yard than what had been approved. Mr. Vivona asked how the mistake was made.

Mr. Levytskyy said that the portico was constructed based on the approval, and the nonconformity occurred when finishing stones were added.

Mr. Vivona said that this type of problem has happened on other applications. Mr. Borsinger asked if there is a way to avoid such problems in the future. Mr. Levytskyy said that the architect should do calculations based on the finished product. Mr. Vivona said that the Township should address the potential for finishing materials to cause a nonconformity in their materials packet.

Mr. Honoshowsky indicated that there are not any engineering concerns at this time, and suggested that in the future more detail should be provided to avoid this type of issue. Mr. Banisch recommended that the suggestion be included in the Annual Report so that the Township Committee and Planning Board can consider the issue.

Mr. Vivona reiterated that the Site Visit will be on January 6th, and the continuation of the hearing will be at the January 10th meeting.

Calendar BOA 23-008 Mr. Lechner, 6 Crestwood Drive, Block 74 Lot 4

Ms. Wolfe noted that Mr. Lechner is still under oath.

Mr. O'Brien read the Site Visit Report into the record.

Mr. Vivona said neighbors were not concerned about the proposed construction. He also said he previously thought changing the beds would make it more difficult to see backing out of the driveway. He also said that the changes made have were worth doing. Mr. Vivona also opined that more construction would be an inconvenience to the neighbors. He also commented on the safety and drainage benefits of the changes made.

Mr. Borsinger asked if there should be railings to prevent children from falling from the 9-foot wall. Mr. Lechner said that there are railings in the high areas. Mr. Borsinger asked about having railings by the steps. Safety options were further discussed.

Mr. Vivona said that the original plan was approved, and the applicant had field changes made to the planter to avoid a tripping hazard and to make sure it drains better. There was further discussion about railings to prevent falls. Mr. Banisch suggested a vegetative approach. Mr.

O'Brien asked if any liability would be on the property owner rather than on the Zoning Board. Mr. Banisch explained that because relief is being sought, the Board's findings need to be that the public good would not be upset by the decision and a safety hazard should not be created. As such the Board will need to be confident that a safety hazard is not being created if this approval is granted. Mr. Lechner addressed a tree that will impede people from accessing an area of concern. Potential additional vegetation was discussed. Mr. Vivona said it is a suggestion rather than a condition of approval.

Mr. McHugh moved to approve the application. Mr. Silva seconded the motion.

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

Mr. Vivona said that the resolution to memorialize the approval will be at the January 10th meeting.

Calendar BOA 23-012 Hickory Donuts, LLC, 641 Shunpike Road, Block: 48.23 Lot: 126.04

Mr. Modi and Mr. Banisch were sworn in to give testimony.

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

Mr. Azzolini, the attorney for the applicant, said that he confirmed with the sign installer that the distance from the base of the wall to the sign will be seven inches, which complies with the requirement for eight inches or less. He also said that the walkway is only for Dunkin customers, and that there are not tables in the back area facing Green Village Road.

Mr. Azzolini presented the elevation plans showing the existing and proposed signage. He stated that the applicant had done a recent remodel of the business, and the applicant was asked to install the new signage for branding purposes. Mr. Modi confirmed Mr. Azzolini's representations, and said that customers have reported to him that the store is difficult to find with the current signage. Mr. Modi said that the tables will be affixed to the railings so they cannot be moved, and he said the tables are only used by Dunkin customers.

John McDonough, a planner representing the applicant, was sworn in to give testimony. He provided his qualifications and was accepted as an expert.

Mr. McDonough said that the relief sought is for an internally illuminated sign and for a sign facing a side of the business that does not have a primary entrance. He said that his opinion is that it is good planning and noted that the business has three signs. Mr. McDonough also said that the signage will provide clear and safe identification of the site and it is unobtrusive. He further opined that the signage will help freshen up the site, and the signage will be tasteful. The relief will be reconciled under the C-2 balancing test where the benefits will outweigh the detriments. He described the benefits of the proposed signage, and purposes A and I of the Land

Use Law. On the negative side, Mr. McDonough said that the relief can be granted without substantial detriment to the area, and he noted there are other internally illuminated signs in the shopping center.

Mr. Azzolini said that the applicant will agree to a condition of approval that the signage would not be brighter than the other signs in the shopping center.

Mr. Vivona commented on the difficulty of finding particular businesses at the Hickory Square Shopping Center due to the signage. He also said that the application is in line with what has been allowed for other businesses in the shopping center, and it will be unobtrusive. There also will not be any impact on homes. Mr. Vivona also commented on the placement of tables, and he also commented on fire safety aspects.

Mr. Honoshowsky asked if the existing exterior neck lighting will be removed. Mr. Azzolini said that it would be removed.

Mr. Banisch said that this application would have more benefit than meets the eye. He said that there used to be a belief that having a uniform sign style was a good way to manage shopping centers, however that made it difficult to distinguish the businesses in a way that makes them easily identifiable. Mr. Banisch said that granting this variance will provide a safety benefit.

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

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

Mr. Vivona said that the resolution to memorialize the approval will be at the January 10th meeting.

Discussion

2024 and January 2025 Draft Meeting Dates

The proposed meeting dates for 2024 and January 2025 were reviewed for conflicts.

Mrs. Tsimboukis asked for clarification about the provisions for the Zoom meeting.

Mr. O'Brien moved to approve the proposed schedule. Mr. Silva seconded the motion which carried unanimously. The resolution will be adopted at the Reorganization Meeting in January.

Other Business

Mr. Vivona noted that this is Mr. McHugh's last meeting as a member of the Zoning Board, as he will be sworn in as a member of the Township Committee in January. Mr. Vivona thanked Mr. McHugh for his service to the Zoning Board.

Mr. Vivona asked Mr. Silva to let him know if he desires reappointment for a new term. Mr. Silva expressed his interest in serving another term.

Mr. Vivona noted that meetings will go back to being held in person next year. Hybrid meetings will not be done because someone would be needed to work the video equipment.

Mr. Vivona asked for better attendance at site visits. He also noted that a potential candidate to fill the upcoming vacancy is going to be interviewed.

Mr. Silva moved to adjourn at 9:00 PM. Mr. McHugh seconded the motion which carried unanimously.

Gregory J. LaConte
Recording Secretary