

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
JULY 12, 2023**

Mr. Vivona called the Regular Meeting of the Zoning Board of Adjustment to order at 7:40 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, Mr. Sood and Mr. O'Brien.

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

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

Hearings

Calendar BOA 23-011 Mosaic Animal Center/St. Hubert's, 575 Woodland Avenue

Ms. Wolfe noted that she reviewed the notice for this hearing, and the Board has jurisdiction to hear the application.

Anthony Hatab, an attorney representing the applicant, provided an overview of the application. Mr. Hatab stated that the application is for an amended preliminary and final site plan approval which seeks D-use and C variances. Mr. Hatab provided background on the use of the site. He also said that the application is for interior changes for the operation of a small animal veterinary practice under a D-1 Use Variance because it is not a permitted use. Related C variances and any applicable design waivers are also requested.

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

Andrew Platou, the CFO of St. Hubert's Animal Welfare Center, provided information about St. Hubert's and stated that the organization is a 501(c)3 non-profit organization. He explained that St. Hubert's is partnering with Mosaic Animal Center as part of their overall mission and to provide medical care to animals.

Mr. Vivona asked if there is presently a full time vet at St. Hubert's. Mr. Platou said that there is one full time vet, however they often need to outsource work due to demand.

Mr. Borsinger asked if Mosaic is a non-profit organization. Mr. Platou said they are not. Mr. Borsinger asked if the new vet clinic will be a for-profit organization. Mr. Platou said that they will be a for-profit tenant within the facility. Mr. Borsinger asked about the types of animals that would be treated. Mr. Platou said it would mostly be dogs and cats with some other small domestic animals. He also said that St. Hubert's will probably account for about 20% of the business at the proposed vet clinic. Mr. Platou further commented on the potential for a tax assessment on the for-profit portion of the facility.

Mr. Hatab stated that he has been in touch with the Tax Assessor's office regarding the assessment for the portion of the property that would be taxable if this application is approved.

Dr. Anthony DeCarlo, a veterinarian with Mosaic Animal Center, provided his qualifications and professional background. Dr. DeCarlo provided background on Mosaic Animal Company.

Richard Schommer, an engineer representing the applicant, provided his qualifications and was accepted as an expert.

Mr. Schommer presented the proposed Amended Preliminary and Final Site Plan. He also described the site and the immediate area.

Exhibit A-1 was entered into the record, which is titled Exhibit Site Layout. Mr. Schommer presented the layout. He noted that there is a proposed installation of a generator. Mr. Schommer also pointed out the parking available at the site and said that there are not any proposed changes to the parking area.

Exhibit A-2 was entered into the record, which was a photo of the existing building and renderings of the exterior of the building.

Mr. Schommer addressed the requested variances. One is for the use of the facility. There is also a requested variance for the setback of a canopy to the parking area. Proposed new signage was also addressed.

Exhibit A-3 was entered into the record which was a plan for the proposed monument sign.

Mr. Hatab said that the applicant will agree to the memorandum form Mr. Ruschke's office as conditions of approval.

Mr. Vivona said that the proposed canopies do not trigger anything, and the ramp the canopy covers is what would add ground coverage. He also said that the proposed generator is a backup generator, and he does not see an issue with it. Mr. Schommer said that the generator will be set back from the parking area, and will likely be a natural gas generator.

Mr. Borsinger asked about the anticipated number of cars that will visit the site once the vet clinic is open. Dr. DeCarlo said that the hours of operation are extended to spread out appointments, and they do not want a lot of traffic. Mr. Borsinger commented on the amount of pedestrian traffic along the property.

Mr. Honoshowsky asked if there are any plans to designate any of the existing parking spots for the vet clinic. Mr. Schommer said that there are no such plans and he further addressed the parking area. He also said that it is not thought that designated spots are needed.

Paul Cancilla, a planner representing the applicant, provided his qualifications and was accepted as an expert.

Mr. Cancilla addressed the criteria for the variances that are requested. He also addressed the parking area as well as the synergy between the current use of the property and the proposed vet clinic. He also addressed the expansion of the D3 use of the property. The C variances were also addressed. Mr. Cancilla said that the proposed backup generator is included so that vet services can continue during a power outage. He also addressed the proposed signage. Mr. Cancilla provided a summary of the planning aspects of the application.

Mr. Banisch asked how many of the proposed rooms are treatment rooms. Mr. Cancilla said that there are eight proposed treatment rooms. Dr. DeCarlo addressed the use of treatment rooms, and said that they would minimize the number of people who are waiting in the waiting room. He noted that overflow space is needed.

Mr. Vivona commented on the application and made note of the lack of impact on the neighborhood. He also opined that the Township would benefit from having a new vet clinic.

Mr. Borsinger expressed concern about the traffic that will come in and out of the site, noting that there are a lot of pedestrians near St. Hubert's. Mr. Vivona commented on crosswalks for pedestrians. Mr. Banisch commented that there is a safe situation with the current sidewalk. Dr. DeCarlo commented on the anticipated average duration of appointments.

Mr. Vivona opened the floor to the public to ask questions.

1. Kyle Quigley, 43 Roxiticus Road in Mendham Township, said he is the Director of Veterinary Medicine and Genetics at the Seeing Eye Foundation, and spoke in favor of the application.
2. Deborah Morrone-Colella, the Director of Donor & Public Relations at The Seeing Eye, said that she has worked with Dr. DeCarlo. She spoke about his service to The Seeing Eye.

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

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

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

Mr. Vivona said that the resolution will be prepared for the July 20th meeting.

Calendar BOA 22-017 Melissa Jansson-Ryan, 11 Jay Road, Block 108 Lot 113.07

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

John Lyons, an architect representing the applicant, presented the architectural drawings for the application. He said that the property has an existing non-conforming condition due to the location of the home. A second garage is proposed to be added to the house. The front elevation was also presented. Mr. Lyons also addressed a small bedroom that is part of the design of the house.

Mr. Borsinger asked about locating the garage in the rear of the house. Mr. Lyons described the challenges of locating the garage in the rear of the house.

Mrs. Jansson-Ryan said she is trying to bring her home up to a modern living standard, and more living space is needed. She also addressed the driveway.

Mr. Lyons provided additional details on the garage. Mr. Vivona noted that it could not be reduced in size and still be usable.

Andrew Clarke, a land surveyor and engineer representing the applicant, was sworn in to give testimony. Mr. Clarke provided his qualifications and was accepted as an expert.

Mr. Clarke said that his services were sought to address drainage concerns. He presented a street view from Google Maps, and pointed out that the proposed garage is on the same side as the neighbor's garage, which mitigates some of the impact. Mr. Clarke also addressed the drainage and stormwater management. He described the proposed detention system.

Mr. Vivona addressed a drainage issue in the neighborhood and asked how to go about getting it inspected. Mr. Honoshowsky said that he would work with the DPW Director to investigate the drainage pipe.

Mr. McHugh commented on the potential that the one side of the property will be overloaded. Mr. Clarke said that he remains in contact with Mott MacDonald, and he provided his observation that the subject side of the property is not overflowing. Mr. Honoshowsky said that the stormwater management system will probably need to be a closed system. Mr. Honoshowsky also said that the Township code requires infiltration if the project increases the lot coverage by 1,000 square feet. He noted that this proposed project increases the lot coverage by 997 square feet, and current soil conditions would make it hard to meet the code if there are field changes. Mr. Clarke asked if the current application would need to be amended if such changes are necessary, or if a whole new application would need to be submitted. Mr. Banisch stated that if the current application is amended to include that variance, then they would not

need to submit a new application. Mr. Clarke noted that lot coverage does not usually get decreased in the field. Ms. Wolfe said that the variance can be added to the application, however they would need to be able to prove that the condition could be satisfied down the line. The rate of infiltration was discussed.

Mr. Banisch said that the Board should consider that the proposed garage is not near the neighbor's living space. He also noted the second story setback, and said it would not be practical to move the garage. Mr. Banisch said that the applicant has hardship conditions that argue in favor of the relief requested, and arrangements are being made to be sensitive to the impact on neighbors.

Mr. McHugh asked if workable conditions can be set with an approval. Ms. Wolfe stated that the drainage will need to be subject to the approval of the Board Engineer. She also asked Mr. Honoshowsky to comment on coordination with DPW regarding the drainage pipe. Mr. Honoshowsky said that he would reach out to DPW the following day. Mr. Vivona said that any work to be done by DPW would not be a condition on the applicant. Roof runoff was further discussed.

Mr. Ryan said that the review memo deemed the application complete and suggested that the Board add a condition about the drainage issues, which is why Mr. Clarke was hired. Mr. Ryan said that there is not an objection to the condition.

Mr. Vivona opened the floor to the public.

1. Joe McManus and Aileen O'Donovan, 9 Gates Avenue, were sworn in to give comments. Ms. O'Donovan thanked the Board for the dialogue on this application. She asked about the water retention plan, and if updates will be provided to the Board in the future.

Mr. Clarke explained that this project has a retention system, and he described its function. He said that this type of system is not normally used in residential properties, and he is not aware of it being used in this neighborhood, however the type of system has been successfully used in other areas. Mr. Honoshowsky described the enforcement of lot grading plans. Mr. Vivona addressed conditions in the neighborhood.

2. Bradley Huke, 19 Gates Avenue, was sworn in to give comment. Mr. Huke expressed concern about the water management system, and said he would have overdesigned it rather than under-design the system. He also advocated for a maintenance plan.

Mr. Vivona noted that the stormwater management plan is designed for the maximum allowable lot coverage. He also addressed maintenance, and said that the system will not have open grates to collect water.

Seeing no further comment, the floor was closed to the public.

Mr. Borsinger asked if Mr. Honoshowsky is aware of this type of stormwater management system, and if there is an overflow contingency. Mr. Honoshowsky said that this type of

stormwater management system would typically have an orifice, and he addressed how the system would operate in an emergency. He also noted that debris would need to be kept out. Mr. Honoshowsky also said that Mr. Clarke will need to submit calculations to show that the flow rates are being met.

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

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

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

Mr. Borsinger was recused on this application.

Steven Considine, an architect representing the applicant, was sworn in to give testimony. He provided his qualifications and was accepted as an expert. Mr. Honoshowsky was also sworn in.

Mr. Considine provided an overview of the proposed additions to the existing house. A variance is needed due to pre-existing non-conforming conditions regarding side yard setbacks. The applicant wants to maintain the existing non-conformities, add a second floor, and also have an addition to the rear of the house. The requested variances are for a side yard variance and a primary residence variance. The applicant wants to have a garage as part of the addition, which Mr. Considine provided detail regarding.

Mr. Vivona said that during the first site visit, it was determined that the property needs to be redeveloped. He also described concerns that the Board has regarding what applicants promise and what sometimes gets built. Mr. Vivona also discussed impervious coverage, as well as the deck in the rear of the property.

Mr. Honoshowsky noted the need for a lot grading plan.

Mr. Vivona thanked the applicant for changes to the application.

As there was not a quorum present, a vote could not be taken on this application. The hearing will continue at the July 20th meeting.

Mr. McHugh moved to adjourn at 10:50 PM. Mr. Vivona seconded the motion, and the motion carried unanimously.

Gregory J. LaConte
Recording Secretary