

**MINUTES
ZONING BOARD OF ADJUSTMENT
TOWNSHIP OF CHATHAM
SEPTEMBER 22, 2021**

Mr. Weston called the Regular Meeting of the Zoning Board of Adjustment to order at 7:31 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 2021 and January 2022 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. Weston, Mr. Borsinger, Mr. Fitt, Mr. McHugh, Mr. Silva and Mrs. Chang.

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

Approval of Minutes

Mr. McHugh moved to approve the minutes of the August 11, 2021 meeting. Mr. Silva seconded the motion.

Hearings

Calendar BOA -21-001(February 8, 2021) Lechner, Scott/Minelli, 6 Crestwood Drive Block: 74 Lot:4. Requesting Height Variance to construct a single-family dwelling (Revisions 4/30/2021. Complete 6-14-2021-First Hearing)

Scott and Minelli Lechner were sworn in to give testimony.

Mr. Lechner stated that there are design challenges on his property, and he said that the garage will be below subsurface. He also stated that his architect drew two designs, only one of which conforms with zoning regulations. Mr. Lechner said that his desire is to build a house that is in keeping with the character of the neighborhood. He further stated that landscaping will be addressed in the application, and all the trees in the rear of the property will remain.

Mr. Weston stated that height variances are difficult to be obtained in Chatham Township, and he advised Mr. & Mrs. Lechner to be prepared at the site visit to demonstrate why the variance should be granted.

Mr. Lechner stated that he believes the proposed house will be more aesthetically pleasing in the neighborhood despite a height variance.

Mr. Fantina stated that the application is a fully conforming application aside from the requested height variance. He also stated that the proposed house will not loom over any of the neighboring houses. Mr. Fantina further presented the footprint of both the existing structure and the proposed structure.

Mr. Vivona asked how much higher than 35 feet the structure would be. Mr. Fantina said that the proposed structure would be 3.42 feet higher. Mr. Vivona asked if a planter could be built on the side to alleviate some of the height. Mr. Fantina said that the low side is on the garage-side of the structure. Mr. Vivona said that there may be ways to reduce the height without changing the roof line.

Mr. Borsinger asked about the ceiling height for the rooms inside the house. Mr. Ezio said that the first floor has 9-foot ceiling heights and the second floor has 8-foot ceiling heights. Mr. Borsinger said there are a lot of steps leading up to the second floor.

Mr. Ezio presented the front and side elevations and commented on the steep drop off of the grade on the right side of the structure. He also stated that there is a basement-loaded garage. He further opined that the application adheres to the spirit of the Township's zoning ordinance. Mr. Ezio also addressed the incorporation of planting beds. He stated that the height is measured from the existing grade, and stated that planting beds will help mitigate the overall impact of the home.

Mr. Weston stated that the Board likes to discuss alternatives, and advised the applicant to be able to discuss why they think the proposal is the best option.

Mr. Fitt asked about the intended use of the third floor. Mr. Ezio said that there is an attic rather than a third floor.

Mrs. Change asked if there are exterior elevations available that show the floor heights. Mr. Ezio stated that he can have those drawings for the next meeting. Mr. Silva asked that a copy be available at the site visit.

Mr. Borsinger said that a D-Variance is avoided by 0.08 feet, and he said that it would be problematic for the applicant to have to come back. Mr. Ezio explained how the ridge height will be set at the correct height. Mr. Weston asked that any documentation available should be submitted.

Mrs. Tsimboukis stated that the site visit will be on October 2nd at 9:00 AM. The continuation will be on October 21st at 7:30 PM.

Calendar BOA-21-007 (July 14, 2021) Mr. & Mrs. Gallucci, 331 Lafayette Avenue, Block: 70 Lot: 46. Requesting a variance for the installation of an in-ground pool. (Complete 8-30-21- First Hearing). Escrow #34469

Mr. Weston stated that the Site Visit will be held on October 2nd at 9:30 AM.

The applicant's professionals were sworn in and gave their qualifications. All were accepted as expert witnesses.

Michael Miller, an attorney for the applicant, gave an overview of the application.

Mr. Gallucci, the owner of the property and the applicant, described the application. He also stated that the pool will allow him and his wife to get exercise, and he noted knee injuries that disallow him to run for exercise. Mr. Gallucci further reported that approval for a raised patio was granted by the Township in 2010. Mr. Gallucci further noted that the County is responsible for the legacy pond in the front of the property. Pictures were provided of the driveway on the property as well as the location where the pool will be located in the backyard. The set of photos was marked as Exhibit A-1.

Thomas Donohue, an engineer representing the applicant, presented the existing conditions and slopes on the property. He also addressed the slope in the front yard. Mr. Donohue said that the property has a nonconforming 8,919 square feet of impervious coverage. He stated that the impervious coverage nonconformity is mainly due to the length of the driveway, and noted that the house had to be set further back on the property due to the preexisting pond.

Mr. Donohue stated that the proposed plan is to remove the existing patio and replace it with an inground pool and a new patio that would surround the pool. Stormwater that lands on the patio area would be collected by a series of four inlets and would discharge into an infiltration system. There would not be any additional runoff onto neighboring properties. Mr. Donohue stated that there will be additional impervious coverage, and the total impervious coverage on the property would be 9,513 square feet. A variance will be needed for the additional impervious coverage.

Mr. Miller asked if the proposal would need the variance if the house did not need the additional setback requiring a longer driveway. Mr. Donohue said that is correct.

Mr. Weston asked if the impervious coverage exceeds the maximum because of the driveway turnaround. Mr. Miller stated that the coverage is due to the current patio.

Mrs. Chang asked if consideration was given to using material for the patio that would be more pervious. Mr. Donohue said that different municipalities have different considerations for what is considered pervious and impervious, and he said he is not sure what the Township considers to be pervious. Mr. Honoshowsky said that the Township's ordinance does not distinguish between different materials from a zoning perspective.

Mr. Miller said that the original plan required additional variances for side yard setbacks. Mr. Donohue described how the proposed pool was moved to allow conformity with the side yard setbacks.

Mr. Borsinger asked about fencing around the pool. Mr. Donohue stated that a pool safety fence will be installed as required by the building code.

Mr. Weston stated that the site visit will be on October 2nd at 9:30 AM, and he asked for the site to be marked out.

Calendar BOA -21-008 (July 26, 2021) Mikhail Ioffe, 15 Rockledge Trail, Block: 62.02 Lot: 1. Requesting a variance to allow to complete construction of a retaining wall to the adjacent property line and existing stone wall on the northeast side of the property, (Complete 9-1-21-First Hearing) Escrow#34477

Mr. & Mrs. Ioffe and their witnesses were sworn in to give testimony. Mr. Ioffe described the conditions on the lot. He also stated that the construction of the retaining wall would be to increase safety for his children as well as to better control stormwater drainage.

Mr. Weston asked if construction has already begun. Mr. Ioffe stated that there is one wall that has been constructed, and one wall for which construction has begun however a variance is needed for completion.

Mr. Weston stated that a site visit will be held on October 2nd.

Mr. Ioffe presented an engineering drawing of the site, and described the presence of a rock wall. He also stated that the application seeks to complete a wall and backfill the area so that his children can play in the backyard without falling into the trench. Mr. Ioffe also presented a picture of the rock wall and retaining wall.

Mr. Vivona stated that the hearing will be continued at the October 21st meeting.

Calendar BOA -21-004 (March 22, 2021) Asma & Imran Haq, 38 Stafford Road, Block: 48.05 Lot: 19 Requesting variance for rear yard setback for a deck on non-conforming corner lot.

Mr. Silva read the site visit report for this application.

Mr. Vivona provided a description of the current deck and an overview of the application. He also stated that some of the neighbors have much more grandiose decks, and the proposed deck would not harm the neighborhood. Mr. Vivona also stated that there are not any drainage issues.

Mr. McHugh opined that the proposed deck would be an improvement over the existing deck and would have minimal impact.

Mr. Vivona stated that there are not any technical reviews for this application. He also stated that the proposed deck would improve the look of the neighborhood.

Mr. Honoshowsky stated that there are not any engineering issues with this application, and no exception is taken to the Construction Official issuing a permit without an engineered grading plan.

Mr. McHugh moved to approve the application. Mrs. Chang seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Mr. Vivona stated that the memorialization resolution will appear on the October 21st Agenda.

Mr. Ioffe asked when work needs to begin. Mr. Carlson stated that work will need to begin within to years.

Calendar ZBA-21-002(February 24, 2021) Juniper Assisted Living Residence 1, 500 Southern Blvd, Block: 128 Lot: 3. The Applicant has requested variance for a maximum sign area (common sign for structure containing three or more stores or offices)

Mr. Vivona read into the record the site visit report for this application. He also stated that it is unknown if a permit was ever issued for the existing sign, and it will be treated as a preexisting nonconforming condition.

Steven Azzolini, an attorney representing the applicant, said that the application is to replace the existing sign with a new, non-illuminated sign. The sign will be at the same setback but will be 6 feet further north. Mr. Azzolini also stated that a freestanding sign was approved by resolution in 1997.

Frank Pascale, the Executive Director of Juniper Village, was sworn in to give testimony. He stated that he has served in that capacity for 12 years, and Juniper Village has been operating for 21 years. Mr. Pascale also stated that there are about 70 residents and a capacity for about 100. He also noted that there are a lot of visitors in various capacities. Mr. Pascale stated that the new sign is proposed for better visibility. He also stated that the proposed sign is consistent with other signs that have been installed in Chatham Township. Landscaping will be installed to help make the sign more attractive.

Mr. Vivona stated that the Board of Adjustment gets a lot of variance applications for signs, and the Board generally tries to help local businesses. He also stated that the proposed sign is not overwhelming.

Robert Hamburg, the designer and installer of the sign, was sworn in to give testimony. He provided his qualifications and was accepted as an expert. Mr. Hamburg stated that sight lines are taken into account when signs are designed. Mr. Hamburg presented a rendering of the proposed sign along with a comparison to the existing sign. He further discussed the materials to be used in the sign construction.

Mr. Hamburg also presented a photo showing the existing sign location and the location of the proposed new sign. Mr. Vivona said that the exhibit shows an improved line of sight and the sign does not cause any problems. He also commented on the landscaping. Mr. Azzolini commented on the size of the sign.

Mr. Borsinger asked if the illumination for the new sign will be the same wattage as the existing sign. Mr. Hamburg stated that it would be the same.

Mr. Honoshowsky stated that there are not any additional engineering concerns on this application.

Mr. Borsinger moved that the variance be granted. Mr. Fitt seconded the motion.

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Mr. Vivona stated that a memorialization resolution will be considered at the October 21st meeting.

Calendar BOA- 21-006 – Walter H. Prah & Sarah L. Shore 53 Dellwood Avenue Block 77 Lot 2,02, The Applicants seek to construct an approximate 265 sq. ft. addition to an existing single-family home. The applicants intend to install an endless pool in the addition. A variance for building coverage is required.

Mr. McHugh read into the record the site visit report for this application.

Mr. Azzolini, an attorney representing the applicants, stated that a correction was made to the application to clarify the square footage. He stated that the size of the addition has not changed.

Mr. Prah stated that he and Mrs. Shore are longtime residents of Chatham and moved into their current home in 2014. He also addressed the benefits of hydrotherapy and swimming as a form of exercise. The endless pool would allow them to swim for exercise all year long. Mr. Prah also noted that they could apply for a permit to install an outdoor pool without needing a variance. He also stated that the proposed location of the endless pool was selected to be the least conspicuous spot. Mr. Prah also addressed the alternatives available. He stated that building the endless pool in their basement could lead to issues of mold and corrosion. While an outdoor pool could be built, that would not allow for year-round hydrotherapy. Mr. Prah also stated that the pool would be an exercise facility and would only hold up to two people at a time rather than having an entertainment capacity. Outdoor lighting would not be required as part of the addition. Regarding drainage, Mr. Prah said that there is a drywell close to the location of the proposed addition. The guttering that would be needed for the addition would feed into the existing drywell. Mr. Prah also stated that they have never had issues with water in their basement. Mr. Prah thanked the Board for their time.

Mr. Azzolini asked if there are any deed restrictions or protective covenants protecting the property. Mr. Prah stated that there are not.

Mr. Vivona stated that a lot of people would have opted for a pool house larger than what is proposed in this application. He also stated that the yard is well screened and a lot of consideration was taken to put the proposed addition where it would not be noticeable.

Mr. Honoshowsky indicated that there are not any engineering concerns beyond what was written in the memorandum from Mr. Ruschke.

Karl Nichol, an architect representing the applicant, was sworn in to give testimony. He also provided his qualifications and was accepted as an expert.

Mr. Nichol presented architectural drawings of the proposed addition. He also presented and described the rear, left and front elevations.

Mr. Vivona asked if the pool will be in the ground. Mr. Nichol confirmed that it will be inground, and the room will have insulation per code. He further addressed Mr. Prah's earlier comments about the potential for corrosion, and he has seen a lot of that from indoor pools. Mr. Vivona asked about the ventilation system. Mr. Nichols said that has not been discussed, however there may be a mini-split. Mr. Prah said he anticipates a mini-split as well, and further noted that the addition will not share the HVAC system with the rest of the house.

Mr. Vivona asked about the material for interior walls. Mr. Nichols said that he does not recommend sheetrock. Mr. Silva asked about the material used in the wall between the garage and the pool. Mr., Nichol said it is mostly made out of 2x4, and sprayfoam will likely be needed to meet the energy code. Mr. Silva expressed concern about a car from the garage accidentally crashing through the wall. Mr. Azzolini said that measures can be taken for safety. Mr. Vivona suggested that a ballard be installed.

Mr. Nichol stated that the gutters will be tied into the existing roof leader drains into the existing drywell.

Mr. Honoshowsky asked if there will be any outdoor pool equipment. Mr. Nichol stated that the mechanicals will be in an equipment pit. He also stated that none of the mechanicals will be outdoors.

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

Mr. McDonough presented a street view photograph of the site. He stated that the view of the house from the street will not be changed by the addition. Mr. McDonough also presented a photograph of the subject property's backyard under present conditions and showed where the addition will be placed. A photograph of the existing vegetative screening was also presented. An aerial photograph was presented and Mr. McDonough stated that the applicant has picked the optimal location for the addition. An aerial photograph showing the rear yard from a side view was presented, as well as a rear yard view showing the back of the house. An aerial view of the left elevation was also presented. Mr. McDonough said that the addition will be modest in scale. Mr. McDonough said that the property is in the R-3 Zone, and the application is in substantial conformance with the Township's zoning ordinance. He noted that the setback requirements and lot coverage requirements are met. The variance requested is to allow 3,008 square feet in building coverage, whereas only 2,720 square feet is what is allowed on this lot. Mr. McDonough addressed the justification for the relief by using the C-2 balancing test. He stated that the benefits outweigh the detriments. Mr. McDonough stated that the application will support the planning goal for a healthy and livable community, and it will create year-round exercise space. Mr. McDonough said that the addition will visually and functionally integrate with both the building and the neighborhood. He also stated that the application will advance the fundamental purposes of the Land Use Law as follows: Purpose A, promoting the general welfare; Purpose I promotion of a desirable visual environment; and Purpose M efficiently using land as a positive retrofit of open space. Mr. McDonough said that the addition will have minimal impact on surrounding properties and will be properly screened by existing vegetation. Mr. McDonough stated that the building coverage relief is minimal and is mitigated by the lot coverage conformance which is 7% under the allowed amount. The lot coverage is further mitigated by stormwater controls on the property. Mr. McDonough further stated that the addition is a better option than the alternatives that were described earlier.

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

Roll Call: Mr. Vivona, Aye; Mr. Weston, Aye; Mr. Borsinger, Aye; Mr. Fitt, Absent; Mr. McHugh, Aye; Mr. Silva, Aye; Mrs. Chang Aye.

Mr. Vivona stated that a memorialization resolution will be considered at the October 21st meeting.

Mr. Fitt moved to adjourn at 10:15 PM. Mr. Vivona seconded the motion, and the motion carried unanimously.

Gregory J. LaConte
Recording Secretary