

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
OCTOBER 21, 2024**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:34 P.M.

Adequate notice of the meetings of the Planning Board 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 was filed with the Municipal Clerk and a copy was placed on the bulletin board in the main hallway of the Municipal Building.

Roll Call

Answering present to the roll call were Mr. Sullivan, Mr. Neibert, Mr. Kahn, Mrs. Ewald, Mr. Shehady, Mr. Nikolopoulos, Mr. Miller and Mrs. Stillinger.

Mr. Choi arrived a few minutes late.

Mr. Duemling and Mrs. Foran were absent.

Also present were Board Engineer John Ruschke, Board Planner Frank Banisch and Board Attorney Steve Warner.

Approval of Minutes

Mrs. Ewald moved to approve the minutes of the August 19, 2024 meeting. Mr. Neibert seconded the motion which carried unanimously with abstentions by those who were absent from the meeting.

Resolution

Resolution: PB-24-011 – Master Plan Consistency Review

**RESOLUTION #2024-11
FINDING THAT ORDINANCE NO. 2024-19, AMENDING CHAPTER XXX, TITLED "LAND
DEVELOPMENT" OF THE REVISED GENERAL ORDINANCES TO ESTABLISH AN
ENVIRONMENTAL STEWARDSHIP OVERLAY ZONE ON BLOCK 48.21 LOTS 174, 174.03
AND 180, IS NOT INCONSISTENT WITH THE TOWNSHIP'S MASTER PLAN**

WHEREAS, on September 24, 2024, at a duly noticed and constituted public meeting, the Township Committee of the Township of Chatham (the "Township Committee") introduced, on first reading, proposed Ordinance No. 2024-19 (the "Proposed Ordinance"), which would amend the the General Ordinances to establish an environmental stewardship overlay zone on Block 48.21, Lots 174, 174.03 and 180; and

WHEREAS, after introduction, the Township Committee referred the Proposed Ordinance to the Planning Board of the Township of Chatham (the "Board") for Master Plan consistency review, pursuant

to N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

WHEREAS, on October 21, 2024, at a duly noticed and constituted public meeting, the Board considered the testimony of the Board Planner and determined that the Proposed Ordinance is not inconsistent with the Township's Master Plan.

NOW, THEREFORE, BE IT RESOLVED by the Board as follows:

Section 1. The foregoing recitals are incorporated herein as if set forth in full;

Section 2. The Board hereby finds and determines that Ordinance No. 2024-19, which is attached hereto as **Exhibit A**, is not inconsistent with the Township's Master Plan;

Section 3. The Recording Secretary of the Board shall forward a copy of this Resolution with the attached Ordinance to the Township Committee. This Resolution shall serve as the report to the governing body in accordance with N.J.S.A. 40:55D-26(a) and N.J.S.A. 40:55D-64; and

Mr. Warner announced on the record that Ms. Stillinger and Mr. Miller continue to be recused from this matter.

Mr. Banisch explained the reasons why the Board can determine that the ordinance is not inconsistent with the Master Plan. Mr. Warner said that the Board is within the 35 day period for a master plan consistency review to occur.

Mr. Neibert moved to adopt Resolution PB-24-011. Mr. Kahn seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Neibert, Aye; Mr. Kahn, Aye; Mrs. Ewald, Aye; Mr. Shehady, Aye; Mr. Choi, Absent; Mr. Duemling, Absent; Mr. Miller, Recused; Mr. Nikolopoulos, Aye; Mrs. Stillinger, Recused; Mrs. Foran, Absent.

Hearings

PBA-24-002 Robert Jansen, 437 Green Village Road, Block:48.21 Lots: 158, 158.01.

Mr. Warner stated that he reviewed the notice for this hearing and found it sufficient. He offered his legal opinion that the Board has jurisdiction to hear this application.

Attorney Samuel DeAngelis was present to represent the applicant. Mr. DeAngelis said that Mr. Jansen is a longtime property owner in Green Village. Mr. DeAngelis explained that the proposed lot merger is connected with a septic system installation.

Mr. Jansen and the Board professionals were sworn in to give testimony.

Mr. Warner said that the applicant is the owner of both lots, and the lot merger was originally recommended by Mr. Ruschke's office. Mr. Warner also noted that a lot merger is technically considered a minor subdivision. Mr. Warner noted that there are some completeness items that need to be addressed, and there are three design waivers for the proposed merged lot. Mr.

Warner said that the three variances listed in Mr. Ruschke's memo are pre-existing conditions that are not exacerbated by the application.

Mr. Jansen said that his family has owned the subject property since 1961. He said that he had his septic system inspected a few years ago, and the system was beginning to fail. A septic application was submitted to and approved by the Board of Health subject to the lots being merged. Mr. Jansen stated that to the best of his knowledge, the two lots were originally one lot that was subdivided about 100 years ago. Merging the lots together will give enough area for installation of a new septic field.

Mr. DeAngelis noted that it is indicated that the two existing lots are nonconforming regarding lot width, and the merger of the lots will eliminate that nonconformity.

Mr. Warner asked about installation of monuments.

Mr. DeAngelis stated that approval has been granted by the Morris County Planning Board. He also reviewed the conditions of approval in Mr. Ruschke's memo. Mr. DeAngelis commented on wetlands, and said that there may be a need for an absence letter to be submitted.

Mr. Sullivan asked about the location of the current septic system. Mr. Jansen said it is on the house lot. Mr. Sullivan asked if there are new engineering requirements that require the new system to be on the adjacent lot. Mr. Ruschke said that the majority of the house lot is in the flood plain, which is an environmental constraint.

Mrs. Ewald asked why there are design waivers. Mr. Ruschke said that it is a technicality, as a new lot is being created.

Mr. Miller asked about the length of the septic approval process. Mr. Jansen said that it has been three years. Mr. Miller commented on the loss of sewer capacity reservations for Green Village. Mr. Warner said that the sewer capacity issue is not material to this particular application.

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

Mr. Warner said that the motion would be for a minor subdivision/lot merger with design waivers for minimum lot depth and minimum usable lot area, the granting of five completeness waivers, and stipulation of all seven conditions in the memo from Mr. Ruschke's office.

Mr. Neibert moved to approve the application with the terms and conditions as described by Mr. Warner. Mr. Miller seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Neibert, Aye; Mr. Kahn, Aye; Mrs. Ewald, Aye; Mr. Shehady, Aye; Mr. Choi, Aye; Mr. Duemling, Absent; Mr. Miller, Aye; Mr. Nikolopoulos, Aye; Mrs. Stillinger, Aye; Mrs. Foran, Absent.

PBA-24-24-004 – Fairmount Country Club, 400 Southern Blvd., Block: 128 Lot: 10.01

Mr. Kahn recused himself from this application.

Mr. Warner said that the application was previously deemed to have been properly noticed. At the August 19th meeting it was carried to the September 23rd meeting without further notice, and was subsequently carried to this meeting without further notice. Mr. Warner said that the Board continues to have jurisdiction to hear the application.

Steve Tombalakian, an attorney representing the applicant, provided a recap of the last hearing.

Mr. McDonald provided a summary of the action items taken since the last hearing.

Exhibit A-1 was submitted to the record, which was a printed copy of a PowerPoint presentation.

Mr. McDonald addressed an image of the tee boxes. Mr. McDonald also addressed five follow-up questions that the Board had issued at the last hearing.

The location of the tee box was further discussed, and screening of the tennis courts with trees was discussed.

A trajectory study was discussed. Mr. Warner noted that there was not anyone present to testify on the trajectory study and be cross-examined.

Mr. Miller asked for data on how many balls were hit into the tennis area. Mr. McDonald commented on the safety issues. The hours of the summer camp were noted.

Mr. Choi asked when the tennis courts were built in their current location. The applicants said that they were built in the 1970's, and the 6th hole was in its present location prior to construction of the tennis courts.

Mrs. Stillinger asked if a 100-foot net would be as effective as a 120-foot fence. Mr. McDonald said it would not. Mr. Shehady said it was previously testified that 140 feet was the recommendation of a professional, and 120 feet is less than what was deemed optimal. Mr. Sullivan opined that applicants often apply for what they think the Board will approve.

Mr. Miller said he visited the site, and the aesthetics would not be a loss to the community.

Mrs. Ewald asked about the flight of golf balls. Mr. McDonald commented more on the trajectory of golf balls.

Mr. McDonald addressed the NJ Women's Tennis League denying the request for a waiver of covered tennis courts. He also addressed the view of the netting from different vantage points.

Mr. Miller noted that additional trees can be planted to have more screening, and Board approval is not required for that.

The size of the posts and netting was discussed.

The impact on birds was discussed. Mr. McDonald commented on discussions with the Raptor Trust. Mr. Warner noted that any experts need to be presented to give testimony and be subject to cross examination. The impact on bird migration was further discussed. Mrs. Stillinger asked if the applicant would take the advice of the Raptor Trust regarding bird diverters on the nets as a condition of approval. Mr. Tombalakian objected to giving veto power to an outside agency. It was discussed having Mr. Banisch review a plan from the Raptor Trust for bird diversion measures.

Mr. Sullivan asked if the Fairmount Country Club had considered moving the tee box to make the hole in question shorter. Mr. McDonald addressed the possibility and implications of moving the tee box.

Mr. Choi asked about the cost comparison between net installation and the moving of the tennis courts. Pete Maiorano commented on the possibility of moving the tennis courts.

A recess was taken at 9:41 PM.

The meeting was resumed at 9:54 PM.

Mr. Sullivan opened the floor to the public.

1. Vicky Aloia, 37 Rolling Hill Drive, was sworn in to give testimony. Mrs. Aloia said that she often plays tennis, and the number of golf balls hit into the tennis area have increased. She described an incident when she was almost hit by a golf ball, and commented on the safety concerns. Mrs. Aloia also noted that cell towers are taller than the proposed nets, and she advocated for the nets.
2. Suzanne De Michele, 1 Williams Road, was sworn in to give testimony. Mrs. De Michele said that she and her husband joined the Fairmont Country Club as it is a family-centric facility. She plays tennis there, and she commented on the frequency with which golf balls are hit into the tennis area. Mrs. De Michele further commented on the safety issues.
3. Andrew Dinnhaupt, 2 Chandler Road, was sworn in to give testimony. Mr. Dinnhaupt thanked the Planning Board for their consideration. He said that this matter has been brought before the Board because the safety of the members of the Fairmount Country Club, many of whom are Chatham residents, is a priority to the Club. Mr. Dinnhaupt commented on efforts taken to find solutions.

Seeing no further comments, Mr. Sullivan closed the floor to the public.

Mr. Sullivan asked if a balloon study was taken. The applicant's engineer said a drone was used. Mr. Sullivan commented on concerns about height. Mr. Sullivan advised any Board member who has not yet visited the site to do so.

Mr. Nikolopoulos asked if the height or the safety of birds were the bigger issue. He introduced into evidence as Exhibit B-1 a picture of netting at Canoe Brook Country Club that he viewed.

Mr. Miller commented on his visit to the site.

Mrs. Ewald asked if it is possible that the applicant might come back in a few years for a higher net. Mr. McDonald commented on the safety issues and said the Club is comfortable with a 120 foot net.

Mr. Choi commented on the relative height of neighboring structures. He asked about the proposed timing of construction. The applicant indicated that they would want the net in place before April 2025.

Mr. Maiorano commented on the visibility of the netting from the street.

Mr. Banisch suggested that the Board may want to have a site visit at a time when a representative from the applicant can answer questions. Mr. Sullivan said he does not believe that anyone has been to the site without a guide, and most Board members have already visited the site. He said he does not believe that a formal site visit is needed. Mr. Warner said that there have not been any ex parte communications. Mr. McDonald offered to assist any Board members who want to visit the site.

The application was carried to the November 4th meeting at 7:30 PM without additional notice. Mr. Warner noted that the applicant will be expected to provide renderings and to permit further site visits. Any Board questions or comments will be considered at the next meeting. The applicant consented to an extension to act to November 5th.

Mr. Miller moved to adjourn at 10:31 PM. Mr. Neibert seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary