

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
FEBRUARY 5, 2024**

The Regular Meeting of the Planning Board was called 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, Mrs. Ewald, Mr. Choi, Mr. Shehady, Mr. Duemling, Mr. Miller, Mr. Nikolopoulos and Mrs. Stillinger.

Mr. Kahn and Mrs. Foran were absent.

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

**Approval of Minutes**

Mr. Neibert moved to approve the minutes of the January 8, 2024 meeting. Mr. Miller seconded the motion which carried unanimously.

**Concept Review**

PBA-24-001 – Kaushal Majmudar, 55 Mountain Avenue. Block: 37 Lot: 5.01.

Mr. Warner explained that under the Municipal Land Use Law, informal concept reviews can be conducted by planning boards. He said that he spoke with the applicant for 55 Mountain Ave, and there was litigation regarding the property back in 2004. Mr. Warner said that there may be a court ordered settlement agreement limiting the footprint of the house to a certain square footage. Mr. Warner said that he has not had a chance to review the court documents yet, however it appears that the Board determined in 2007 that they were not authorized to amend the prior limitation. Mr. Warner said that he will perform further research on this matter, and will advise if the Board has authority to proceed with the concept review and any potential application.

Mr. Miller moved to carry the concept review to a date to be determined, pending legal review.

Mr. Neibert seconded the motion which carried unanimously.

Mr. Sullivan noted that this legal question came up last minute.

## **Discussion**

### **Stand-Alone “Garages” & 10 ft Side Yard Setbacks**

Mr. Sullivan summarized the prior discussion on accessory structure garages. He said that there was discussion about how a garage is defined. Mr. Sullivan also recommended that there be restrictions on accessory garages in the R3, R4 and R5 zones.

Mr. Neibert recommended that there be language in the Township Code Book that better defines a garage as storage for cars, and that the language ensure that garages not be converted into pool houses or office space. He further suggested that when a house is built to the max, there should not be allowances for an accessory garage in addition to an attached garage.

Mr. Miller said that there are some sections of the Township where barn-style accessory garages is appropriate, and other sections where they would not be appropriate. Mr. Banisch said that such garages should remain garages, and not be converted into home offices. Mr. Miller warned against adopting regulations that would result in some properties having pre-existing non-conforming conditions.

Mr. Ruschke said that detached garages can count toward overall building coverage, and advised to not have that condition apply to sheds.

Mrs. Ewald asked how this topic first came up. Mr. Sullivan said that a builder found a loophole that a detached garage could be built in addition to an attached garage, and it is happening frequently with tear downs. Mr. Sullivan said that his concern is what it will look like in twenty years. Mrs. Ewald noted that there are setbacks that vary by zone, and accessory structures would need to adhere to those setbacks.

Mr. Choi said that the Board often deals with topics like this reactively, and would like to proactively review ordinances by zone for relevance and to make sure they are current. He also said that the Board should consider to what extent it should advocate growth while preserving existing character.

Mr. Sullivan said that sometimes topics are discussed because one resident complains about something that happened in their immediate neighborhood, and the Board needs to consider an entire zone. Mr. Banisch commented on setback averaging. Mr. Neibert said that many neighboring municipalities have formulas for setbacks. He also said that averaging helps prevent outliers like the property on Yarmouth about which complaints were received.

Mr. Miller addressed the growing pains that neighborhoods experience when housing stock is redeveloped.

Mr. Duemling said he likes using total building coverage as the governor so that property owners can decide how much garage space they want. He also noted use of setbacks.

Mr. Nikolopoulos asked about lot sizes in different zones, and said that the R-4 zone is one in which accessory garages would not be appropriate.

Mr. Choi suggested that a subcommittee be appointed to draft a recommendation. He also said that the rights of property owners need to be balanced with the impact on neighbors, and he advocated for proper regulation of setbacks.

Mrs. Stillinger said that the use of the lot area is just as important as lot size. She noted that some large lots have only a small developable area.

Mr. Choi, Mr. Miller and Mr. Neibert were appointed to serve on a subcommittee to draft a proposal.

Mr. Sullivan asked that the subcommittee also address the issue of flat roofs.

### Hillside Avenue

Mr. Sullivan said that the Police Department is anticipated to submit results from a traffic study. Mr. Shehady said that he has the results and will share the information with the Board.

Mr. Sullivan noted that if traffic is blocked on Hillside Avenue, it will be diverted somewhere else. He also said that there may be additional developments on River Road in the Borough like The Ivy.

### Quality of Life Issues

Mr. Sullivan raised the question if developers should be required to bring sidewalks up to code when there are tear downs. Mr. Warner said that there would need to be an ordinance in place to require that, and such an ordinance could not discriminate whether it was a developer or a private homeowner. Mr. Warner further stated that he is not aware of any prohibition on such a requirement being set by ordinance. Mr. Ruschke stated that when final inspections are performed, damaged sidewalks are required to be repaired.

Mr. Miller asked about County roads and if the Township would have jurisdiction to make such a requirement. Mr. Ruschke said that the County generally does not take any responsibility beyond the curb.

Mr. Choi asked about upcoming work on Fairmount Avenue. Mr. Ruschke said that is an ADA compliance project.

### Great Swamp Watershed Association

Mr. Miller recused himself from this discussion.

Mr. Banisch said that the Great Swamp Watershed Association will be making an application for a use variance. He said that the Planning Board could create a conditional use permit for a non-profit conservation use, which would give the GSWA the right to do the things they are planning to do with the property they own in Green Village. By creating this conditional use, the Planning Board would retain jurisdiction over such situations, rather than having it go before the Zoning Board of Adjustment for a variance. Mr. Banisch said that he will draft a memo for a potential recommendation to the Township Committee for a conditional use.

Mr. Warner provided a brief overview of how conditional uses are approved.

Mr. Sullivan opened the floor to the public.

1. Dan Miller, Green Village Road, suggested that a meeting be held at the Green Village Firehouse for residents to express concerns about the potential programming that the Great Swamp Watershed will hold at the location.

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

Mr. Sullivan noted that if the Township Committee takes up this topic, there will be a public hearing on any ordinances that may be introduced.

### Stormwater Control Ordinance

Mr. Sullivan asked if this ordinance will need to be addressed at the next meeting. Mr. Banisch explained that the DEP keeps updating stormwater regulations, which requires municipalities to update their regulations. Mr. Warner said that if the Board does not conduct a master plan consistency review in the 35 day period, then they lose their ability to comment before the Township Committee takes action. He also said that the Board could voluntarily decide not to conduct a review.

Mr. Sullivan noted that the Master Plan was recently updated such that the introduced ordinance would be consistent. Mr. Banisch said that the ordinance would technically be referred to as being not inconsistent with the Master Plan.

Mr. Warner said that there is not any negative connotation to not taking action on the ordinance. He noted that there will be a public hearing on the substance of the ordinance at a Township Committee meeting.

The consensus of the Board was to opt out of holding a master plan consistency review.

Mrs. Stillinger praised the ordinance, noting that a lot of the details are incorporated by reference to statutes. She asked if the Township's definitions were stricter than the State's definitions.

Mr. Ruschke said that the Township typically adopts the State's model ordinance. He also said that the DEP's manual is very strict.

Mr. Sullivan said that the February 26<sup>th</sup> meeting might be cancelled.

Mr. Miller moved to adjourn at 8:58 PM. Mr. Nikolopoulos seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary