

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
APRIL 18, 2022**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:32 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 2022, and January, 2023 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.

Answering present to the roll call were Mr. Sullivan, Mr. Choi, Mrs. Ozdemir, Mr. Duemling, Mrs. Felice, Mr. Hoffmann, Mr. Kahn and Mr. Neibert.

Mr. Hamilton and Mr. Miller were absent, and both absences were excused.

Also present were Board Attorney Steve Warner, Board Engineer John Ruschke and Board Manager Kali Tsimboukis.

Mr. Sullivan announced that the hearing on 522 Southern Boulevard has been carried to the May 2, 2022 meeting. Mr. Warner said that the applicant's attorney made the request to carry the hearing. The meeting will be in person at the Municipal Building. A time to act extension has been granted to the Board through May 3, 2022. Mr. Warner also stated that the notice of the hearing was provided in a timely manner, and the hearing can be carried without further notice.

Approval of Minutes

Mr. Duemling moved to approve the minutes of the February 28, 2022 meeting. Mr. Neibert seconded the motion which carried unanimously with abstentions by those who were absent.

Resolutions

PBA-21-003- Mark & Nicole Lois, 15 Gates Avenue, Block: 108 Lot: 30

Mr. Warner stated that only those Board members who voted in favor of the application are eligible to vote on the resolution. Of those three members who are eligible, two are present.

Mr. Duemling moved to adopt Resolution Mr. Sullivan seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Duemling, Aye.

Hearings

PBA-22-003 Fenix I, LLC & Fenix II, LLC, Longview Avenue, Block: 9 Lots 1 & 1.01, Block: 32 Lot:1, Block 33 Lots: 1. 1.01, 1.02, 14, 14.01, 17 & 20. Amended Major & Minor Subdivision approval with Variances

Mr. Warner stated that the hearing was properly noticed and the Board has jurisdiction to hear the application.

Mr. Sullivan noted that some members of the public were present at the meeting, and he reminded those present that the Planning Board does not get involved in private matters between private entities. He also noted that the Planning Board's concern is the overall completion of the project.

Steve Schaffer, an attorney representing the applicant, provided an overview of the application.

Mr. Warner stated it is his understanding that the applicant is seeking relief from a condition in the 2012 approval with respect to a 9-lot subdivision. An extension of time for the final paving of Mountainside Drive and Longview Avenue is requested. Mr. Schaffer stated that in 2016 an extension was granted for final paving to be completed by November 30, 2021.

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

Ron Gunn, the applicant, provided testimony. Mr. Gunn said that 5 of the 9 homes are built and occupied. The sixth home is currently being built. The seventh, eighth and ninth lots are under contract for sale to builders.

Robert Moschello, the engineer representing the applicant, presented his qualifications and was accepted as an expert.

Mr. Moschello provided additional background information on the application. He also stated that the roads are constructed, stormwater management facilities are in place, and some individual drainage measures will be installed on the lots that remain to be built. Mr. Moschello said that there are two cul-de-sacs, one on the east and one on the west. The western cul-de-sac only has a base coat of paving. Mountainside Drive also does not yet have final paving.

Mr. Schaffer stated that the Drainage Basin should be conveyed to the Homeowner's Association. He also stated that the Homeowner's Association is required to be transferred to the homeowners after the ninth lot is built, and proposed that the transfer occur after the sixth lot is built. Mr. Schaffer stated that the applicant will stipulate for the transfer to occur within three months of the approval.

Mr. Sullivan asked if the Detention Basin is in good order to be turned over. Mr. Ruschke stated that it is in good order, however Mr. Gunn also has an outstanding Soil Erosion and Sediment Control Permit related to work that will occur on the lots that still need to be built. Mr. Ruschke stated that the Homeowner's Association will not be responsible for maintenance of the Basin that relates to construction of the homes.

Mr. Schaffer stated that the Homeowner's Association has been legally established. However, there are not any homeowners involved in the Association yet. Mr. Schaffer also acknowledged that homeowners should not be charged for construction related costs.

Mr. Ruschke stated that the interests of the Township need to be protected, and the Township will protect the interests of residents as well. He also reviewed the conditions he addressed in his review memo. Mr. Ruschke also noted that the Township has been doing some of the snow plowing at the development, although it is still the responsibility of the developer.

Mr. Ruschke discussed the transfer of the detention basin to the Homeowner's Association. He also addressed the collection of sewer connection permit fees, which will be assessed on the builders.

Mr. Sullivan opened the floor for the public to ask questions of the witnesses. Seeing none, Mr. Sullivan closed the floor to questions from the public.

Mr. Sullivan opened the floor for public comment on the application. Seeing none, Mr. Sullivan closed the public comment section.

Mr. Warner provided a recap of the application for an extension of Condition 7 and Condition 10 of the original approval.

Mr. Schaffer stated that the concerns of the residents are under discussion with an attorney representing the homeowners and an attorney representing the Homeowners Association.

Mr. Sullivan reopened the public comment session.

1. Zack Carlson, 107 Longview Avenue, asked to hear the conditions in Mr. Ruschke's memo. Mr. Warner read the list. Mr. Ruschke clarified when the final paving will occur. Mr. Carlson asked when it is determined if the paving is acceptable. Mr. Ruschke said it will be accepted before the road is accepted by the Township. Mrs. Felice asked if there is anything the Township can do about plowing and salting when the developer fails to do so, and if a fee can be charged.

Having the paving occur within three months of the resolution was discussed and stipulated to.

2. Jessica Yankelunas, 103 Longview Avenue, said that a fee should be charged to the developer when the road is not plowed. She also asked who is accountable for those fees if they are charged. Mr. Ruschke said that the Homeowners Association would not be accountable for anything within the municipal right-of-way. Mr. Schaffer said that it would become a municipal responsibility when the Township takes over the road. Mrs. Felice asked if there could be a bond to make sure that the developer plows the road. Mr. Warner said that there are laws governing bonding.

Seeing no further comment, Mr. Sullivan closed the public comment session.

Mr. Ruschke commented on enforcement mechanisms and stop-work orders.

Mr. Schaffer asked if the developer could move forward with Block 9 Lot 1 with the approval resolution still pending. Mr. Gunn said that he has an ongoing contract with several paving suppliers and paving companies. Mr. Neibert expressed concern about proceedings without a written resolution. Mr. Sullivan said he is willing to allow them to move forward if Mr. Ruschke does not have any concerns. Mr. Ruschke said he was sufficiently comfortable that the applicant could move forward with the Block 9, Lot 1 permit and construction process, given the various protections in place. Based thereon, the Board was polled and agreed to permit the applicant to proceed accordingly.

Mr. Hoffmann moved to approve the application subject to the conditions stipulated. Mr. Neibert seconded the motion.

Roll Call: Mr. Sullivan, Aye; Mr. Choi, Aye; Mrs. Ozdemir, Aye; Mr. Duemling, Aye; Mrs. Felice, Aye; Mr. Hoffmann, Aye; Mr. Kahn, Aye; Mr. Hamilton, Absent; Mr. Miller, Absent; Mr. Neibert, Aye.

Mrs. Felice moved to adjourn at 8:46 PM. Mr. Sullivan seconded the motion, which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary