

**MINUTES
PLANNING BOARD
TOWNSHIP OF CHATHAM
May 1, 2023**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:30 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 2023, and January, 2024 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. Duemling, Mrs. Felice, Mr. Miller, Mr. Choi, Mr. Nikolopoulos and Mr. Neibert.

Mr. Shehady and Mr. Kahn were absent.

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

Minutes

Mrs. Felice moved to approve the minutes of the April 3, 2023 meeting. Mr. Choi seconded the motion which carried unanimously with abstentions by Mr. Sullivan, Mr. Duemling and Mr. Miller.

Resolutions

PBA-22-007 Nouvelle Housing Solutions, Inc., 490 River Road, Block:62 Lots 70, 71 & 71.01.

Mr. Warner provided background on this resolution, stating that the developer has requested an extension for filing the deed for the minor subdivision deed. The resolution, if adopted, will extend the time to file until November subject to the conditions of approval.

Mr. Neibert moved to adopt the resolution. Mr. Miller seconded the motion.

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

Hearings

PBA-23-001 PSE&G, 533 Green Village Road, Block: 48.21 Lot 174 & 180 Minor Subdivision

Mr. Warner announced that Mr. Miller and Mr. Shehady have recused themselves from participating in the hearing of this application. He also stated that the notice for this hearing was timely served, and the Board has jurisdiction to proceed with the hearing.

Jennifer Porter, an attorney representing the applicant, made an opening statement. Mrs. Porter provided an overview of the application. She also noted that there is a separate but related application before the Township of Harding Planning Board. Mrs. Porter further noted that the subdivision is being sought to mitigate the impact to the Great Swamp Wildlife Refuge. Most of the site will be conveyed to the US Fish & Wildlife Service, with a portion being conveyed to the Township to be later conveyed to the Green Village Fire Department, and the other being conveyed to the Great Swamp Watershed Association. Mrs. Porter described the variances that are being requested.

Mr. Warner stated that a modified subdivision plan will be submitted as an exhibit due to an error in the original plan. He also said he anticipates testimony addressing variances noted in the Board Planner's memo. Mrs. Porter said that testimony will be given.

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

Brandi Bartolomeo, a Permitting Specialist at PSE&G, provided her qualifications and was accepted as a fact witness.

Mrs. Bartolomeo provided background on the Roseland-Pleasant Valley Project, which involved the replacement of lattice towers. The property was acquired as a staging area for that project, however it wound up not being used for that purpose. Mr. Sullivan asked if the property was bought for a diversion. Mrs. Bartolomeo said that mitigation for the Great Swamp was a consideration. Mrs. Bartolomeo also discussed the environmental assessment that was performed as part of the Roseland-Pleasant Valley Project.

Exhibit A-1 was entered into the record, which was an updated subdivision plan.

Exhibit A-2 was also entered into the record, which is a letter from the Great Swamp Refuge Manager Mike Horn to PSE&G.

Mrs. Bartolomeo described the three lots to be created by the subdivision. She noted that Lot C would be given to the Green Village Fire Department and Lot A would have the existing home and horse barn. She said that if the application is not approved, the whole parcel will transfer to the US Fish & Wildlife Service and the existing home would be demolished.

The easement for Fawcett Lane was also discussed, as well as the potential of vacating the paper street to the adjacent homeowners. The conditions in the memorandum from Mr. Ruschke's office were also addressed.

David Karlebach, a planner representing the applicant, provided his qualifications and was accepted as an expert witness.

Mr. Karlebach said that the relief requested was already described. He also noted the need for a waiver for lot size. Mr. Karlebach also addressed the comments in the memorandum from Mr. Banisch's office, and said that some of the variances cited were remnants of an earlier submission and may not apply. Mr. Karlebach cited the variances he believes are needed. He noted that the dimensional variance can be granted under the C2 criteria. Mr. Karlebach also stated that there will not be any additional development at the site. He stated that the benefits of the subdivision outweigh the detriments.

At 9:00 PM the Board took a brief recess. The meeting was resumed at 9:13 PM.

Mr. Sullivan opened the floor to the public for comments and questions.

1. Carol Ann Miller, 465 Green Village Road, was sworn in to give testimony. Mrs. Miller stated her concerns about the waterways on the property and said they need to be maintained every year. Mrs. Miller asked for limitations on presentations and programs at the site, noting that it is a residential area.
2. Dan Miller, 465 Green Village Road, was sworn in to give testimony. Mr. Miller addressed maintenance of the waterways. He said that the Township has placed deed restrictions on properties that were donated to the County. Mr. Miller also addressed mowing requirements for the subject property, noting the property maintenance requirements on private homes.
3. Sergio Villalobos, 503 Green Village Road, was sworn in to give testimony. Mr. Villalobos described the ongoing maintenance he has done on a portion of Fawcett Lane since buying his home. He also expressed his desire to purchase a portion of the subject property so that he could own his driveway and backyard.

Mr. Sullivan said that Mr. Villalobos would still have the right to use the easement that allows him access to his property. Mr. Villalobos said he would like to own at least the driveway. Mr. Sullivan noted that is beyond the scope of the Planning Board. Mrs. Bartolomeo described the process PSE&G is required to use to sell property. Mrs. Porter noted that if the access way is sold, it would have to be sold to all adjoining property owners. Mr. Warner said that the Planning Board does not have the authority to require that sale.

4. Jeff Flanagan, 6 Meyersville Road, was sworn in to give testimony. Mr. Flanagan described drainage from the Swamp that flows across Meyersville Road into Harding Township. Mr. Ruschke said that the area being described is in Harding, and Mr. Flanagan was advised to work with Harding Township.
5. John O'Connor, 479 Green Village Road, was sworn in to give testimony. Mr. O'Connor asked if the whole property would transfer to US Fish & Wildlife if the subdivision is not

granted. Mrs. Bartolomeo confirmed that is what would happen. Mr. O'Connor asked if the Township would have any authority over the property in that scenario. Mr. Warner said that the Planning Board has a limited scope in this hearing. He also said that there are not any conditions that can be placed on a denial. Mr. O'Connor asked about the Township's ability to regulate drainage once the property is under Federal control. Mr. Sullivan suggested that Mr. Horn address such matters. Mrs. Bartolomeo also addressed the Open Space use of the property.

6. David Bakunas, 110 Britten Road, was sworn in to give testimony. Mr. Bakunas asked for confirmation if the boundary of the properties do not extend east of the brook. Mrs. Bartolomeo said she has asked a surveyor to provide additional information regarding the wetlands buffer, and would provide Mr. Bakunas with a confirmation of that information by email.
7. Brendan Clancey, 497 Green Village, expressed his general support for the application, and said he has concern about the maintenance of the drainage ditches. Mr. Clancey expressed concern about what recourse neighbors would have if US Fish & Wildlife fails to maintain the drainage.

Mr. Sullivan asked if there is an engineering solution to the drainage issues. Mr. Ruschke said that due to the flatness of the property, mitigating drainage is difficult.

8. Mike Horne, Refuge Manager for US Fish & Wildlife's Lenape National Wildlife Refuge Complex, said he can agree to maintain the drainage. He also suggested a site visit to discuss the drainage questions. Mr. Horne noted the potential for planting wildflower at the site. He also said there are methods to give assurance that the drainage will be maintained.

Mrs. Bartolomeo said that PSE&G will maintain the drainage ditches so long as they own the property, and she is willing to facilitate the site visit with Mr. Horne and neighbors of the site.

Mr. Warner asked Mr. Horne if he had the authority to bind US Fish & Wildlife and if US Fish & Wildlife has the authority to bind the Great Swamp Watershed Association. Mr. Horne said he does not. Mrs. Bartolomeo said that the GSWA's permission is not needed to subdivide the property, as PSE&G is the owner. She reiterated that she would facilitate discussions.

Mr. Choi asked why the subdivision is needed. Mrs. Porter said that the subdivision is for the benefit of the Great Swamp Watershed Association and the Green Village Fire Department.

9. Dan Miller advised that the Great Swamp Wildlife Area be included in the discussions so that they know what requests are being made for maintenance. Mrs. Bartolomeo noted that the subdivided area will still be zoned for residential use, and a land use board application will be needed to do anything different.

10. Sally Rubin, Executive Director of the Great Swamp Watershed Association, was sworn in to give testimony. She said that she is willing to participate in maintenance discussions. Mr. Sullivan asked what commitment Mrs. Rubin is willing to make. Mrs. Rubin said that the Great Swamp Watershed Association is willing to maintain the drainage ditches to a residential standard.

11. Dan Miller addressed the extent to which the water table in Green Village has increased during his lifetime, and cited how it has impacted residents when installing septic systems.

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

Mrs. Porter gave a closing statement. She stated that the Board has heard all the relevant testimony to grant the application. Mrs. Porter also addressed maintenance of the property moving forward. It was requested that the Board grant approval this evening.

Mr. Warner cited the conditions of approval that have been stipulated.

Mr. Nikolopoulos said he wants to be sure the neighbors are in favor of the application other than the drainage concerns. Mr. Warner said that the Board needs to base its decision on the proof presented by the applicant, and noted that residents appeared to be in favor of the application generally, albeit with certain concerns and stipulated conditions.

Mr. Choi addressed the benefits of the application.

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

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

Mrs. Felice moved to adjourn at 10:38 PM. Mr. Sullivan seconded the motion which carried unanimously.

Gregory J. LaConte
Planning Board Recording Secretary