

**MINUTES  
PLANNING BOARD  
TOWNSHIP OF CHATHAM  
AUGUST 1, 2022**

Mr. Sullivan called the Regular Meeting of the Planning Board to order at 7:31 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.

**Oaths of Office**

Township Administrator Ziad Shehady was sworn in as a Class II Member of the Planning Board. The oath was administered by the Township Clerk.

**Roll Call**

Answering present to the roll call were Mr. Sullivan, Mr. Duemling, Mrs. Felice, Mr. Hamilton, Mr. Miller, and Mr. Shehady.

Mr. Choi, Mr. Kahn, and Mr. Neibert were absent.

Also present were Board Attorney Steve Warner and Board Engineer John Ruschke.

**Minutes**

Mr. Miller moved to approve the minutes of the May 2, 2022 and May 16, 2022 meetings. Mr. Duemling seconded the motion, which carried unanimously with abstentions by Mr. Shehady and Mayor Felice.

**Resolutions**

PBA-22-013

**RESOLUTION PB-22-013  
RESOLUTION AUTHORIZING THE AWARD OF A NON-FAIR AND OPEN  
CONTRACT FOR PLANNING BOARD LEGAL SERVICES WITH STEVEN K.  
WARNER, ESQ., OF SAVO SCHALK, CORSINI, WARNER, GILLESPIE,  
O'GRODNICK & FISHER P.A. FOR 2022**

**WHEREAS**, the Planning Board of the Township of Chatham has a need to acquire the legal services for the Chatham Township Planning Board as a non-fair and open contract pursuant to the provisions of N.J.S.A. 19:44A-20.5; and

**WHEREAS**, the Chief Financial Officer has determined and certified in writing that the value of the contract will exceed \$17,500; and

**WHEREAS**, the anticipated term of this contract is up to December 31, 2022; and

**WHEREAS**, Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A. has completed and submitted a Business Entity Disclosure Certification which certifies that Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A. has not made any reportable contributions to a political or candidate committee in the Township of Chatham in the previous one year, and that the contract will prohibit the Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Chief Financial Officer has determined that sufficient funds are or will be available upon adoption of the budget for year 2022; and

**NOW THEREFORE, BE IT RESOLVED** that subject to the Planning Board's review and approval of the Contract for Professional Services the Township of Chatham authorizes the Mayor and Clerk to enter into a contract with Savo, Schalk, Corsini, Warner, Gillespie, O'Grodnick & Fisher, P.A. as described herein; and,

**BE IT FURTHER RESOLVED** that the Business Disclosure Entity Certification and the Determination of Value be placed on file with this resolution; and

**BE IT FURTHER RESOLVED** that this contract is awarded without formal competitive bidding as a "Professional Service" in accordance with N.J.S.A. 40A:11-5(1)(a) of the Local Public Contracts Law because the services required are those of a recognized profession for which bid specifications are not appropriate or required; and

**BE IT FURTHER RESOLVED** that a copy of this resolution as well as the Contract shall be placed on file with the Clerk of the Township of Chatham; and

**BE IT FURTHER RESOLVED** that a notice of this resolution shall be printed as provided by law in the Chatham Courier.

Mr. Sullivan stated that Mr. Warner has changed firms, and the terms of the contract are otherwise unchanged.

Mr. Hamilton moved to adopt Resolution PB-22-013. Mr. Miller seconded the motion.

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

### **Hearings**

**PBA-22-002 Frank Francese, 580 River Road, Block: 62 Lot: 56. Requesting minor subdivision.**

Mr. Warner stated that notice of this hearing was published and the affidavit was submitted. Mr. LaConte said that certified mailing receipts were submitted, but an affidavit of the mailings was not.

Tyler Vandervalk, an engineer representing the applicant, was sworn in. Mr. Vandervalk provided his qualifications and was accepted as an expert.

Mr. Francese was also sworn in to give testimony. Mr. Francese testified that he sent the certified mailings of notice to all property owners within 200 feet. Mr. Warner stated that the Board has jurisdiction to decide the application as timely notice was sent.

Mr. Vandervalk said that the property was the subject to a Board of Adjustment application three years ago so that the house currently near completion could be built. He said that the property is split-zoned with the northerly area in the R-1A zone. The stems are in the R-5 zone.

Mr. Vandervalk stated that under the proposed subdivision, the proposed lot with the existing house will remain Lot 56, and the undeveloped lot would be Lot 56.01. A similarly sized home has been designed for the new lot. Public utilities other than sewer are available on River Road. Mr. Vandervalk addressed drywells that will be used for drainage and stormwater management. Mr. Vandervalk also addressed the bulk requirements. Mr. Vandervalk stated that a variance was granted by the Board of Adjustment to have the current home further forward to avoid steep slope disturbance. On the new lot, the setbacks will be met. A slope map was presented. Mr. Vandervalk said that a variance is requested for steep slope disturbance. He also stated that a variance is needed for a retaining wall setback due to the need to modify grading for the septic system. Mr. Vandervalk also said that the proposed subdivided lot proposed to have a similar house size and location to what is characteristic in the neighborhood.

Mr. Miller asked if there would be less steep slope disturbance on Lot 56.01 if the proposed home was moved forward. Mr. Vandervalk noted the proposed limit of disturbance. He said if the house was moved forward, there would still need to be about the same amount of disturbance in the steep slope.

Mr. Vandervalk further addressed the drainage, and said that runoff will be collected by inlets and redirected to drywells and seepage pits. He provided information on the current runoff, and said that the system is designed to reduce the flow for 2-year and 10-year storms in accordance with the Township's ordinance. The 100-year storm will have flow at existing conditions.

Mr. Sullivan asked about a visualization from the street. Mr. Vandervalk said that there will be a retaining wall and a lawn-space which will also be the disposal field. He also indicated that the septic would not be a mounded system.

Mr. Sullivan asked Mr. Ruschke to discuss any concerns regarding the variance. Mr. Ruschke commented on the need for stabilization during construction. He also commented on the need to

install snow-fencing and silt fencing, installation of gutters, and the phasing of construction to limit the disturbance. Mr. Vandervalk verified that he has reviewed the report from Mr. Ruschke and there is not any opposition to the conditions therein. He also said that no additional variances are needed. The conditions were reviewed.

Mr. Sullivan asked about the setbacks of the houses in between the two stems of the subject property. Mr. Vandervalk noted that a front yard setback is not requested. He also said that the two houses vary greatly in their setbacks. Mr. Sullivan commented on the desire to protect privacy and screening. Mr. Ruschke noted that the house on Lot 56 was moved forward at the request of the Zoning Board to reduce steep slope disturbance.

Mr. Francese indicated that his intention would be to sell the subdivided lot to another builder. Mr. Ruschke suggested that the Board retain jurisdiction if the future builder wants to modify the approved plan. Mr. Miller said that there may need to be a redesign of the stormwater management and septic plans if the proposed house is moved. Mr. Ruschke noted that there is still work to be done on the lot grading.

Mr. Sullivan asked Mr. Ruschke to comment on the height of the retaining wall. Mr. Ruschke said it is outside of the right-of-way and he does not foresee the widening of River Road.

Mr. Sullivan opened the floor to the public to ask questions.

1. Owen Walsh, 570 River Road, said that he has lived at his residence for 30 years, and the lot next door was vacant until recently. He also said that the most important corner of his property shares a border with the subject property, and asked what the protocols are for marking out the site. Mr. Walsh asked about having an identifiable line to avoid encroachment.

Mr. Ruschke said that typically the builder will hire a land surveyor to identify the property limits and setbacks.

Mr. Walsh said that the notice indicated that the hearing is about 580 River Road, and it was misleading because the building will be on the other side of an adjacent property.

The applicant indicated that he does not object to marking out the property. Mr. Warner said that will be a stipulation.

2. Barbara Veeder, 568 River Road, said she would not have known from the notice that the area in question is adjacent to her property. Mr. Warner said that the notice was technically correct. Mrs. Veeder asked if Mr. Francese will build the new house and live in it. Mr. Francese said that he will sell the proposed lot to a builder. Mrs. Veeder asked about the location on the property of the proposed house relative to her privacy. Mr. Vandervalk noted that setback variances are not requested. He also said that the new

house is proposed to be forward of Mrs. Veeder's home. Mrs. Veeder addressed slopes in the rear portion of the lot.

Mrs. Veeder and Mr. Walsh were sworn in to give testimony, and indicated that the testimony already given is true.

Mr. Duemling asked if the addition of trees would make things more comfortable. Mrs. Veeder said it would depend on what is taken down. Mr. Sullivan said he is leaning toward requiring the builder to come before the Board.

Mr. Ruschke stated that the Environmental Commission has recommended a conservation easement be dedicated in the rear of the property. He noted that there are other conservation easements along the corridor. Mr. Sullivan said that most of the area that would be subject to the easement is undevelopable, and the applicant would not lose anything by granting the easement. Mr. Vandervalk said that the potential of an easement was discussed at the Zoning Board, and the area is already protected by the Township's ordinances. He said that an easement would be excessive. Mr. Ruschke raised the possibility of a future applicant wanting to further subdivide the lot. He also said that the easement could be written in such a way that would allow the property owner some use of the lot. Mr. Vandervalk asked if the easement would be able to be amended in the future. Mr. Ruschke said that the Township Committee would have that authority. Mr. Miller said that there may be a desire to move the conservation easement in the future, and said it may make more sense to wait until a plan for final construction is being presented. Mr. Ruschke opined that it would be better to handle the easement at this time. He also said that the rear 75 feet are generally flat and could be outside the easement.

Mr. Duemling asked how restrictive an easement would be. Mr. Sullivan said they can be restrictive, and can only be made less restrictive by the Governing Body.

Mr. Hamilton asked about retaining jurisdiction, and if the subdivision can be approved without approving an actual building plan. Mr. Warner said he anticipates a concept building plan. Mr. Ruschke said there will be a defined limit of disturbance.

Mr. Sullivan opened the floor again to the public.

1. Mr. Walsh asked if the land behind his house will be owned by the new lot. Mr. Vandervalk confirmed that it will.
2. Mrs. Veeder noted a concern about people at the top of the ridge buying portions of the flat part to build pools and tennis courts, and asked if a steep slope variance would be needed. Mr. Ruschke said that there would need to be an additional subdivision application for the land to be seceded. He also noted that there is a lot grading process that is in place to protect neighboring properties.

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

Mr. Warner asked for confirmation of stipulation that the conservation easement on Lot 56.01 will be 75 feet down from the rear of the Sunset properties and across the subdivision line. Mr. Francese agreed to that stipulation. The easement will allow accessory and recreational uses and not dwelling uses. Mr. Sullivan asked if the applicant is comfortable with the Board voting before the conservation easement language is drafted. Mr. Francese indicated he is comfortable with that.

Mr. Hamilton moved to approve the application subject to the stipulations noted, the conservation easement to be drafted. Mr. Warner noted the waivers and variances and described the easement. Mrs. Felice seconded the motion.

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

PBA-22-003 Heritage Greene Condo Association, Block 64.01, Lot 5. Application for Waiver of Complete Site Plan Approval

Wendy Graham and the Board professionals were sworn in to give testimony.

Mr. Ruschke explained that the Heritage Greene Condo Association is seeking to replace an existing shed with a larger shed, and the application is to waive formal site plan approval. He asked what size shed is proposed. Mrs. Graham said that the Association wants to install a 24'x14' shed, which is the largest size that can be installed. Mr. Ruschke said he does not oppose that size shed as it is not prohibited in the zone.

Mr. Ruschke indicated that the shed is located within a 100-foot power and light easement, and as such, the Applicant should comply with requirements of the utility company as applicable. Mrs. Graham stated that they will do so.

Mr. Warner asked if the shed will be located in the same spot as indicated in the plan. Mrs. Graham stated that it will.

Mrs. Felice moved to approve the application. Mr. Miller seconded the motion.

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

Mr. Sullivan asked if lot numbers should be updated to create less confusion. Mr. Ruschke said it would create more confusion because of deeds and mortgages.

Mr. Sullivan announced that the August 15, 2022 meeting would be cancelled.

Mr. Hamilton moved to adjourn at 9:18 PM. Mrs. Felice seconded the motion, which carried unanimously.

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Gregory J. LaConte  
Planning Board Recording Secretary