

CHATHAM BOROUGH PLANNING BOARD
April 11, 2007 7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of April 11, 2007 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Montague announced that all legal notices have been posted for this meeting.

Members Present: Chairman H.H. Montague, David Gerridge, Thomas Sennett, Alan Pfeil, James Mitchell, Bill Jankowski, Councilman Bruce Harris, Mayor Richard Plambeck.

Charles W. Foster, Esq., attorney for the Board, was present.

Members Absent: Alison Pignatello, John Hague.

Resolution for Side Yard Ordinance Change

Mr. Montague distributed copies of the resolution put together by Mr. Foster to Board members. Two minor corrections were made.

Mayor Plambeck made a motion to approve this resolution recommending to the Borough Council an amendment to the LDO regarding side yard requirements. Mr. Gerridge seconded the motion.

A roll call vote was taken:

Mr. Gerridge	-	yes
Mr. Sennett	-	yes
Mr. Pfeil	-	yes
Mr. Mitchell	-	yes
Mr. Jankowski	-	yes
Councilman Harris	-	yes
Mayor Plambeck	-	yes
Chrmn. Montague	-	yes

221 Main Street Application

This application was televised live on Channel 21.

Barry Osmon, Esq., attorney for the applicant, was present.

Janet Siegel, architect for the applicant, was also present.

Mr. Montague distributed the Borough Engineer's report to Board members.

Mr. Osmun stated that this application is before the Board because the proposed structure will be in the B-4 District. The applicant is seeking Preliminary & Final Site Plan Approval and three variances. The applicant is proposing to remove the existing diner from the property and to construct a 3 story building, with retail use on the ground floor and apartment units on the second and third floors.

Mr. Osmun reviewed the variances being sought. A variance is needed for 9 parking spaces for the retail portion of the building. This retail space will measure 1800 sq. ft. **RSIS** supersede the local ordinance. He went over the number of parking spaces being sought for the proposed building. Developments like this proposed building are required to have off-street parking spaces. Under **RSIS**, Mr. Osmun stated that each garage car-space shall be counted as one off-street parking space. **Under RSIS**, 1.1 parking spaces is required for a 3 bedroom garden apartment and 2.4 spaces for a 3 bedroom townhouse. When the dimension results in a fractional space, and the fraction is less than one half, two spaces would be required for each of the bedrooms.

Mr. Osmun noted that the applicant has not decided whether his structure is a condo or an apartment. Mr. Osmun and the Board discussed the matter of fractional **parking**. Mr. Foster felt the applicant's proposed parking spaces come up short with what spaces are needed for retail space.

Mr. Osmun stated that 4 underground spaces are being proposed **for the apartments**. The **RSIS** requires 4 spaces. Mr. Osmun said the applicant will be providing those 4 spaces for the apartments or townhouses on site. With respect to the 9 parking spaces that are required for retail, the applicant has "purchased" 9 spaces from the Borough.

Mayor Plambeck asked Mr. Osmun to clarify what he meant by "purchased".

Mr. Osmun clarified that the applicant had applied for 9 annual business permits from the Borough.

Mr. Montague confirmed with Mr. Osmun that these parking permits **must be renewed** each year. He asked Mr. Osmun if the applicant would agree to a condition to renew these permits each year. Mr. Osmun agreed to this condition.

Mr. Osmun said the applicant's engineer could not make tonight's meeting.

At Mr. Montague's request, Mr. Osmun brought up the variance for the proposed loading area. The Borough requires an off-street loading area measuring at least 15 ft. by 40 ft. The applicant is not proposing any loading area.

Mr. Montague asked Mr. Osmun to explain what is planned for handicap parking. Mr. Osmun said Mrs. Siegel will address that issue.

Mr. Montague confirmed with Mrs. Osmun that the applicant is seeking 3 variances:

- 1) Off-street loading area
- 2) Retail Parking
- 3) Parking for the apartment/townhouse units

Mr. Foster asked if a variance is needed for storage space. Mr. Osmun answered that the applicant is not proposing any storage space.

Janet Siegel, the applicant's architect, was sworn in to testify. She testified that she is a **licensed architect and** has appeared before the Board on previous applications. The Board accepted her credentials.

Mrs. Siegel stated that Paul Alviggi, the owner of the property, had contacted her architectural firm in September 2005. At that time Paul Alviggi and his family were closing on this property, known as 221 Main Street. On October 27, 2006, Siegel Architects signed a contract to begin discussions with Mr. Alviggi on the potential of this property. In January, 2006, Mrs. Siegel said she gathered information from the town. She had contacted Bob Venezia and George Travers, both from the DPW. At that time, these gentlemen had no parking drawings available of the Borough for her to review. However, Mrs. Siegel found out from them that the main water source for this site is across the street. Consequently, she and the applicant realized that more potential engineering issues will come up for the proposed building to go across Main Street and access any new water lines that the building may need.

Mrs. Siegel testified that on February 21, 2006 she and Len Taylor, the Borough Zoning Official, reviewed the preliminary sketches. Mrs. Siegel and the applicant applied to the Historic Preservation Commission on March 21, 2006. Mrs. Siegel, Mr. & Mrs. Alviggi met with the Commission. The HPC wrote two letters regarding the proposed application. One letter was from Eleanor Smith and the other was from Laura Zmijeski.

Mrs. Siegel testified that on April 5, 2006 she and the applicant filed drawings and received a letter of denial from the Borough Zoning Official. An informal meeting was held with certain members of the Board of Adjustment, the Board's Attorney Alan Siegel, **and Mr. Osmun**. The proposed plans were then reviewed before the Board of Adjustment meeting. The RSIS was also discussed. Mrs. Siegel and the applicant decided to have the RSIS govern the parking situation.

Mrs. Siegel said parking permits were obtained from the Borough. The Alviggis paid for two parking permits and renewed them as they came due the following year. On August 3, 2006, the drawings were filed to the Board of Adjustment. On August 27, 2006, the Borough Zoning Officer sent another letter of denial concerning those drawings. Mrs. Siegel and the applicant reviewed the Borough Engineer's letter and addressed the issues brought up in the letter.

Mrs. Siegel recalled that the application was listed on the Board of Adjustment's agendas for the meetings held on September 27th, October 25th, and November 15th **2006**. The application was continued each time because of the Board's crowded agenda at that time. Finally, the application for 221 Main Street was heard on December 20, 2006. The application was presented to the Board. The only issue that the Board of Adjustment could not rule on was the applicant's request to remove the 3 parking spaces at the rear of the proposed building.

Mr. Montague confirmed with Mrs. Siegel that these 3 parking spaces were on Borough property.

This parking situation was heard by the Borough Council at their February 12, 2007 meeting. Mrs. Siegel and the applicant presented the parking study and a suggestion made by the Borough Engineer that the applicant pay to realign the spaces adjacent to the Cottage Deli. Mrs. Siegel felt that this realigning of spaces would gain back the 3 spaces the applicant is proposing to remove. **At the time**, the Borough Council rendered no decision on this proposed parking arrangement and they took the proposals under advisement.

Mrs. Siegel recalled that Paul Alviggi appeared before the Borough Council at their February 26, 2007 meeting. At that point, the Council would not discuss the parking issue **in open session**. They said that this was a contract issue **which needed to be discussed in executive session**. Again, no decision was made. Mrs. Siegel said she and the applicant did some re-designing and came up with the plans that are before the Board tonight. Mrs. Siegel noted that she has the fourth elevation tonight to add to tonight's evidence.

Mrs. Siegel noted that on March 20, 2007, she and the applicant met with the Historic Preservation Commission to review the current drawings which are before the Board tonight. Ultimately, she and the applicant received a letter from the Borough Council denying the 3 parking spaces proposed in the application.

Mr. Osmun asked Mrs. Siegel to go over the changes made to the plans that were originally submitted to the Board of Adjustment.

Mrs. Siegel referred the Board to Sheet A-2. She pointed out that the major change was the rear entrance. Originally, the proposed entrance was adjacent to Village Hardware Store's entrance. There had been some idea that the hardware store's stairs and platform could be used by the tenants and visitors of the proposed building. However, Mrs. Siegel and the applicant had not contacted the hardware store about this possibility. When the second drawing of the building was made, she and the applicant decided that the entire entrance to the building from the rear would be adjacent to the side of Danielle's Restaurant. On the drawings, Mrs. Siegel pointed out the one full garage door with four open parking spaces. At the front portion of the garage, it is open to the same level of the ceiling of the first floor. From this point back, the second floor kicks in at the retail area.

Mrs. Siegel described the ground floor plans. She pointed out the entrance to the garage and the entrance to the retail area. There will be three risers with a railing with one step up. A ramp will be installed to help people entering the retail area. Mrs. Siegel clarified that this particular entrance is not a handicap entrance. It will only be a convenience entrance from the rear, similar to what other businesses have in that section of Main Street. Mrs. Siegel noted that the proposed entrance from Main Street will be level and will serve as the handicap access.

Mrs. Siegel stated that another change made **from** the original plan was that **originally** each condo would have separate garages with separate doors. A secure door will be installed at the back of the garage. A shared storage area for the residents will be created. A private elevator will be installed to go to each of the two levels. She pointed out the handicap required entrance for the apartments.

Mr. Montague asked how handicapped people would enter the building from the street. Would the garage doors have to be open?

Mrs. Siegel answered that the only handicapped entrance for the residents would be in the garage. The handicap entrance for the retail operation of the building will be at the front.

Mayor Plambeck asked Mrs. Siegel about the clearances required for an **accessibility** parking spot within the garage.

Mrs. Siegel brought up Sheet A-7, the left side elevation looking west. She pointed out that the originally proposed storage space has been eliminated. There is no access to the space underneath the retail. Since the proposed construction will take place along the foundation lines, that area will be kept as a crawl space. At the point where the elevator shaft begins is the lowest point of the building, measuring 8 feet. Mrs. Siegel also pointed out the ramp and the slope of the parked area. Cars will be parked on the slope going down.

Mr. Montague confirmed with Mrs. Siegel that the ceiling of the open area is the same height as the ceiling of the retail space.

Mayor Plambeck asked Mrs. Siegel to describe the parking area and how it meets the accessibility requirements of ADA for parking within that garage.

Mrs. Siegel said she will have to look up that information in order to testify on that aspect.

Councilman Harris asked if there would be enough room in the proposed garage for SUVs.

Mrs. Siegel answered that the vehicles she has drawn on the plans measure 18 feet, which is the size of the SUV.

Councilman Harris asked if there would be enough room for a person in a wheelchair to get between cars and maneuver to the elevators.

Mrs. Siegel said she has reached the requirement for handicap access in her plans; she just hasn't penciled it in on her drawings.

Mr. Montague asked for information on the turning radius.

Mrs. Siegel submitted Exhibit A-2, turning radius diagram. She distributed copies to Board members. She noted that the 3 parking spaces which she and the applicant had originally wanted were not available for them. Mrs. Siegel testified that currently the Café Colombian has 3 cars parked consistently behind it in that particular area. Consequently, Mrs. Siegel felt the necessary turning radius could be made.

Mr. Montague said that he was behind Village Hardware today and noted that there was a car parked right behind the hardware store steps. He also noted that there is no striping for parking in that area.

Mrs. Siegel stated that her architectural firm had spent 10 days analyzing the parking situation in that area during different times of the day. That illegal parking arrangement was consistent. That particular area is legally supposed to be used for loading and unloading for Village Hardware. The illegal parking that Mr. Montague observed would be blocking any one who wants to exit that driveway.

Mr. Montague asked Mrs. Siegel to provide a drawing of what clearly is marked as no parking.

Mrs. Siegel submitted the following:

Exhibit A-3, photos of the rear view of the public parking for Lots 5, 6, 7 & 14.

Exhibit A-4, the original drawing of the turning radius.

Exhibit A-5, perspective of the rear parking area & the no parking sign.

Referring to Exhibit A-5, Mr. Montague asked if the wall of the proposed building would go all the way over to Danielle's Restaurant. Would there be any space between Danielle's and the proposed building.

Mrs. Siegel stated that both properties, Village Hardware and Danielle's, have considerable encroachments into the property line that will have to be dealt with if the applicant's building is constructed. She noted that there are currently gutter lines that protrude over and other items that go beyond the zero property line. A discussion was held between the owners to decide on what has to be done with the proposed wall goes up on the zero property line. She clarified that Danielle's building will extend further in the back than the applicant's building.

Mr. Foster asked Mrs. Siegel if any of the encroachments will be posing a real problem.

Mrs. Siegel answered no, not really. She pointed out the coping on top of Village Hardware's wall that extends above the store's flat roof. This coping will have to be re-capped and then flashed to the new wall. There is currently a vent duct coming out from a heater. This duct could be directed straight through the store's ceiling instead of going out the side of the store. Danielle's Restaurant has water leaders coming down its side. These leaders could be adjusted.

Mr. Montague asked Mrs. Siegel if her perspective showed the door and the steps of the proposed building.

Mrs. Siegel answered yes. She testified that at the rear of the building there will be 3 risers going up and a riser at the retail entrance. There will be a light over the glass door at this entrance.

Mr. Sennett asked how deliveries will be handled for the retail space.

Mrs. Siegel stated that most of the Main Street businesses have deliveries made between 8 a.m. and 10 a.m. **from** Main Street itself. Most of these businesses have their basement accesses from Main Street. She felt the deliveries to this proposed retail space should be made at the Main Street entrance, not the back entrance.

Mr. Gerridge confirmed with Mrs. Siegel that the 4 parking spaces shown on the plans would belong to the condo owners. Mrs. Siegel said she and the applicant agreed to put a **single** door on the garage as requested by the Board of Adjustment.

Regarding the parking spaces, Mrs. Siegel pointed out that in her parking studies, it was found that the Bowers Lane Lot was never full. There were always spaces available.

Mr. Gerridge brought up the no parking sign to the left of Village Hardware. He believed there was an arrow on that sign.

Mrs. Siegel agreed; however, the sign really didn't indicate no parking to the left or the right. If a vehicle were to park at that specific space, it would block the other 3 spaces.

Mr. Gerridge said for a number of years he has been parking next to the back stairs of Village Hardware. A vehicle in that space can not only access the other 3 spaces, the vehicle can also access the back of the diner.

Mrs. Siegel noted that the Borough had no drawings for these particular spaces. The applicant's engineer was the one who provided the drawings before the Board tonight.

Mrs. Siegel submitted Exhibit A-6, the Borough engineer's drawings revised 2/12/07. Mrs. Siegel testified that she and the applicant had met with Mr. DeNave, the Borough Engineer, prior to the Borough Council. Mr. DeNave knew that re-stripping would be occurring. Mr. DeNave suggested that the applicant pay for the re-stripping. That would

be a way to switch out the 3 spaces on the applicant's earlier proposal. Exhibit A-6 indicates where those new stripe lines would go.

Mrs. Siegel went over the color-coded parking designations in Exhibit A-6.

Mr. Osmun confirmed with Mrs. Siegel the following changes made to the plans since the time the plans had been submitted to the Board of Adjustment:

- 1) No more basement storage area
- 2) Four parking spaces will be created underground
- 3) A reduction in the square footage of the retail space

Mr. Montague brought up that the slope of the roof has been revised.

Mrs. Siegel said the roof changes were made because of comments made by the Board of Adjustment. The original plans had balconies on the front and the back. She noted the Board of Adjustment didn't like having any open space for the tenant or owner to be looking over Main Street. Mrs. Siegel testified that the proposed building will have glass-block windows. These particular windows are fire rated and will allow sunlight to come through. Artificial light will be provided in this building. There will be a fire stair going down to the first floor. On the third floor there will be a clear window that could be open. The third floor will have a mansard roof which will go at an extreme angle.

Mrs. Siegel submitted Exhibit A-7, rendering of the front of the building. She testified the mansard roof will "give less of a feel of the mass of the height, working from both sides."

Mayor Plambeck asked if the third level will have light wells.

Mrs. Siegel clarified that the third level did not have light wells. This level had a slope of the roof. Two dormers will be coming out of the mansard roof.

Mayor Plambeck asked if the windows on the right hand side of the proposed building, on the second level, are set in 3 feet.

Mrs. Siegel answered just the two of them will be in set 3 feet. Those windows won't be easily seen.

Mayor Plambeck asked Mrs. Siegel to give the Board a "walk through" of the window arrangements and lighting.

Mrs. Siegel described the floor plans of the second and third floor condominiums. She noted that all the way through to the second floor there will be a light shaft coming from the ceiling. Adjacent to the elevator there will be an elevator equipment room that carries all the way down through the building. The two levels will be stacked as best as possible as far as plumbing and access are concerned. She pointed out where the glass block openings will be situated. Mrs. Siegel indicated the access to the roof. A parapet will be

in the middle of the roof. This parapet will contain the equipment for HVAC. She pointed out the windows which will look out over the parking lot and railroad area.

Mr. Mitchell asked about the skylight.

Mrs. Siegel answered about the narrow skylight at the peak of the roof. The skylight will be raised slightly above the ridge line of the roof. It will have glass block on either side in order to bring light into the room. The sun light will also channel down to the second floor.

Mr. Montague asked Mrs. Siegel if she could tell the Board anything about the retail space.

Mrs. Siegel answered that this retail business hasn't been decided yet. Mr. Osmun reviewed the definition of "retail space" as stated in the LDO.

Mr. Montague confirmed with Mrs. Siegel that the location of the business's sign will be where she has designated it on the plans. Mrs. Siegel said the applicant's engineer will testify on what lighting fixture will be used to light up the sign.

Mr. Montague and Mayor Plambeck noted that the front façade of the proposed building is perpendicular to the side property lines; however, the street is not.

Mr. Montague confirmed with Mrs. Siegel that the door on the left hand side would be the door leading up to the condos. The other door will be the retail entrance.

Mr. Foster asked if the applicant believed the proposed front of the retail space to be "set in stone". It's possible during construction; the retail space is rented to a business that wants a different set-up.

Mrs. Siegel answered that there won't be many options for a retailer to make changes. The windows, doors, and signage is what the owner specifically states in his permit application.

Mr. Montague asked if the applicant has consulted with the Historic Preservation Commission concerning these plans.

Mrs. Siegel answered yes. The HPC has seen the plans; however, the HPC hasn't yet seen Sheet A-7.

Mr. Foster said when the Board gets the latest set of the entire plans, these plans should also be sent to the HPC to formally review again.

For the record, Mrs. Siegel noted that Eleanor Smith of the Historic Preservation Commission is present at tonight's meeting.

Mrs. Siegel described the materials which will be used on the façade of the building. She showed the Board the updated streetscape of Main St. businesses, showing the roofline of the proposed building. She submitted this streetscape as Exhibit A-8. At the Board's request, Mrs. Siegel pointed out each building and their parking situation, beginning with Liberty Drug, heading west, and ending with the Mitsuba Restaurant at 237 Main Street.

Mayor Plambeck asked how the condo dwellers will receive their mail. Mrs. Siegel answered that the residential door on this building will have a mail slot.

Mr. Osmun reviewed the Residential Site Improvement Standards (RSIS) requirements for apartment parking. The Administrative Code states that 2.1 parking are required for a 3 bedroom garden apartment. A 3-bedroom townhouse requires 2.4 parking spaces.

Mr. Montague asked Mr. Osmun what would be the difference between a garden apartment and a townhouse.

Mr. Osmun said the RSIS regulations don't define what these terms are. He pointed out that if 5 parking spaces are provided for townhouses, he felt it would be "à de minimis exception" from the Residential Site Improvements Standards.

Mr. Montague suggested that Mr. Osmun and Mrs. Siegel clarify whether they are proposing townhouses or garden apartments. The correct parking calculations could then be made and requested.

Mr. Osmun decided that townhouses were the types of units being proposed. Also, "à di minimus exception" was being sought regarding the parking.

Mayor Plambeck pointed out that the bigger issue is the 9 spaces needed for the retail area.

Mrs. Siegel noted that the Borough regulations specify that only when someone is adding space or constructing a new building, he/she is required to add retail space. Mr. Osmun recalled when Chase Bank had their application approved, a condition was included specifying that the bank had to obtain 10 parking spaces in Bowers Lane. The condition didn't say that these parking spaces had to be renewed every year. The applicant for 221 Main Street will be renewing the needed parking spaces every year.

Mayor Plambeck reminded Mr. Osmun and Mrs. Siegel that when someone creates a larger building, it will create more of an impact on the town. The impact includes the need for residents to come to that establishment either to visit a retail business or to live in the condo units. These people need a place to park. There is a definite cost to the town to put in additional parking. No one is volunteering their lot for parking.

Mrs. Siegel felt that if the Board requested that parking permits be obtained for the retail space is a money-generator for the town. She believed it would be an unfair burden on a

retail establishment. There's a good possibility not all of the parking permits will be used by the employees of the retail space.

Mayor Plambeck said that was a concern for the Borough Council, the Planning Board, and the Master Plan. He noted that the cost of buying the land and building a surface parking lot is getting close to \$20,000 per space. The Borough has to generate income to be able to afford that. None of the Borough parking permits are funding that kind of space. The Borough Council needs to take a hard look at this situation. However, with this particular application, the Board has to decide why to grant a variance.

Mrs. Siegel still believed that the 9 parking spaces for this particular commercial use will not be used. It's only a payment to the town.

Mayor Plambeck brought up the question of whether there were enough spaces to obtain the necessary permits.

Mrs. Siegel answered that she already looked into that situation and found out that this particular parking lot (Bowers Lane) is under utilized. She said that Bowers Lane is never full at any point in the day.

Mr. Montague asked Mrs. Siegel that she submit any evidence she had about this particular parking lot not being full. He has found at lunchtime that it's extremely hard to find a parking space. Mrs. Siegel indicated that she had done documentation on this parking.

Mr. Osmun reminded Mr. Montague that the existing diner at 221 Main Street has 634 sq. ft. of customer service and dining area. The ordinance requires one parking space for each 50 sq. ft. of consumer service. What existed before on the applicant's property was a demand for 12 off-site parking spaces. This application has less than that.

Mayor Plambeck pointed out that when the parking spaces for the apartments are added in, more spaces are now needed.

Mr. Osmun and Mrs. Siegel claimed that those spaces will be provided by the applicant. A "trade-off" is being made.

Mr. Sennett wanted to learn more about the handicap requirements.

Mrs. Siegel said she will probably be returning at the next meeting. That issue, along with other concerns, will be discussed at that time.

Mr. Foster confirmed with Mrs. Siegel that Exhibit A-2 included a free-hand drawing she had done showing the parking lot. She based her drawing on the engineer's drawing. It is a scaled drawing. At Mr. Foster's request, Mrs. Siegel described the garage area, the stairs to the retail area, and the wall where the retail area ends.

Mr. Montague noted that no downspouts were shown on the plans.

Mrs. Siegel clarified that a built-in gutter will be installed along the edge. There will be an interior gutter that will go down. Mrs. Siegel said that the Borough didn't have any engineering drawings to show what is available in that parking to hook these gutters up to. The proposed building will be holding the zero lot line. Mr. Osmun added that the building will have to hook into the Borough's sewer line which is located across the street from the site. Mrs. Siegel said permits will be obtained from the State to hook up with the sewer line.

Mayor Plambeck informed Mrs. Siegel and Mrs. Osmun that there had been some talk about changing the water line to go to Main Street. Mr. DeNave, the Borough Engineer, would have more information on this concept.

Councilman Harris brought up the possibility that there would be no storm sewer across the street from the proposed building. Mr. Montague reminded Mrs. Siegel and Mr. Osmun that the Board still needs to see a stormwater plan.

Mrs. Siegel said she will be working with the Borough Engineer on that situation and other matters in this application. Mrs. Siegel pointed out that currently the proposed plans will have 100% coverage.

Mr. Mitchell asked where the trash will be stored for pick-up on the site.

Mrs. Siegel believed in the residential section of the building, underneath where the proposed ramp goes up, there would be room for garbage cans. The retail portion of the building could share the garbage section used by Danielle's Restaurant. This arrangement really depends on what the retail agreement requires.

Mr. Osmun asked that this application be continued to the Planning Board meeting of May 2, 2007 without further notice. The applicant's engineer will be present at that meeting. Mrs. Siegel said she would provide the parking statistics at that meeting.

Mr. Jankowski asked Mrs. Siegel if any thought had been given to giving up one of the three parking spaces to emergency services who might have to enter the building.

Mrs. Siegel answered no; there was no discussion about that situation.

Mr. Jankowski pointed out that there is a very narrow entrance and egress.

Mayor Plambeck said that emergency services had said that they don't put their vehicles in situations where a great deal of maneuvering is involved. Ambulances and fire trucks would park either in front or in back of the proposed building.

Mr. Montague stated that the emergency services will be asked to look at the turning radius in this application, and give their comments.

There were no other questions from the Board.

Mr. Montague asked the public if they had any questions.

Martha May, 20 Kimball St., expressed concern about the underground parking. She noted that the Borough had a land disturbance ordinance. These plans would involve digging under the proposed building to put in the garage. She was also concerned about flooding occurring in that garage.

Mayor Plambeck answered that the application includes the foundation of the proposed building. Every building has a foundation. The creation of a foundation is not considered land disturbance under the ordinance. Mayor Plambeck stated that the applicant's engineer can address the soil settlement issue and bearing capacity. Mr. Osmun said the engineer could also testify on the flooding concern and stormwater drainage.

Mrs. Siegel said that the applicant will have a structural engineer who will make sure the soil testing is submitted.

Mr. Montague asked if the representative from the Historic Preservation Commission (HPC) would like to offer comments.

Eleanor Smith, 24 John St., noted that Mrs. Siegel had given a thorough presentation of this application to the HPC. Mrs. Siegel had also covered with the HPC her five points concerning the retail and condo space, and the intricacies of the needed parking. Mrs. Smith said that the HPC would be glad to reconvene and see the configuration of the proposed building.

Mr. Montague said a final set of drawings will be sent to the HPC.

Mrs. Smith said the HPC would be happy to review and comment on these drawings.

Mayor Plambeck brought a memo from Laura Zmijeski, former Chair of the HPC, about the willingness of the Chatham Athletic Foundation to accept the diner as a donation. Mayor Plambeck pointed out that the Foundation doesn't own any property to put the diner on. The Foundation is only a fund raising organization. Any group who wants to accept the diner, would have to have property to put it on. Possibly this group could be the Board of Education or the Borough itself, who would have the necessary land.

Councilman Harris stated that before he voted on this application he would like to get reassurance that someone will accept the diner. It would be helpful to have a preliminary discussion with the Board of Education and a report on this discussion. The diner is a historical structure in this town.

Mr. Osmun mentioned three possibilities for the diner's future. The diner could be sold to someone, or given to the Borough, or demolished.

Mrs. Siegel brought up that the owner of the diner had been contacted by a broker who had read about the diner in a recent Star-Ledger article. She felt that the diner will find a home. It's not definite whether or not it will be in Chatham.

Mayor Plambeck pointed out that if the diner remains in Chatham Borough, the zoning requirements and Green Acres requirements have to be followed. The Board of Education may be in a different position should they decide to accept the structure. Mayor Plambeck recommended preliminary discussions be held with the Board of Ed to see if it's even feasible. Mr. Osmun, on behalf of the applicant, agreed with this suggestion.

Councilman Harris suggested that the Borough Engineer should up-date his letter of review.

The Board felt that Mr. DeNave should attend the next hearing on this application.

At 9:55 p.m. a break was taken in the meeting.

At 10:10 p.m. the meeting resumed.

Approval of Minutes

The Minutes of January 3, 2007 were approved as amended.

Old/New Business

Mr. Montague distributed to Board members an up-dated report on the Shailja, LLC application as received by Mr. Foster. Since this report concerns environmental matters on this application, Mr. Montague will make sure Mrs. Pignatello receives a copy.

Also concerning the Shailja application, Mr. Foster reported that he had received a letter from Brian Burns, Esq., attorney for Shailja. It states that Attorney Burns had made an application to the New Jersey DOT. Mr. Foster recalled a condition in the approval stating that Gordon Meth, the Board's traffic expert, should have the opportunity to participate in any discussions with the DOT on this application. As far as Mr. Foster could ascertain, Mr. Meth was not included in any discussions with the DOT concerning the question of whether there would be limited access to the driveway on Hedges Ave.

Mr. Montague said he had left a message on Mr. Meth's voice mail about this situation. Mr. Meth was out of the office this week. Mr. Montague will follow up with him on this matter.

Mr. Foster suggested all this recent correspondence should be faxed to Mr. Meth. Councilman Harris recommended that the Borough Attorney, David Lloyd, also be given copies of the correspondence.

Mr. Montague distributed another letter concerning Shailja. Mr. Foster explained that Shailja is presenting this letter from the Environmental Waste Management Associates (EWMA) to satisfy a condition concerning environmental matters.

Referring to this letter, Mayor Plambeck noted that the remaining underground storage tanks, contaminated soil from these tanks, and the stockpile soil were to be removed. Those actions were done some time ago. He recalled that EWMA had testified that there was an existing on-site contaminated soil which was going to be removed at the time the old gas station would be demolished and the new stormwater system would be installed. The stormwater system would have to be put in at some depth. Mayor Plambeck believed this contaminated soil removal concern still needs to be resolved.

Mr. Jankowski suggested that the DEP give the Board something in writing that the EWMA is up-to-date on their environmental clean-up activities.

Mr. Montague said he will send a copy of this letter to Mrs. Pignatello.

Mr. Foster brought up that a reaction is needed from the DOT about the partial closing of Hedges Avenue. Mr. Foster read aloud the condition concerning this issue: "The Board recognizes that the DOT must consider the closing of the Hedges Ave. driveway while it is considering the approval of the Main Street driveway from the site. The Board will be represented before the DOT by its traffic engineering firm, Greenman-Petersen, Inc., or, in its absence another qualified traffic engineering firm which will advocate the closing of the Hedges Ave. driveway during peak morning traffic. If the DOT determines that the Hedges Ave. driveway must be kept open at all times, the Borough will comply with the decision." Mr. Foster pointed out that the last part pre-supposes that the Borough has had adequate representation before the DOT.

Councilman Harris recommended that Mr. Foster should call Mr. Burns and remind him of this requirement and point out that one of the agreed-upon conditions was violated and the Board will put up a fight.

Mr. Foster agreed to contact Mr. Burns about this violation.

On other matters, Mr. Montague noted that the Board had asked that a planner be hired regarding the density issue. He had contact Cheryl Bergailo, a planner the Board has previously employed. Ms. Bergailo sent Mr. Montague a letter stating her qualifications and the rates that she charges, and an estimate on this particular project. Mr. Montague distributed copies of this letter to Board members. This matter will be on the agenda of the Board's next meeting.

Mr. Foster reported that he had received a call from an attorney who is a member of Ogden Memorial Church. This attorney (Mark Knoll) is representing Ogden Church on an application that the church will be presenting soon before the Board. This application has to do with off-street parking. Councilman Harris pointed out that the church is in the Historic District and they have not appeared before the HPC with their plans.

Moving to another topic, Councilman Harris felt that the side yard requirements for the B-2 and B-3 Districts needed to be revised. He distributed research he had done on this issue. He had also discovered that there were significant differences between the requirements for the B-1 District and the B-2 District in regard to lot coverage requirements. He suggested the Board look into this situation. Mr. Montague felt there was a reason for these inconsistencies. He will call Lloyd Wise, the former Planning Board Chair, and see if he knew the reasons for these unusual situations.

Mayor Plambeck reported that he will update his Residential Review which he had done in 2001, as requested by Mr. Montague.

Mr. Foster reminded Board members that Mrs. Caljean, the Borough Clerk, wants the Financial Disclosure Forms returned to her in a couple of days. These forms are available on the DCA web site.

Mr. Montague said he will try and have Vincent DeNave, the Borough Engineer, attend the next Board meeting for the 221 Main Street application.

The meeting adjourned at 10:40 p.m.

Respectfully submitted:

Elizabeth Holler
Planning Board Recording Secretary