

CHATHAM BOROUGH PLANNING BOARD

April 1, 2009

7:30 p.m.

In Chairman Crater's absence, Vice Chairman John Bitar called the Chatham Borough Planning Board meeting of April 1, 2009 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Bitar announced that all legal notices have been posted for this meeting.

Members Present:

Mayor V. Nelson Vaughan, Councilman Joseph Mikulewicz, Vice Chairman John Bitar, Donna Cali-Charles, Vincent DeNave, H.H. Montague, Susan Favate, James Mitchell.

Anne Marie Rizzuto, Esq., attorney for the Board, was present.

Members Absent:

Chairman Richard Crater, Alan Pfeil

Open to the Public

There were no comments from the public.

Approval of Minutes

The meeting minutes of March 4, 2009 were approved as amended. Mr. Bitar and Mrs. Favate abstained from voting on these minutes because they were absent that night.

World Champion K Taekwondo, LLC

This is a continuation from the March 4, 2009 meeting. Mr. Bitar reviewed what additional information the applicant had recently submitted to the Board. The Borough Sign Committee had submitted a letter giving their approval for the signage. Mr. Bitar reported that he had listened to the recording of the 3/4/2009 hearing.

Byoung Uk Kim, the applicant and principal of World Champion K Taekwondo, LLC, was present.

Mark Fenik, Esq., attorney for the applicant, came forward. Mr. Fenik stated that he and the applicant, Mr. Kim, are seeking a waiver of site plan review for a permitted use. The permitted use is for a change of occupancy. Among the recent submissions, Ms. Rizzuto noted that Board members should now have a partial plan of the first floor.

Mr. Fenik submitted the following:

Exhibit 1: A demolition & construction plan for the proposed first floor

Exhibit 2: An enlarged floor plan

Ms. Rizzuto noted that Mrs. Favate was not present at the 3/4/2009 hearing and didn't listen to the recording of that hearing. Ms. Rizzuto asked Mr. Fenik if he considered tonight's hearing as a continuation or was it being presented as a complete application.

Mr. Fenik recalled the last hearing was short and too confusing. Tonight he would like to put in the full testimony. Mrs. Favate, after listening to tonight's testimony, is eligible to vote.

Ms. Rizzuto noted that Exhibit 3 has been submitted. It is a mechanical drawing of the proposed sign. Mr. Fenik stated that tonight he also has a master signage plan for this particular site. He is submitting this signage plan to demonstrate that the Borough had previously approved signage in the same location as discussed tonight, including the height of the proposed sign starting at the pavement.

Ms. Rizzuto noted another submission by Mr. Fenik: A Parking Plan Approval entered by the Borough Planning Board in favor of the owner of the property, Levin Management, signed by the Board's Secretary in 1991.

Ms. Rizzuto and Mr. Fenik confirmed that there was a Preliminary & Final Site Plan Approval, dated 2003, that was for individual signs, hung over each plaza store, perpendicular to the plaza's sidewalk, to help pedestrians identify the individual stores. Ms. Rizzuto labeled this information as Exhibit 4.

Mr. Fenik recalled at the previous hearing, the applicant, Byung Uk Kim, had language difficulties when he tried to testify and answer questions. Mr. Fenik has brought a translator tonight, Jessica Kim (no relation to the applicant). Ms. Rizzuto said she had discussed with Chairman Crater about having a translator present at tonight's hearing.

Jessica Kim, the translator, was sworn in to truthfully translate questions directed to the applicant and to truthfully translate the applicant's answers. Ms. Kim stated that she resided at 41 Club Drive, Summit NJ.

With Ms. Kim's help in translating, Mr. Kim (applicant) testified to the following points, answering questions from Mr. Fenik:

- Mr. Kim reviewed his Taekwondo background & all the awards he has received in this particular field.
- Mr. Kim stated that at this facility at 453 Main St., he would like to share his many Taekwondo techniques, arts and disciplines to young students.
- Mr. Kim stated that the use he is proposing is a permitted use in the B-2 District which includes 453 Main Street.

Using Exhibit 1, and with Ms. Kim's translation help, Mr. Kim described his proposed floor plan for his Taekwondo facility at 453 Main Street. He pointed out the following proposed areas:

- The reception area for students to sign up & arrive for classes
- The exercise room where the lessons will be held
- His office on the left hand side
- On the right hand side, two bathrooms, one for girls & one for boys
- A supply room in the back area

Mr. Kim testified that his proposed plans do not describe any expansion of this facility of more than 100 feet. Also, he is not proposing two or more parking spaces for his facility.

Mr. Kim testified that Exhibit 3, the mechanical drawing, was prepared at his request. He submitted this drawing to the Borough Sign Committee as part of his sign application.

At Mr. Fenik's request, Mr. Kim described what a typical day would be like at his Taekwondo facility:

- Four classes will be held from 9 a.m. to 3 p.m.
- One class will be for women's cardio kick-boxing, two Taekwondo classes for adults, and one class for children (3 to 6 yrs. old)
- Each class will have a maximum of 10 students
- Some of the parents of the younger students prefer to park their vehicles & stay at the facility during the class
- Some of the parents drop their children off for classes & leave
- The cardio kick-boxing class is one hour long
- The "pee-wee" Taekwondo class is 30 minutes long
- Adult Taekwondo classes are one hour long
- There will be 30 minutes between classes to allow for drop-off & pick-up of students
- From 3 p.m. to 9 p.m. there will be 3 children's classes & 2 adult classes
- The late afternoon classes for children will be for students, ages 7-12 yrs.
- The parents of the students, ages 7 – 12 yrs., usually drop their children off & pick them up after class
- The afternoon & evening classes will have a maximum of 10 students per class
- There will be a 10-minute break period between these afternoon & evening classes
- Students arriving at the facility will arrive only through the front door
- After classes, students will be escorted to the reception area to wait for their parents to come in for them.
- Four Taekwondo classes will be held on Saturday, plus an occasional birthday party.
- No classes will be held on Sunday.

At Mrs. Favate's request, Mr. Kim gave further testimony on the parking spaces available for drop off and pick-up of students. He pointed out that the business next door to his, Noah's Bagels, closes at 4 p.m., thus freeing up more parking spaces for his clients.

Mrs. Cali-Charles asked why a new door had been installed at the rear of this building. Mr. Kim answered that the previous door at the rear was very old and rusty. The previous owner replaced the aging door with a new one. This door will not be for public use.

Councilman Mikulewicz expressed concern that the parents of the Taekwondo students will use the fire lane to drop-off and pick-up their children. Mr. Kim answered that he will enforce a policy that the parents park their vehicles and walk their children into the Taekwondo school. Mr. Fenik added that a hand-out will be distributed to the parents giving drop-off, pick-up, and parking criteria.

Mrs. Cali-Charles asked if the bathrooms would be handicap-accessible. Mr. Kim answered yes.

Mr. Fenik asked Ethan Goldsmith to come forward and give testimony regarding the parking situation.

At this point in the meeting, Mr. Bitar asked if the public had any comments on the testimony given so far. There were none.

Ethan Goldsmith was sworn in to testify. He stated that he is leasing agent for Levin Management. Levin Management is the managing agent for the landlord. Mr. Goldsmith testified on the following points:

- There are currently 121 parking spaces at CVS Plaza
- There is sufficient parking to handle the activities at Mr. Kim's facility
- Looking at the plaza's parking lot from Main St., the main parking area is to the right
- This parking area to the right is filled to less than capacity
- There will be sufficient parking for the parents of students & the adult students in the CVS parking lot.
- Levin Management's property management representatives visit the plaza once a week to take note of plaza situations & to talk to the tenants to find out if there are any problems, such as the parking, on the plaza

Mr. Goldsmith testified that the space which Mr. Kim is seeking to rent was previously occupied by the Windsor Gift Shop. This vacant store, plus its back area, previously used by Noah's Bagels as a storage area, will be combined for Mr. Kim's Taekwondo facility. Both previous occupancies were permitted uses.

There were no questions from the public on this testimony.

Summing up, Mr. Fenik asked the Board to grant a site plan waiver based upon the fact that a permitted use is being vacated, and a new permitted use is coming in (World Champion K Taekwondo). Mr. Kim has testified that he is not increasing the building space, there will be no additional parking spaces, and that he has met the criteria for a waiver. Any parking impact will be absorbed by the site.

Mr. DeNave stated that the Borough Sign Committee has no problem with the applicant's sign and its location. It conforms with the existing plan.

Mr. Montague made a motion to waive Site Plan Review for World Champion K Taekwondo for 453 Main Street and to approve the change of permitted use. Councilman Mikulewicz. A roll call vote was taken:

Mayor Vaughan	-	yes
Councilman Mikulewicz	-	yes
Mr. DeNave	-	yes
Mr. Montague	-	yes
Mrs. Cali-Charles	-	yes
Mrs. Favate	-	yes
Mr. Mitchell	-	yes
Vice Chairman Bitar	-	yes

Chairman Crater and Mr. Pfeil were absent at the time of this vote.

Ms. Rizzuto will prepare a resolution for this approval.

Mr. DeNave left the meeting at 8:45 p.m.

Also at 8:45 p.m. a break was taken in the meeting.

At 8:55 p.m. the meeting resumed.

Old Business

Checklist Application

Ms. Rizzuto reported that she has reviewed the checklist, with attachments A & B, sent to her from Mr. Montague. She felt the checklist is mostly complete. It is in accordance with the ordinance requirements. Ms. Rizzuto stated that she still needs to do some clean-up and consistency work on it, particularly with Attachment B.

Ms. Rizzuto reviewed a list of items that she felt should be added to the checklist. She will be conferencing Mr. Montague on some possible changes and additions to the checklist. Ms. Rizzuto noted that this checklist will be for both the Planning Board and Board of Adjustment. This checklist should be reviewed by the Board of Adjustment Attorney. Mr. Montague stressed the provision specifying an applicant to submit a survey to the Boards to accurately prove what exists on his/her property. Ms. Rizzuto will also include an as-built survey for foundations after demolition. Mr. Montague and Ms. Rizzuto discussed the waiver situation on applications.

Ms. Rizzuto explained how she will make a separate checklist for Attachments A & B. She suggested the Board revisit the checklist at one of their May meetings.

PODS Ordinance

Councilman Mikulewicz reported that the PODS subcommittee met with Mr. DeNave today to review ideas. One of the issues discussed with Mr. DeNave was the number of days that the POD containers should be allowed on a property. Councilman Mikulewicz

suggested a 30-day limit. There is still a question of where the permit for PODS should be displayed. The subcommittee believed that the PODS permit could be displayed in the front window or front door of the resident using the POD. If it was hung on the POD itself, the rain and wind may destroy it. The subcommittee also discussed where the POD should be placed on a property.

Councilman Mikulewicz asked Board members to look at the subcommittee report he had distributed. If they had any comments, please submit them to Mr. DeNave. PODS will be discussed again at the next meeting.

In a similar issue, the Board discussed where porta-johns should be put on properties. A number of porta-johns are in front yards, close to the sidewalks for long periods of time. Board members noted that porta-johns often sit in front yards because the vehicles that come to clean them don't have hoses long enough to reach a backyard location.

Returning to PODS, the Board discussed the idea of allowing a resident 72 hours before he has to obtain a permit from the Borough. Ms. Rizzuto suggested the Board continue to consider the time period before a POD permit should be obtained by a resident. Their decision should be forwarded on to the Mayor and Borough Council. Board members discussed how this time-span regulation could be enforced. Mr. Bitar suggested the Board study these ideas before the next meeting and give their comments to Mr. DeNave.

Discussion of FAR Sub-Committee Report

Mr. Montague distributed copies of his report on FAR applications that have recently been heard by the Board of Adjustment. He explained that this report was a proposed format running in order of the square footage of the properties. This report also gives the building coverage, lot coverage, and FAR for each property. Mr. Montague explained each column in his report. He had indicated which applications had been approved and which had been denied.

Mr. Montague and Councilman Mikulewicz discussed how attics ceilings heights can influence a home's FAR. Councilman Mikulewicz agreed with Mr. Montague's point that new houses being constructed can work with the FAR regulations; however, he noted that the existing houses have more difficulty. An owner of an existing home is not willing to gut out their second floor in order to obtain a bump-out on their first floor.

Mr. Montague believed that the FAR ordinance came about when large homes were starting to be built on very small lots. Councilman Mikulewicz felt that the FAR ordinance started out with all good intentions, but is now a burden on some homeowners with existing structures on small lots who want to expand. Seeking a FAR variance is an arduous experience for these homeowners. After further discussion, Mr. Montague felt that the proposed additional bathrooms and more closet space was not really the problem. He noted, however, that it could be an ordeal for a homeowner to go through all the necessary time, paperwork, expenses etc. when seeking a FAR variance.

At Mrs. Cali-Charles's suggestion, Mr. Montague offered to obtain all the statistics on FAR variances sought in the Borough. He said he could have a new set of statistics ready in two months.

Councilman Mikulewicz suggested the Board hear input from local architects regarding FAR.

Summing up, Mr. Montague suggested the Board review all of the statistics on FAR variances and then determine what action should be taken. The Board should also try and understand why the FAR ordinance is in place. Mrs. Cali-Charles suggested feedback, even anonymously, from the public, giving their comments and experiences on seeking FAR variances.

At 10:05 p.m. Mr. Montague made a motion for the Board to go into Closed Session to discuss the litigation regarding Curran v. Roman, which has been remanded to the Planning Board.

At 10:20 p.m. The Board returned to Open Session.

The Board decided not to hold their April 8, 2009 meeting. To date there are no pending applications.

The next Board meeting will be held May 6, 2009, 7:30 p.m., in the Council Chambers.

At 10:25 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Recording Secretary