

CHATHAM BOROUGH PLANNING BOARD
December 2, 2009 7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of December 2, 2009 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Crater announced that all legal notices have been posted for this meeting.

Members Present:

Mayor V. Nelson Vaughan, Councilman Joseph Mikulewicz, Chairman Richard Crater, John Bitar*, Donna Cali-Charles, Vincent DeNave**, H.H. Montague, James Mitchell.

*arrived at 7:35 p.m.

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

Members Absent:

Alan Pfeil, Susan Favate

Approval of Minutes

The meeting minutes of November 4, 2009 were approved as amended. Councilman Mikulewicz and Chairman Crater abstained from voting, because they were absent from this meeting.

Open to the Public

There were no comments from the public.

F.A.R. Final Ordinance Review

Councilman Mikulewicz noted that the architects, they had consulted, asked for clarity on how attic height is measured. Mr. Montague reviewed how the definition of an attic as specified in the LDO. The definition states that this measurement reaches to the roof rafters. Mr. DeNave pointed out that if there are rafters of different heights, if one of the rafters exceeds 7 feet, it will count as floor area. The Board discussed using the term "ridge rafters".

Ms. Rizzuto felt that the current definition of "basement" was unclear. Mr. DeNave noted that in order for an area to be classified a basement, 50% of it has to be below the finished grade. He explained what a finished contact grade was.

Regarding foundations, Mr. DeNave and the Board discussed "foundation sill" and "basement sill". Ms. Rizzuto and Mr. DeNave suggested improved language specifying how to calculate to the finished grade level. The Board accepted the revised definition.

Regarding maximum building height, Mr. Montague pointed out that 33 feet was the original height allowed for residential buildings. He asked if the revised height of 35 feet applied to both residential buildings and commercial buildings. He felt that wasn't clear in the definition. Mr. DeNave believed that every residential building should have a

maximum building height of 35 feet. Ms. Rizzuto confirmed with the Board that the maximum height for buildings in the B-4 and B-5 zones should be kept at 40 feet. Ms. Rizzuto and the Board reviewed which sections in the LDO needed to be changed with the new revised building height of 35 feet. The “M” zones have 40 feet for maximum building height.

Ms. Rizzuto asked if screening was required for building roofs in the business districts. Mr. DeNave answered yes. He noted that Cheryl Bergailo had addressed screening in her recent report. Ms. Bergailo felt that any items on top of “B” district roofs should not be counted in the roof height. Mr. DeNave and Ms. Rizzuto believed this situation was addressed in the Design Standards.

After further discussion on this issue, Ms. Rizzuto recommended removing the sentence: “Any structure on a roof must be screened from view in a manner consistent with a building’s architecture.”

The Board revised the following sentence to read: “Measurement of building height from the original ground elevations shall be the average of a height measure at each *building* corner of the building from the original ground level to the top roof level or structure as set forth in (1), (2) or (3) in this definition.”

Ms. Rizzuto stated that she and Mr. DeNave will have a finalized version of this ordinance for the Board to consider at their next meeting.

Mr. Montague gave Mrs. Favate’s views about the definition of Dormers. He explained the two types of dormers. He noted that Mrs. Favate didn’t believe the definition for “window dormer” was correct. Mr. Montague said he will call Janet Siegel, a local architect, and ask her for the correct term and definition for this type of dormer.

The Board discussed FAR for the business districts. Ms. Rizzuto said she had received feedback from Board members that currently the FAR residential standards apply to all business districts. Mr. DeNave recalled that Ms. Bergailo, the Board’s planner, had felt that the FAR regulations were not needed for the business districts. Mr. Montague pointed out that there are a number of residential homes in the business districts. This situation was one of the reasons why the FAR regulations were maintained in the business districts.

In the draft ordinance, Ms. Rizzuto moved the FAR regulations for business districts (B-1 through B-6) to be inserted above FAR for residential districts. She confirmed with the Board that there were no FAR regulations for the “M” and “G” Districts or for the Affordable Housing Districts.

Moving on, Ms. Rizzuto discussed the inconsistencies she found in the current definition of “story”, specifically how the height measurements are taken. Mr. DeNave pointed out that he has advised many applicants to have their architects measure the attic space. Also, for FAR, if dormers are included on sloping roofs, the calculation of average clear

height shall include height measurements at the interior corners of each dormer.

Ms. Rizzuto said she will do further revisions on this draft, and will try and e-mail to Board members by Monday. A hard copy will be available for the next Board meeting on December 9th. Mr. Crater and Ms. Rizzuto believed the Board will go ahead and vote on the final version of this ordinance at their December 9th meeting. The ordinance will then be forwarded to the Borough Council for their consideration.

Adult Entertainment and Tattoo Parlors – Retail Services – Final Ordinance Review

Ms. Rizzuto explained that when an ordinance deals with adult entertainment uses, the definitions in the Criminal Statute can be referred to. She reviewed some word omissions that she has made in the draft. Mr. DeNave, the Zoning Officer, will be the enforcer for this ordinance. Ms. Rizzuto pointed out that these particular services will be limited the “M” Zone.

Mr. DeNave recommended that the adult entertainment use maintain a 10 ft. landscape buffer, as well as fencing.

Ms. Rizzuto noted that in the Criminal Code, there is a provision that allows a prohibition of adult uses within 1,000 feet of schools, churches, daycare centers, bus stops, parks, etc. She pointed out that 1,000 feet would not work for Chatham Borough. One thousand feet would be too restrictive. A smaller distance should be required instead. Board members discussed whether the distance should be 150 feet or 200 feet. Mr. Montague recommended 200 feet. Mr. DeNave and Ms. Rizzuto recommended 150 feet. Mr. DeNave pointed out how small the lots were in that section of the Borough. He explained how the 150 feet would be an adequate distance from Girard Avenue and from a daycare center. Ms. Rizzuto noted that the elevated railroad tracks in the “M” district would create a natural barrier for this situation.

The Board took a hand-vote on the two distances. The majority vote was for the 150 feet distance.

Ms. Rizzuto inserted additional language specifying that tattoo or body piercing services meet the requirements of the Morris County Health Department, as well as the Borough Health Officer, and New Jersey licensing and regulatory requirements.

Ms. Rizzuto reviewed the required signage for these particular services. The signage for these specific businesses and services will not be treated like the usual business district signage. Awnings will not be allowed. The Board discussed the maximum height for façade signage. They decided the façade signage should be no higher than 17 feet.

Regarding lighting, Mr. DeNave pointed out that new businesses have to submit a site plan to the Borough, which would include lighting, parking, etc. Any outdoor lighting will have to meet the requirements of the Code of the Borough, Section 165-78.

Ms. Rizzuto will incorporate the changes. The Board will re-visit this ordinance at next week's meeting.

Checklist

Ms. Rizzuto reported that she will e-mail Board members the latest version of the checklist. The checklist will be reviewed at the next Board meeting.

Sign Ordinance revisions

Mr. DeNave noted that the Board members have the latest version before them tonight.

Mr. DeNave pointed out that this ordinance is trying to regulate the 1 sq. ft. signs that have been popping up and littering the Borough streets.

Mr. DeNave reviewed the section concerning signs which were exempt from regulations. The consensus was that holiday lighting should be white or clear. Blinking lights would not be allowed. Mr. Montague did not want holiday lighting to include Halloween.

Mrs. Cali-Charles suggested people should declare what specific holiday their lighting is for. A time limit could be imposed.

Ms. Rizzuto felt the term "recognized holiday" in the ordinance should be clarified. The Board decided to insert the State and Federal holidays. After further discussion, Ms. Rizzuto put in revised wording for holiday lighting in commercial zones, which the Board approved.

The Board discussed signage for non-profit organizations. Ms. Rizzuto pointed out that the term "non-profit" does not appear any where in the ordinance. The issues of banners were discussed. The local churches have been putting banners on their front lawns, advertising events. Mr. Montague pointed out these banners have been larger than 10 sq. ft. Mr. DeNave will check to see if Fishawack is a non-profit endeavor.

Mr. DeNave reported on the sign committee's ideas on political signs. The committee felt that there should be no more than one sign per lot for a government seat being challenged. These signs should not be allowed 30 days prior to Election Day. Councilman Mikulewicz pointed out that many candidates signs were put up way before 30 days. Ms. Rizzuto questioned the legality of this 30-day regulation. Mr. DeNave noted that the 30-day restriction was already in place; unfortunately, it has not been adhered to by local campaigners. Ms. Rizzuto believed 30 days was a good restriction. She pointed out that municipalities are allowed to have reasonable related restrictions.

Mr. DeNave said the sign committee recommended that political signs not be allowed on the property of 54 Fairmount Avenue (the municipal building). Ms. Rizzuto added that stipulation to the ordinance.

Ms. Rizzuto and the Board discussed political signs in the public right-of-way. Mr. DeNave pointed out that if political signs were in front of private property, within the

right-of-way, he will not enforce the ordinance unless there was a safety issue. After further discussion, the Board decided political signs in the right-of-way have been self-regulating.

Mr. DeNave reviewed the Prohibited Signs section. Inflatable signs and balloons beyond 12 inches in diameter will be prohibited. The Board decided balloons with an 18-inch diameter should be prohibited.

After a discussion, the Board eliminated Section E: “Strings of lights not permanently mounted, with the exception of holiday lights displayed from November to the next January 15. Such lights shall not flash or blink”.

The Board discussed allowing second and third story signs in windows.

Regarding Section O, Mr. DeNave explained what “inlaid channeled lighting” was.

Mr. DeNave brought up awnings, which had been discussed by the sign committee. The committee had discussed the 3 items of information allowed on an awning: Name, address, and phone number. A logo may be placed on the slope of the awning, as long as it is centered and does not exceed 10% of the awning’s area. A definition for “logo” or “emblem” is needed. Ms. Rizzuto said she will research appropriate definitions.

Ms. Rizzuto noted that this draft ordinance will not be ready next week for the Board to vote on. She and Mr. DeNave will continue working on it. It will be re-visited at one of the Board’s meetings in January.

Old and New Business Meeting Schedule for 2010

Mr. Crater stated that Board members have received a draft of the new meeting schedule for 2010. The first and third Wednesday nights are being considered for Planning Board meetings. He noted that the only conflict is that the Borough Environmental Commission meets on the third Wednesday. Both Mr. Bitar, the Planning Bd. Liaison to the Commission, and Ms. Holler, the Recording Secretary, have to attend Commission meetings. Mr. Bitar said he would discuss with Commissioners at their next meeting about this change of Wednesday meetings. He will report the Commission’s decision at the next Board meeting.

Mr. Crater announced that the Board will be meeting next week, December 9th, at 7:30 p.m.

Clothing Bin Ordinance

Mr. Crater noted that the Borough Attorney has given a sample ordinance to the Board to consider. Mayor Vaughan said this ordinance would prevent “rogue” collection bins from appearing in the Borough. Mr. DeNave reported on the current bin situation in the

Borough. The Board indicated that these types of bins (clothing) should not be allowed in the Borough.

Ms. Rizzuto pointed out that some of these bins are installed by religious organizations. A religion-based endeavor, like this, is protected by the Constitution. She will need more time to review the statute.

Mr. Crater suggested that the clothing bin ordinance be re-visited at next week's Board meeting. He would like Ms. Rizzuto to have more time to review this matter.

On other issues, Mr. Montague distributed and discussed a chart he had made of the 27 recommendations given by the Board's planner, Cheryl Bergailo. He reviewed which recommendations the Board's subcommittee had decided on.

At 10:35 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Recording Secretary