

CHATHAM BOROUGH PLANNING BOARD  
October 14, 2009 7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of October 14, 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 Mikulewicz\*\*, Chairman Richard Crater, John Bitar, Donna Cali-Charles, Vincent DeNave\*, H.H. Montague, Alan Pfeil, Susan Favate, James Mitchell.

\*arrived at 7:39 p.m.

\*\*arrived at 7:43 p.m.

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

Members Absent:

None

Approval of Minutes

The meeting minutes of September 2, 2009 were approved as amended.

Open to the Public

There were no comments from the public.

Planner – Cheryl Bergailo, Taylor Design Group, (B Zone Study)

Mr. Crater noted that Board members have received the 2<sup>nd</sup> submission of Ms. Bergailo's Business Zones Study. He suggested Ms. Bergailo give a summary and then give her recommendations.

Ms. Bergailo stated that after the August Board meeting, she and her staff did the final parking utilization study on a Wednesday in September. The results were fairly similar to their earlier summer analysis, except that the train station lots were much more utilized. The Center Street West parking lot was also more utilized. The descriptions for those particular lots have now been updated.

Ms. Bergailo stated that she and her staff have prepared a concept plan for some additional parking at the Library of the Chathams. There is a potential for 10 more parking spaces between the Library building and the 9/11 Memorial garden.

Ms. Bergailo noted that she has given recommendations for the different types of professional offices. She said she has reviewed the Board draft ordinance regarding signs and added comments for consideration. Ms. Bergailo reported that she added a section on fast food restaurants. She suggested a definition for fast food restaurants, so local delicatessens and sandwich shops do not get penalized.

Ms. Bergailo reviewed the recommendations for building heights after consulting with an architect. Building owners should have three stories to make it worthwhile for them; however, the third story should be restricted to residential use. This recommendation would control the number of cars being generated from those buildings.

Ms. Bergailo recommended that the parking standards for banks be set at 5 to 4.75 spaces per 1,000 square feet of building area. Also, she recommended that the retail sales and service parking standard for uses other than “Freestanding Supermarket” and “Free-standing Salon” be reduced to 4 spaces per 1,000 square feet of building area, or one space per 250 square feet of building area. Ms. Bergailo recommended a modification to the off-street loading requirement. Additional lighting standards are recommended.

Ms. Bergailo felt that the B-2 Zone could be considered for drive-through eating and drinking establishments or fast food restaurants. This zone abuts the railroad line for a majority of its length.

Ms. Bergailo noted the following items in the Appendix of her study:

- The draft lighting ordinance
- Sign ordinance suggestions

The sign ordinance suggestions include recommendations on the following:

- awnings,
- sign lighting
- energy conservation
- location of wall signs
- window signs (including neon & gas tubing signs)

Ms. Bergailo asked if Board members had any questions.

Mr. Montague asked if she had looked at the parking situation behind the Library. Can additional parking be put in?

Mr. DeNave pointed out that Memorial Park is designated as Green Acres. The only area that could be used for parking is the section very close to the 9/11 memorial site. Perhaps five parking spaces could be put in that section; however, it would be a tight situation.

On another matter, Mr. Crater noted that there has been a proliferation of LED lights downtown. He asked Ms. Bergailo for her opinion.

Ms. Bergailo said LED lights can be attractive if channel set lettering is done. This system can also be energy efficient.

Referring to the Building Height recommendation (#7 on page 18), Mrs. Favate asked if there should be a regulation to control the height of roof-top-mounted equipment.

Ms. Bergailo answered that such a regulation could be added; however, the 42 inch parapet can usually screen the roof-top equipment, regardless of the height of the equipment.

Mr. Mitchell asked Ms. Bergailo to explain her suggestion about the Borough obtaining an easement for parking in the delicatessen area of Post Office Plaza.

Ms. Bergailo recalled that she had done a preliminary study of the parking situation in Post Office Plaza, around the Cottage Deli area, and behind David Lloyd's law office and Village Hardware. She wanted to see if the parking could be re-striped to see how many new spaces would be created. Only 30 new spaces would be created from what exists today. These additional spaces would probably not be financially feasible for the Borough right now; however, it may be worthwhile future. The Borough could acquire the rear parking areas of the deli, the law office, Farley's, Village Hardware, and hold it as an easement. The parking area could be improved as a public project.

Mr. Crater pointed out that the United Postal Service is currently going through changes. If the post office (the sorting building) is ever vacated, it would be good if the Borough acquired that land.

Mr. Mitchell complimented Ms. Bergailo on her report. Ms. Bergailo suggested in the future the Board may want to appoint a sub-committee to select which recommendations to move forward with.

Ms. Rizzuto noted to Ms. Bergailo that the Board members are currently looking at the Borough Sign Ordinance. They will take her comments on that issue under advisement. They will also consider Ms. Bergailo's recommendations for FAR in the business district. Ms. Rizzuto agreed with Ms. Bergailo's suggestion that the Board form subcommittees.

Ms. Rizzuto confirmed with Ms. Bergailo that tonight's presentation is the end of her assignment. Ms. Bergailo said that she will add her recommendations on the equipment height for buildings. She will also send Mrs. Maramonte, in the Building Department, a copy of her excel spreadsheets. The parking utilization data can be sorted by use and by zone. The Board may want this data to make their own analysis. Ms. Bergailo briefly reviewed the eating and drinking establishment situation in the Borough.

Mr. Crater liked Ms. Bergailo's suggestion to form a subcommittee to take a hard look at Ms. Bergailo's report and possibly add to it. Three Board members volunteered: Mrs. Favate, Mr. Montague, and Councilman Mikulewicz.

Mayor Vaughan reported that a Business Improvement ordinance was passed by the Borough Council last night. A budget still has to be submitted. Ms. Bergailo's report will be very helpful when the improvements are being considered.

As a last recommendation, Ms. Bergailo gave her thoughts on the downtown street lights. She noted that the wattage on these lights cannot be lowered. However, if the globes ever

break, cut-off globes should replace them. Cut-off globes can reflect the light down to the pavement.

#### FAR Committee Report

Councilman Mikulewicz reported that Mr. Montague has volunteered to draft an ordinance with the revisions recommended by the committee. Councilman Mikulewicz noted that the largest revision made to the FAR ordinance was amending the 5 feet FAR requirement for the attic. The new measurement will be 7 feet. Mr. Montague explained how the 7 feet measurement was arrived at.

Mr. Pfeil, a member of the FAR subcommittee, pointed out that it is currently difficult for the Borough Building Department to verify the measurements of an existing attic or proposed attic. Homeowners are raising the ceiling level of the second floor, to eliminate the 5 feet and beyond in the attic in the FAR calculation. This cosmetic change is costly for homeowners to undertake. This FAR revision would not force homeowners to take on that expense.

Mr. Montague reviewed the revisions he made on the definition for FAR, particularly how measurements are taken in the attic. Architects had given their input on this issue. Mr. DeNave suggested that attics should be included in the FAR definition. Mr. Montague reported that the FAR calculations will no longer include private garages in basements.

Mr. Montague noted that the architects had asked that clarification be made on how a story is measured.

Mr. Montague noted that the matter of above ground garages had not been settled yet by the FAR committee. This would involve changing the FAR ratios, which is very complex. Mr. DeNave pointed out that nowadays many garages include workshops and storage for toys, sports equipment, and gardening equipment.

At Mr. Crater's request, Mr. DeNave will further tweak this FAR section and work with Ms. Rizzuto on an ordinance to recommend to the Borough Council. Ms. Rizzuto suggested that the Board finalize the FAR ordinance at one of their November meetings.

Mrs. Cali-Charles said she was pleased that some leniency on FAR has been decided by the Board. She suggested that the Board move on to what the decisions they have made tonight. In the future, she hoped that the Board could review the issue of garages and FAR.

Mr. Crater asked Mr. DeNave to make the necessary changes and forward them to Ms. Rizzuto to draft into the ordinance. Mr. Crater thanked the FAR committee for all their hard work.

#### Sign Ordinance

Mr. Crater noted that the Board had a long discussion on this matter at their last meeting. He noted that he had asked Mr. DeNave to collate the results of this discussion. Mr. DeNave has now distributed his report.

Mr. DeNave noted that he had received a number of comments for Councilman Harris's draft ordinance. In tonight's document, the language in red is issues that are still under discussion. For example, no decision has been reached of when political signs should be taken down. There were different opinions.

Mr. Montague brought up the issue of political signs on public property. Councilman Mikulewicz suggested that situation be codified, for instance, allowing those signs on all public property except Borough Hall.

Ms. Rizzuto asked if political signs should be allowed in public parks. Mrs. Cali-Charles felt these signs could be allowed in public parks; however, they should be removed by a certain time frame. She suggested political signs be removed by 7 days after an election, or a penalty be imposed.

Mr. Bitar did not feel political signs should be put on Borough property. People may interpret that the Borough government is endorsing certain candidates.

Ms. Rizzuto suggested a regulation allowing signs on Borough property; however, list certain restrictions. She informed the Board that the easiest sign to limit or prohibit are commercial signs.

Mr. Crater suggested the discussion of signs should be continued at a future meeting. He recommended that some of Ms. Bergailo's recommendations be incorporated into the final sign ordinance.

Mrs. Cali-Charles suggested comments from the residents should be heard on the sign situation. Councilman Mikulewicz said it's been on the agenda for some time now. Ms. Rizzuto suggested a public notice be put up, or a message be broadcast on the Borough Bulletin Board on Channel 21, inviting the public to attend the next sign discussion.

Mr. Crater said the sign discussion will continue at the Board's next meeting on November 4<sup>th</sup>.

#### Checklist

Ms. Rizzuto noted that she and Mr. Montague had held a very productive meeting to review the applicant's checklist and any items which may be added.

Ms. Rizzuto went over the list of items which could be added:

- The need for generators
- What the Board would like to see, minimally, for a courtesy review
- A decision of whether a small checklist or small application be required when the Board is requested to make an interpretation

- A decision of whether a Change in Permitted Use be included in the checklist

Ms. Rizzuto said she is still trying to decide where the four page waiver process would fit in the checklist.

Ms. Rizzuto noted there are times when the Board sends an application to the Historic Preservation Commission (HPC) and the Borough Sign Committee to review. The Board discussed including these instances in the checklist.

On other matters, Ms. Rizzuto will do a memo for the next meeting of instances in the LDO where the Borough is exempt from making an application before the Board.

The checklist will be discussed further at the next Board meeting.

#### New Business

Ms. Rizzuto noted that Board members should now have the second draft ordinance regarding the limitations and restrictions for adult entertainment uses and tattoo and body piercing establishments.

Ms. Rizzuto reviewed the key points of this draft ordinance:

- The Borough can prohibit in every zone outright obscene or pornographic activity and use
- Adult entertainment proposed for the M-3 District, must obtain conditional use approval from the appropriate Borough Board

Mrs. Favate pointed out that her pediatrician's office is located on Watchung Avenue, is in the M-3 District. Ms. Rizzuto took note of this.

Ms. Rizzuto reminded Board members that their goal is to have an ordinance which meets with the current pronouncements of the Supreme Court and the Legislature on what is allowed to be limited and restricted in this area, and what can be prohibited.

Ms. Rizzuto reviewed the requirements for adult entertainment uses that may be allowed in the M-3 District as a conditional use. She also reviewed the fencing and buffering that should be required for these uses.

Ms. Rizzuto and the Board discussed paragraph "L" of Section 165-150: "There shall be a minimum distance of 1,000 feet between any adult entertainment use and any other adult entertainment use or any place of worship, elementary or secondary school, child care center, school bus stop, municipal, County or State park or playground or residentially-zoned area."

Mr. Pfeil said he couldn't see any properties in the M-3 District which would comply with paragraph "L". It's a small zone. Ms Rizzuto noted that the State Statute says the local government can adopt an ordinance that can be less restrictive. Ms. Rizzuto suggested revised buffer measurements for the Board's consideration. Mr. DeNave

offered to come up with different, reduced distances and buffers. He will work with Ms. Rizzuto on this project.

The Board will try and finalize this ordinance at their November 4<sup>th</sup> meeting and forward it on to the Borough Council.

On other matters, Councilman Mikulewicz reported that the Borough Attorney has recently directed an ordinance regulating the position of clothing bins in town. Councilman Mikulewicz will forward copies to Planning Board members.

At 10:15 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary