

CHATHAM BOROUGH PLANNING BOARD

June 13, 2007

7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of June 13, 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, John Hague, David Gerridge, Bill Jankowski, Thomas Sennett, Councilman Bruce Harris*, Mayor Richard Plambeck.
*arrived at 8 p.m.

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

Members Absent: Alison Pignatello, Alan Pfeil, James Mitchell.

Ogden Memorial Presbyterian Church – 286 Main St. – Site Plan Approval

Mr. Montague reported that Ogden Memorial Church had a conflict tonight. They will appear at the Planning Board's July 11th meeting.

Shaw Application – 99 Hillside Ave. – Minor Subdivision

Mr. Montague alerted Board members that this afternoon the Borough Engineer submitted his report regarding Mr. and Mrs. Shaw's property. Mr. DeNave included his comments on what is being proposed.

Hilary Sunyak, Esq., introduced herself as the attorney for the applicants, John & Jennifer Shaw, owners of 99 Hillside Ave. She noted that the applicant's property is located in the R-2 District. John Shaw is present tonight to give testimony. The applicant's engineer, William Hollows, is also present.

Ms. Sunyak stated that the Shaws are seeking permission from the Board for a minor subdivision approval. The Shaws are proposing to subdivide their property which consists of approximately 43,000 sq. ft. into two lots consisting of approximately 21,000 sq. ft. which are more in character and more consistent with the surrounding neighborhood. The proposed new lots will be more in conformity with the 9300 sq. ft. required for the R-2 District. The minor subdivision as proposed has been designed to be in conformance with the Borough Zoning ordinances with the exception of the pre-existing nonconforming side yard setbacks of the existing accessory detached garage and side yard portico on proposed Lot 5. Ms. Sunyak said that the pre-existing nonconforming side yard setbacks were not caused or created by this subdivision.

The following were sworn in to testify:

John Shaw, the applicant.

William Hollows, the applicant's engineer and surveyor.

Mr. Shaw stated that he currently resides at 21 Chatham Street, Chatham NJ.

Mr. Hollows stated that he is a principal with Murphy & Hollows Associates, Stirling NJ. He is a licensed professional engineer and land surveyor in the State of New Jersey. He submitted his education and professional credentials. The Board accepted his credentials.

Mr. Shaw testified that he and his wife, Jennifer, are the owners of 99 Hillside Avenue. The purpose of this application is to sub-divide his property. Mr. Shaw stated that he is proposing to improve the lot which has an existing structure. He plans to eventually move into this structure. He will either sell the new proposed lot or build another home in which to sell. He has not decided this matter yet.

Mr. Montague noted he had seen a “for sale” sign in front of the house at 99 Hillside Avenue.

Mr. Shaw explained that the land is currently for sale subject to subdivision.

Mr. Foster confirmed with Mr. Shaw that he has acquired the title to the entire property.

Ms. Sunyak asked Mr. Shaw if he had reviewed the administrative comments submitted by the Borough’s experts.

Mr. Shaw answered yes.

Referring to the Borough Engineer’s comments, Ms. Sunyak noted that Mr. DeNave had expressed views on the existing driveway on Lot 5. Ms. Sunyak asked if this driveway was to remain as is.

Mr. Shaw explained that this particular driveway is a shared driveway between 95 Hillside Ave. and 99 Hillside Ave. He clarified that he is also the owner of 95 Hillside Ave.

Mr. Foster asked that Mr. Shaw go over the Site Plan. Mr. Foster suggested that this would be a good time for the applicant’s engineer to testify.

Mr. Hollows put the Site Plan up on the easel. He testified that the applicant’s property, known as Lot 5, Block 114, is on the southeasterly side of Hillside Avenue. The property is 150 feet wide by approximately 285 feet deep. The applicant’s parcel is considerably larger than all of the surrounding lots.

Mr. Hollows submitted Sheet 3 of the Site Plan as Exhibit A-1. This exhibit shows the existing improvements on this property. Mr. Hollows pointed out the existing house and the existing driveway. There are existing trees on the west side of the property. He noted that the property slopes from Hillside Avenue towards the rear. All municipal utilities are on Hillside Avenue and are underground. Mr. Hollows pointed out a blue line running down the middle that is the proposed new lot line. He testified that the lot

to the east, Lot 5, where the existing house stands, has 21,415 sq. ft. The lot to the west, temporarily designated as Lot 5.01, is the new building lot. That lot contains 21,314 sq. ft. Mr. Hollows stated that both lots meet the ordinance requirements as far as lot area and lot width are concerned.

Mr. Hollows testified that there are two nonconforming issues with the existing house. He noted that there is the driveway portico which is one foot off the property line. Also, there is an existing detached garage that is 2.1 feet off the property line. This garage needs to be 4 feet off the property line.

Mayor Plambeck noted that facing the front of the house, on the right side, the new proposed property line there would only have a 9.6 ft. setback. A 12 ft. setback is required. The proposed subdivision will be making the setback less than 12 feet.

Mr. Hollows and Mayor Plambeck agreed an additional variance would then be needed for this situation.

Mr. Montague asked if the existing garage will be changed.

Mr. Shaw answered that at this point his intention is to improve the property. If the garage has to be moved, he will do so. If it doesn't have to be moved, he will keep it in its current location. He had the same feelings for the existing portico. Mr. Shaw felt the portico gave character to the home. This home was built in 1911 by one of the Lums. Mr. Shaw testified that at the present time he will not be doing any work on the existing house or garage. He stated that he owns the house next door at 95 Hillside Ave. He is currently renovating 95 Hillside Ave. That renovation will be finished soon. Mr. Shaw intends to split the driveways. After Mr. Shaw finishes renovating 95 Hillside Ave., he will begin renovating 99 Hillside Ave. and improve the property. Mr. Shaw noted that he has not submitted building plans nor obtained a building permit.

Mayor Plambeck noted that currently on both properties, within the Borough right-of-way, there is an existing railroad tie wall along the sidewalk.

Mr. Shaw confirmed that in front of the property at 99 Hillside Ave. there is a railroad tie retaining wall. Mr. Hollows agreed with Mayor Plambeck's point that the retaining wall was within the Borough right-of-way. This retaining wall is an existing condition.

Mr. Montague noted that the proposed subdivision line runs close to two or three trees. Is there a proposal to remove any trees?

Mr. Shaw felt the trees being pointed out by Mr. Montague are "not the significant trees" of the lot. These particular trees are deep in the lot. He has no intention of removing these trees at this time.

Mr. Sennett asked if Mr. Shaw had plans to remove any other trees at this time.

Mr. Shaw answered no; however, if he eventually wants to develop the lot next door he may have to take down some trees. He stated that he intends to live at 99 Hillside Ave. and he will try to protect his property and the visual surroundings. He noted that some trees may have to be removed if a new structure was built on the newly formed lot if the subdivision is approved. He will still try and maintain the character of the property.

Mr. Montague asked Mr. Foster if the Shaws had to do anything with the retaining wall if the subdivision is approved, since the wall is on Borough property.

Mr. Foster said that if this subdivision did not involve any variances, there isn't much the Board could require that the wall not be on Borough property. Mr. Foster said if a variance is needed for the southerly side yard of the proposed lot with the existing dwelling, the re-location of the retaining wall could be a condition of approval.

Mr. Shaw offered to reduce the size of the structure on the south side to conform to the 12 feet setback regulation.

Mayor Plambeck asked Mr. Shaw if he was planning to reduce the porch as part of his renovations.

Mr. Shaw answered that he preferred not to because it would involve an additional cost.

Mayor Plambeck asked if there are any stormwater swales, berms, piping, etc. towards the rear of the property. The property drops off significantly as it heads east.

Mr. Hollows answered that there were none that he was aware of. He stated that he has walked the property and hasn't come across these features.

At this point in time Councilman Harris joined the meeting.

Mr. Shaw testified that this is a very flat piece of property. It begins to slope off at the next house to the right.

Mayor Plambeck pointed out that towards the back of the property, where the subdivision is being proposed, is where it starts to drop.

Mr. Shaw agreed stating that between Lot 4 and Lot 3 there is a significant slope. He believed Lot 5 is very flat, except for the right rear corner.

Ms. Sunyak referred the Board to the existing driveway on Lot 5. She asked Mr. Shaw to comment on whether or not that driveway will remain and continue to be a shared driveway.

Mr. Shaw answered that he will divide the shared driveway into two new driveways independent of each other. A median of grass or bushes will be put between them.

Ms. Sunyak noted that Mr. Hollows would like to refer to the applicant's lots as Lot 5.01 and Lot 5.02 in his revised plans. Is this acceptable?

Mr. Foster answered that the final determination of the Lot designation is decided by the Borough Assessor.

Ms. Sunyak said Mr. Hollows' testimony is finished.

Mr. Montague asked if the Board had any questions for Mr. Hollows.

Mr. Hague pointed out that the FAR is not shown on the zoning schedule.

Mr. Hollows said he will include the FAR.

Also in reference to the zoning schedule, Mr. Foster recommended that the applicant agree that the building coverage should be included. The applicant and the Zoning Officer should agree on what the required maximum figure should be. The agreed figure should be included in the revised plans.

The Board had no more questions for Mr. Hollows. A member of the audience signaled that she had a question.

Marcy Wecker, 103 Hillside Ave., said her house was on the neighboring lot to the west, Lot 4, next to the woods where Mr. Shaw is proposing to subdivide.

Ms. Wecker noted that Mr. Hollows had mentioned a second variance was needed because the applicant only had the 9 feet needed for a side yard setback instead of 12 feet. Ms. Wecker asked where that particular area is located.

Mr. Hollows showed her on the plans. He didn't believe this side yard setback would be significant to Ms. Wecker's property, because the new home would be in between. Whoever builds that new home would have to remain within the setbacks or seek a variance. Mr. Hollows felt Ms. Wecker would not be able to see the 9.6 feet setback from her house.

Ms. Wecker asked about the portico and the pre-existing non-conformity which had been discussed earlier.

Mr. Hollows stated that there was a portico on the left hand side of the existing house. The existing garage is close to the property line, but far away from Ms. Wecker's property line.

Ms. Wecker stated that her house is next to the woods and she is not in favor of the subdivision. She noted that there is a great deal of wildlife that lives in the woods. It's been that way for many years. She felt if a subdivision was allowed, the new lot will be developed. A new house will probably be squeezed in between two existing homes.

Ms. Wecker said that Mr. Shaw has offered to buy her home. He had informed Ms. Wecker that he would like to move into her house so he could watch his new home being built. Ms. Wecker did not believe that Mr. Shaw is planning to restore 99 Hillside Avenue. She has heard from other people that Mr. Shaw will be turning his homes into rentals. Ms. Wecker said she preferred Chatham to remain a residential town without this type of rental where transient people come and go.

Mr. Shaw said he understood how rumors can get around. He said the real story is that his family is growing out of his current residence at 21 Chatham Street. When Stanley Church put their parsonage on the market, he acquired the house and the property. Mr. Shaw testified that he had every intention of developing this house into a home that he can move his family into. The house would also be an investment for the future.

Mr. Shaw said the residents at 95 Hillside Ave. approached him to sell their house. They were planning to retire. The house had been on the market for some time. Mr. Shaw clarified that he made an offer to the owners of 95 Hillside Ave. prior to when he purchased Lot 6. At the time Mr. Shaw purchased 95 Hillside, he owned only Lot 5. Purchasing Lot 4 gave Mr. Shaw the opportunity to acquire a larger piece of property. Mr. Shaw figured he could then sell his home on Chatham Street, move to Lot 4, and develop Lot 5. Unfortunately the owners of Lot 4, took their house off the market and Mr. Shaw could not acquire the house. He stated that Lot 6 then became available. Lot 6 had a house for him to move his family into. He could improve this property and split the driveways.

Mr. Shaw noted that the existing lot at 99 Hillside Ave. is very large. It's **43,000** sq. ft. He felt that sub-dividing this lot would make a lot of financial sense to him. If he didn't build a home on the sub-divided lot, someone else will. Mr. Shaw said he had a renter in 99 Hillside Ave. because he (Mr. Shaw) is not ready to move into that house yet and start renovating. As soon as Lot 6 is renovated and completed, Lot 5 is his next project. He currently has an architect working on that project.

Mr. Montague asked Mr. Shaw and Ms. Sunyak if they will meet the map-filing law requirements.

Ms. Sunyak answered that she and Mr. Shaw will file the subdivision deeds as opposed to a map. Mr. Foster confirmed with Ms. Sunyak that the deeds will describe the two new pieces of property with the correct lot designations.

Mr. Foster asked Mr. Shaw if he would be able to divide the front portion of the two driveways so that the Lot 5 driveway would be entirely on the lot and still be wide enough for a vehicle. Mr. Shaw answered yes; he plans to take that action as soon as possible for aesthetic reasons.

Mr. Foster confirmed with Mr. Shaw that he would have to expand the southern part of the driveway a little to allow a vehicle to access Lot 5 without encroaching on Lot 6.

Mr. Shaw noted that there will be a 3 ft. median between the two driveways. Mayor Plambeck concluded then that Mr. Shaw would have to move a section of the retaining wall. Mr. Shaw agreed that he would have to move it 2 to 3 ft.

Mr. Hague asked Mr. Shaw if he would like to replace this wall or remove it permanently.

Mr. Shaw said the wall is in good shape. He would prefer to just cut it back and clean up the landscaping.

Mr. Hague noted that if a new home was built on the vacant lot, a hole would have to be punched through the retaining wall in order to establish a driveway for the new lot. Mr. Shaw agreed, pointing out that currently there is no access to that lot. Mayor Plambeck reminded Mr. Shaw that the retaining wall is on the Borough right-of-way. Mr. Hague suggested Mr. Shaw could approach the Borough for a license agreement to allow him to have a continued use of the wall, obligating Mr. Shaw to maintain the wall, to make insurance provision, and design review for its reconstruction. If the Borough does not accept these conditions, the wall will then have to be removed.

Mayor Plambeck stated that if the retaining wall is removed in the future, he would like the new retaining wall to be installed totally on the property owner's land.

Mr. Shaw indicated he would accept that stipulation. He noted that he has replaced the retaining wall at 95 Hillside Ave. to make it more aesthetically pleasing. For 99 Hillside Ave., Mr. Shaw said he could move the wall back or change the material. He realized that by improving the existing home at 95 Hillside Ave., the wall could also be improved to increase the value of the property. Mr. Shaw explained how the property at 95 Hillside Ave. needed a retaining wall. It's now a question of what will be the wall's material and where the wall will be located. He felt totally removing the wall is not an option for the sidewalk. Mr. Shaw agreed to go through the licensing process if the Borough is receptive.

Mr. Hague and Mr. Sennett indicated that they were not in favor of taking 3 feet off of the structure. They would like the structure left alone. They were in favor of granting the variance given the over all size and scale of the lot. Mayor Plambeck reminded Mr. Shaw that he could not construct a second story that close to the property line on the south side. Mr. Shaw said his intention is to take the house back further as he remodels it. He will keep the remodeling within regulations.

Mr. Foster suggested that before the Board votes on this application, they should have another look at the plans with all the revisions agreed upon at tonight's meeting. If the Board is generally in favor of this application, they could instruct Mr. Foster to make a resolution. The Board could then reconsider it at the next meeting with the revised plans in front of them. Mr. Foster noted that the zoning schedule on Sheet #1 should be revised to show the specific range of figures for building coverage and the actual residential FAR of the existing building.

Mr. Montague felt that the applicant should have a chance to see the resolution and make sure the wording is correct.

Regarding the drawing revision, Mr. Hague said he would like to see the location of the driveway for the new lot. Also, he would like to see some details on the proposed cut on the curb. Mr. Hague and Mr. Hollows agreed to mark on the plans that the cut should be as far away from Lot 4 as possible. Mayor Plambeck noted that any driveway constructed on the vacant lot should be at the northern side.

Mr. Foster asked Mr. Hollows if he believed that if anyone were to build on the vacant lot, because of the depth of the lot, they would probably have a driveway along the side of the property and a garage at the rear. Mr. Hollows believed that would probably be the plan for the driveway and garage, as opposed to having a two-car garage at the front entrance.

Mr. Gerridge didn't believe the Board or the applicant could speculate what a builder will do with the property.

Mr. Montague felt having the driveway on the northern side of the vacant property would be less of an impact on the neighbor.

Mr. Shaw agreed that having the driveway installed on the north side was a good idea; however, he pointed out that he could not speak for whoever purchases the property. He did not want to impose those constraints on the purchaser on a condition of sale of land.

Mayor Plambeck said the Board should decide whether to put in a condition about the driveway in the resolution. Mr. Hague recommended that the condition state that the driveway be on the northern side of the property. That would give flexibility in granting a variance.

Mr. Montague noted that there is currently a large, 18-inch maple tree on the southern side of the property. This tree is a Borough tree. Any future property owners who need to remove that tree will need permission from the Borough.

Mayor Plambeck pointed out that a driveway installed on the southern side of the vacant property would affect two property owners. If the driveway was put in on the northern side it would affect only one owner, Mr. Shaw. Mayor Plambeck urged Mr. Shaw to accept this compromise.

Mr. Shaw agreed it was a good compromise; however, he asked if this type of compromise had been done in the past for subdivisions. He was concerned about this constraint being imposed on the new owner.

Mayor Plambeck noted that there have been subdivisions in the past which have created stormwater and other issues. It would make sense for the Board to take measures in

preventing these issues. Mayor Plambeck pointed out that Mr. Shaw, as an experienced builder, has indicated that having the driveway on the northern side would not be a detriment to the lot's value.

Mr. Shaw finally agreed with the driveway condition.

Mr. Foster brought up the front setback of the future house to be built on the vacant lot. He said that the existing front setbacks of nearby houses on that street have to be taken into consideration. Most of them are close to 30 feet; however, he pointed out that the existing house on Lot 5 is set back 75 feet. This situation would make it necessary for the new house on the vacant lot to be somewhat deeper than 30 feet.

Mr. Shaw commented that Hillside Ave. has more than average traffic. He felt anyone who would build a home on the vacant lot would want to set it back a little further, 30 feet or more. Mr. Shaw believed a front setback of 30 feet or more would alleviate the impact of the traffic. Such a setback would also take good advantage of the depth of the property.

Ms. Sunyak pointed out that anyone who builds a house on that vacant lot has to comply with all the ordinances.

Mr. Gerridge did the front setback calculations and noted that the front setback would have to be at least 50 feet.

Ms. Sunyak asked what still needed to be done on this application.

Mr. Montague felt the Board was of the opinion that they will direct Mr. Foster to draw up a resolution which they will vote on at the next meeting. The applicant will submit his revised plans with the revisions discussed tonight. He believed that the Board was agreeable to consider a variance for the side yard on the existing property. Mr. Montague felt that the existing garage and portico were not issues. The applicant has to show his proposals for the driveway. The applicant may have to go and ask the Borough for a change in the driveway cut. Mr. Montague brought up the driveway on the new subdivided property. He felt the Board would like this driveway to be north of the 18 inch maple tree.

After consulting with Mr. Shaw, Ms. Sunyak said the plans will be revised. She brought up the two options of either securing a license agreement or removing the retaining wall and moving it back.

Mayor Plambeck and Mr. Hague pointed out that Mr. Shaw could move the wall back anytime he wants.

Ms. Sunyak reported that Mr. Shaw is agreeable to having a condition that the driveway on the new lot is north of the maple tree. Mr. Montague suggested specific dimensions

be given for this situation. He and Mayor Plambeck recommended that the driveway be within 40 feet of the proposed new lot line.

Mr. Shaw was agreeable to this condition.

Ms. Sunyak asked when would the Board like to have the revised plans.

Mr. Montague answered 10 days before the next Board meeting.

Mr. Hague made a motion instructing Mr. Foster to draft the resolution to approve the subdivision with the conditions agreed on tonight concerning the split of the driveways, the license agreement and/or the removal of the retaining wall, allowing the variance for 9 feet, and the location of the new lot driveway within the northerly 40 feet of the lot. Mayor Plambeck seconded the motion. A voice vote was taken. All Board members voted “aye” except for Councilman Harris who abstained.

Meeting minutes

Mr. Montague noted that two sets of meeting minutes will be ready at the next meeting for the Board’s review.

Density Ordinance Review

Mr. Montague noted that there is a section in the LDO which Councilman Harris had brought to his attention. It is Section 165-84: “Unless otherwise specifically permitted in this chapter, no more than one principal dwelling or building shall be permitted on one lot.”

Mr. Montague said because of this particular LDO regulation, the Board should not yet hire the planner, Ms. Bergailo. Referring to Section 165-84, Mr. Montague suggested three actions the Board could take:

- 1) Leave everything as it is stated in the LDO; however, this will be a burden for the Construction Office
- 2) make sure a “principal dwelling” is defined as one, and only one, dwelling
- 3) Permit another family unit on one property, like a mother-in-law apartment, a pool house, etc.

Mr. Montague asked the Board for comments.

Mayor Plambeck felt this requirement really belonged in the residential section of the LDO.

Councilman Harris felt that Section 165-84 would give the Construction Office the necessary language to deny an application seeking to put more than one unit on a lot in a single family residential zone.

Some of the Board members questioned what a “principal dwelling” really meant.

Mr. Hague suggested the planner, when she works on the density issue, look into this particular term.

Councilman Harris felt that there was currently language in the LDO that will control the few times when this issue comes up. The Construction Office can use the regulation as stated in Section 165-84. He suggested removing the word “principal” in a general clean up of the LDO. He didn’t believe a planner needed to be hired right now for this issue.

Mr. Foster noted that currently in the “B” zones by the river, more than one principal building is allowed. Councilman Harris agreed, pinpointing Section 165-23 (b): “Any lot in the B-1, B-2 and B-3 Districts may contain more than one principal building, provided that all land coverage requirements of this chapter are met.”

Mr. Foster clarified that any building that is not an accessory building is a principal building.

After further discussion, Mr. Montague agreed with Councilman Harris and Mayor Plambeck that a planner should not be **hired** to work on this issue. Some Board members believed it was a “non-issue” altogether. Mr. Montague believed differently. He felt more work needed to be done in the future in clarifying the language in the LDO.

Mr. Montague will contact Ms. Bergailo and tell her that her services won’t be needed right now; however, the Board may need her in the future.

B-2 and B-3 Side Yard Ordinance

Councilman Harris questioned why the side yard setback is 5 feet in the B-2 zone when across the street, in the B-1 zone, it is 10 feet. Perhaps there is something different about the lots in the B-1 zone from the B-2 zone. Councilman Harris said after studying the tax map, he created a table showing the lot widths for all of the lots in those districts.

Councilman Harris reported that there is a larger proportion of lots, 50 feet wide or less, in the B-1 District than in the B-2 zone. He couldn’t figure out why the side yard requirement would be greater in the B-1 zone. Councilman Harris asked Mr. Montague if he had asked Lloyd Wise, former Planning Chair, about this situation.

Mr. Montague answered no, not yet. He has spoken with past Board members and they could give no real rationale for these particular side yard requirements. He pointed out that there are still houses that exist in that area and their garages, close to the side yards, may have been an issue.

Mr. Montague suggested that, before the Board recommends changes to these side yards to the Council, they should make sure that all of the lots in question are in compliance. Mayor Plambeck reminded him that these set backs are only for principal buildings. He didn’t think garages were an issue.

Councilman Harris felt a particular lot in one of these zones was going to be developed soon in one of those districts. He would like an ordinance in place as soon as possible.

Mr. Montague suggested Board members visit the sites in these districts and see what exists. Mayor Plambeck noted that Mr. Taylor, the Zoning Officer, has a database of photos of these properties.

Mr. Montague confirmed with Councilman Harris that 10 feet is being proposed for the side yard setbacks. The rationale behind this change is to equalize all these business districts and to make them consistent.

The Board wanted to know why the particular numbers in the 1984 table were decided on by the Planning Board. Perhaps the Borough Council meeting minutes at that time in 1984 could give some clues.

Old/New Business

Mr. Montague distributed copies of the resolution appointing the Board's Special Counsel, Alan A. Siegel, Esq., for the Shailja LLC law suit. Mr. Foster pointed out that this resolution still needed approval from the Borough. He has written a letter to the Borough Administrator asking for the Borough's approval. Mr. Foster reported that all defendants have sent in and distributed copies of the answer to the complaint. A pre-trial conference was set for tomorrow; however, Judge Bozonelis has recused himself from the case. The pre-trial conference has been scheduled for a later date.

Mr. Foster noted that he has received responses from three Board members concerning the draft resolution for 221 Main Street. The resolution has been filed. Mr. Foster reported that Mr. Osmun, attorney for 221 Main Street, has accepted the resolution's language. Mr. Foster has communicated with the attorney who will be representing the Borough issues with 221 Main Street. He has sent her a copy of the resolution and will help her with any further information she may need.

Mr. Montague brought up the issue of which board should hear the Ogden Memorial Church application for additional parking. Mr. Montague noted that a pre-school operates in the church complex. He pointed out that there is nothing in the Borough ordinance stating that a pre-school is a permitted use. The church is seeking 48 parking spaces. These spaces were calculated by the number of seats available in the sanctuary. Mr. Montague said that the ordinance reads: "church and other units". At the present time, Mr. Montague was not aware of any parking requirements for other units.

Mayor Plambeck read aloud the LDO language for minimal off-street parking. The LDO specified that "Where a permitted use of land includes different specific activities with different specific parking requirements, the total number of required parking spaces shall be obtained by individually computing the parking requirements for each different activity and adding the resulting numbers together". The requirement for schools is that they must provide one parking space per employee for the younger grades and a certain

number for the older grades. Mayor Plambeck felt that both uses, school and church, should be added together for the parking spaces.

Mr. Foster reported that Mr. Knoll, the attorney for Ogden Church, was researching the concept that this is not an application for approval of a certain kind of use. The uses are already there. The application is for parking.

Mr. Hague disagreed with Mr. Knoll's views. Mr. Hague stated that the case law clearly specifies that if there is a non-conforming use or a use by way of variance, and there is a change in configuration, it is a "D" variance.

Councilman Harris asked who decided the jurisdiction for this application.

Mr. Montague answered that the Construction Office will get their direction from Mr. Lloyd, the Borough Attorney. The Board should get their direction from Mr. Foster. If Mr. Foster and Mr. Lloyd make a mutual agreement on the jurisdiction, the Board should consider their recommendation and vote on it.

Mr. Hague questioned how "pre-school" could be read into the ordinance for parking. The parking requirement starts only for kindergarten level schools and beyond.

Mayor Plambeck brought up what falls under the church use by case law.

Mr. Hague said from his experience, parsonages, Sunday schools, church youth groups, are considered accessory uses. The independent groups, like the Montessori School, fall outside the normal accessory use. Mayor Plambeck said he **previously** understood the Montessori School was non-profit. The Borough Assessor has **recent** documentation from Ogden Church that the portion of the building used for this particular Montessori will be taxable.

The Board will wait for advice from Attorneys Lloyd and Foster.

On other matters, Mayor Plambeck noted that Board members should have copies of the Chatham Borough over-lay zones for the Borough well-heads. The County asked that the Board review this current draft. If there are further corrections, send them to Mayor Plambeck. Mr. Rice will do the final draft.

Councilman Harris suggested the draft be compared to the actual ordinances. Mr. Montague questioned whether Route 24 was correctly marked. He will check into this situation. Councilman Harris pointed out that Passaic Avenue sort of fades away on the zoning map. He recommended the Borough Engineer take a close look at the draft to make sure everything is correct. Mayor Plambeck said he will ask the Borough Administrator to see if there are enough funds in the budget to have Mr. DeNave review the draft.

Mayor Plambeck discussed two ordinances tabled by the Borough Council so that the Planning Board could have a chance to look at them. These ordinances are related to land development. The first one is Ordinance #7-21: Schedule of Penalties for a First Offense. The Borough Zoning Officer and Court Administrator have recommended to the Borough Council that for a first offense, the violators and the enforcers do not have to appear in municipal court, if the violator pays the fine for the first offense. The Borough Council would like comments from the Planning Board on this ordinance before it is re-introduced on Second Reading.

Mayor Plambeck reported that the second ordinance concerned sidewalk dining and the list of violations. Like Ordinance #7-21, this ordinance will make it possible for a violator, on his first offense, to pay the fine and avoid a court appearance.

Mayor Plambeck explained how these two ordinances, if adopted, will save both money and time for both the Borough and the offender. The Board briefly reviewed some of the listed offenses and violation fees. Board members will review this material and discuss it again at the next meeting.

On other matters, Mr. Montague and Councilman Harris had a list of issues/assignments they felt the Board should look into. Mr. Montague would like a “champion” for each issue. Some of the issues were already assigned to Board members. Mr. Montague believed the fence issue, especially deer fences, needed immediate attention. He will ask Mr. Pfeil to explore and report on that situation. Mr. Gerridge offered to help Mr. Pfeil. Mr. Montague noted that the sign situation needed to be looked into. Perhaps Mrs. Pignatello could take on that issue.

Councilman Harris asked Board members to think about enforcement of the LDO. He noted that there are currently some aspects of the LDO that the Chatham Police aren’t authorized to enforce. He felt in these situations authorization should be given to the police, for instance vehicles parking on landscaped areas.

Mr. Montague reminded Board members that former Board Chair Patricia Rush will be honored at the next meeting, July 11th. He asked Board members to arrive at 7:00 p.m. instead of 7:30 p.m. Refreshments will be served and a presentation will be given to Mrs. Rush in appreciation for her many years of service on the Board.

At 10:05 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Planning Board Recording Secretary

