

CHATHAM BOROUGH PLANNING BOARD

April 2, 2008

7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of April 9, 2008 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, Alison Pignatello, Thomas Sennett, James Mitchell*, Donna Cali-Charles, Vincent DeNave, Councilman Bruce Harris, Mayor V. Nelson Vaughan.

*arrived at 7:40 p.m.

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

Chas Holloway, P.E., Board engineer candidate, was present.

Members Absent:

John Bitar, Alan Pfeil.

Introduction of Resolutions

The Board unanimously approved (8-0) the following resolutions presented by Ms. Rizzuto:

- Resolution #PB-2008-18, Approving the Contract for professional services between the Chatham Borough Planning Board and Anne Marie Rizzuto, Esq. of McManimon & Scotland, L.L.C., Counsel
- Resolution #PB-2008-19, Approving the Contract for Board Engineering Services for Chas. Holloway, P.E. of Birdsall Engineering, Inc.

Approval of Minutes

The meeting minutes of December 5, 2007 were approved as amended. Mrs. Pignatello, Mayor Vaughan, and Councilman Harris abstained from voting. Approval of the meeting minutes of January 9, 2008 was postponed until the next meeting.

Romano Application – Minor Subdivision Review, 184 Hillside Ave., Block 98, Lot 40-Continuation

Carlotta Budd, Esq., was present.

Peter Steck, the applicant's planner. Mr. Steck remained under oath.

Ms. Budd questioned and discussed the validity of Ordinance 165:57 b (1) under the Municipal Land Use Law. She asked that the Planning Board continue to hear this application. She asked Mr. Steck to expand on this issue.

At this point in the meeting, Mr. Mitchell arrived at the Board table.

Mr. Steck quoted from the following:

- Section 40-55 D-70 of the Municipal Land Use Law, the powers of the Board of Adjustment
- Section LDO 165:157, powers and jurisdiction of the Planning Board

Mr. Steck testified to the following:

- This ordinance (LDO 165:157) is essentially sending an application to the Board of Adjustment, which doesn't have the necessary jurisdiction under the MLUL.

Ms. Rizzuto stated that under the MLUL, if the Board of Adjustment does not have jurisdiction in this matter, the Planning Board does. This Borough ordinance takes away a jurisdictional power given by state law. The ordinance has to yield to state law. She recommended the Board continue with the hearing; however, the Board agreed with both recommendations for the Borough Council to revise or repeal this particular ordinance.

Ms. Budd noted that new plans, dated March 12, 2008, have been submitted. Also submitted were first floor and second floor plans of the existing house, marked as Exhibit A-9.

Mr. Steck reviewed his memorandum to the Board dated 3/21/08, giving a comparison of the applicant's property with the other area properties. He testified on the following:

- Plate 1 – Study Area for the Romano application
- Lot area calculations of the neighboring properties outlined on Plate 1
- The applicant's property, un-subdivided, is one of the largest lots among these properties

Mr. Steck gave his conclusions:

- The applicant's property is very unusual in comparison with other area properties
- The applicant's property also has a very large square footage
- 45% of the lots in Mr. Steck's report had frontages less than 75 feet
- The applicant's property is the 9th largest of the 76 lots in Mr. Steck's report
- A hardship C-1 variance is being sought because of the shape of the property
- If the variance is granted, it would freeze the predominant house size in this particular area
- The proposals will not be seen from the street and will not be out of character with the neighborhood

The Board expressed these concerns:

- What benefit would it be for the town if the sub-division was approved? This may be a detriment.
- In the future, this sub-divided lot will be undersized with the applicant's existing house which could be smaller, making it difficult planning-wise if a future owner wants variances.

The Board and Mr. Steck discussed what the Master Plan's intent was concerning the size of houses in that section of the town. Mrs. Pignatello pointed out that the Master Plan addresses the stock of houses. Mr. Montague believed a goal of the Master Plan was to have people build within the limits of the ordinance.

At Ms. Rizzuto's request, Mr. Steck reviewed the existing conditions that were not in conformance:

- A non-conforming front setback at the front step
- A non-conforming rear setback from the garage

Mr. Montague opened the floor for questions from the public. The following residents asked questions:

Barbara Farricker, 11 Lafayette Place

Joanne Curran, 188 Hillside Ave.

Bernie Vella, 58 No. Summit Ave.

Pam Ghiselli Stuart, on behalf of her father, Frank Ghiselli at 14 Lafayette Place

These residents had questions on the following:

- The irregular shape of the applicant's property & its history
- how this sub-division would fit in this neighborhood
- possible drainage problems resulting

Ms. Stuart asked Mr. Steck if the Romanos knew when they purchased this property, there would be a hardship. Mr. Steck answered that the Romanos knew the lot was irregular.

Ms. Budd called Malia Romano, the applicant, forward. Mrs. Romano was sworn in to testify.

Mrs. Romano submitted the following testimony to clarify the deed situation:

- Exhibit A-10, the 1938 tax map showing her property & the corresponding frontages
- A survey of her property dated 10/4/2000, showing one single lot
- A 1991 deed from the McKennas, the previous owners, showing one lot
- A 1964 deed between Fowlers & Swarbrick, showing one lot
- A 1957 deed, between Cranes & the Fowlers, reveals two tracts
- A 1953 deed, between the Fechts & the Cranes, showing two tracts
- A 1951 deed, between the Fechts & the Walters, showing the 3 lots that existed at that time

At Mr. Hague's recommendation, Ms. Budd entered these deeds into the record:

Exhibit A-11, the Romano deed

Exhibit A-12, the McKenna deed

Exhibit A-13, the Swarbrick deed

Exhibit A-14, the Fowler deed

Exhibit A-15, the Crane deed

Exhibit A-16, the Fecht deed, showing the corner property

Exhibit A-17, another Fecht deed showing the rest of the property

Mrs. Romano submitted the following testimony:

- She had approached nearby property owners, including Fairmount Cemetery, to see if they would sell some of their property to her.
- Exhibit A-18, 23 photos of neighboring properties on the western side of Hillside Ave.
- Exhibit A-19, a photo showing Mr. Ghiselli's garage
- Exhibit A-20, a photo taken from the top of the applicant's garage, looking east
- Six architects advised her to tear-down her existing house & "build a McMansion". They did not advise putting on an addition because of the location of the existing house and the available land.

Frank Ghiselli, of Bound Brook NJ, representing his father at 14 Lafayette Place, asked Mrs. Romano why his father refused to sell her some of his property. Mrs. Romano answered that she didn't know why. Mr. Ghiselli asked Mrs. Romano if there was any chance she could build to the left of her existing house, as opposed to the right. Mrs. Romano answered that could be possible.

Chas Holloway, the Board's engineer for this application, gave his observations:

- Some tweaks still needed to be made to the dimensions shown on the plan
- The applicant has addressed the majority of the initial comments
- The Board should consider how this subdivision would fit in with the Master Plan and the applicant's neighborhood
- Concerning the odd-shaped corner lot, the eventual scenario would be is that the lot would be sold & the existing house would be demolished. Mr. Holloway could not really predict what could then be built on that lot. He advised that any future owners of that lot be made aware of the constraints of that property.
- The setbacks should be defined for this lot.

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

Barbara Farricker, 11 Lafayette Place, noted her house actually faces Hillside Ave. She submitted Exhibit BF-1, tax map and Exhibit BF-2, photos. Ms. Farricker stated that approving this sub-division would "go beyond" impairing the intent of the zoning ordinance. She felt if this subdivision was approved, it wouldn't stop other homeowners with small lots, carving up their properties, and selling them off.

Bernie Vella, 58 No. Summit Ave., submitted Exhibit BV 1, 2, 3, photos. He expressed concern about the water-flow situation in the future. He asked that this situation be monitored after any construction begins.

Joanne Curran, 188 Hillside Ave., reviewed the drainage problems which resulted from the construction of new homes on Edgehill Ave. in the late 1980s. She asked that if this

subdivision was approved, that a condition be included to notify the neighbors when construction begins.

Pam Stuart, spoke on behalf of her father, Frank Ghiselli, at 14 Lafayette Place. She made the following points:

- This subdivision does not give integrity to the neighborhood
- A decrease in property values will result
- A concern for soil erosion
- Please inform her father if any construction takes place

Mark Engelke, 181 Hillside Ave., expressed support for the proposed subdivision. He lives directly across the street from the Romanos. He would prefer to see two new smaller homes across the street instead of one large house that would look out of place in the neighborhood.

Ms. Budd summed up the application:

- The applicant's property is irregular in shape
- When the applicant's existing house was built, it was built all to one side of the lot
- The pre-existing (non-conformities) cannot be changed
- The Romanos have tried to buy some neighboring properties to make their lot more rectangular, but had no success.
- If the applicant's lot is left as it currently exists, it is "ripe for a tear-down"
- The proposed sub-division is not a detriment. It may even help the neighborhood.

Mr. Hague asked that the application be carried to next week's meeting. He still needed time to visit the property and study the deeds. The Board and Ms Budd agreed to carry the application to the April 9, 2008 meeting. A vote will be taken at that meeting.

At 10:30 p.m. a break was taken in the meeting.

At 10:45 p.m. the meeting resumed.

Old/New Business

Mr. Montague distributed a draft letter to hire a Board planner. He asked that Board members send him comments.

The Board will work on revising the jurisdiction ordinance brought up in the Romano application. The Board discussed a current situation of an existing store sign which didn't conform, size-wise, when moved to a new location. Modifications may be needed to the sign ordinance. Ms. Rizzuto advised that the business community be notified if a change is proposed for the sign ordinance.

Mr. Montague asked Board members to study the recent Shailja document received, particularly page 9.

Mr. Montague asked Board members to read the Omnipoint order recently received. It has not yet been entered into the court yet.

At 11:05 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Recording Secretary