

CHATHAM BOROUGH PLANNING BOARD

April 9, 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*, John Bitar, Vincent DeNave, Alan Pfeil, Councilman Bruce Harris.

*arrived at 7:40 p.m.

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

Members Absent:

Donna Cali-Charles, Mayor V. Nelson Vaughan.

Approval of Minutes

The meeting minutes of January 9, 2008 were approved as amended. Ms. Rizzuto will prepare an addendum to attach to these minutes. The Closed Session Minutes of January 9, 2008 were approved as submitted.

Romano – Application – Continuation of a Minor Subdivision Review – 184 Hillside Avenue, Block 98, Lot 40.

Ms. Rizzuto reported that she has received all of the deeds referred to in Mrs. Romano's testimony at the last hearing. Also, Ms. Rizzuto noted that Carlotta Budd, attorney for the Romanos will be returning all of the marked exhibits for the Planning Board records after tonight's vote.

Since the applicant's testimony was finished, the Board gave the following diverse comments on the proposed minor subdivision:

- This is a unique circumstance. There is no other lot to which a comparison could be made.
- Concerns about the resulting lot with the house that's already on it. There's very little that can be done to this existing house without the owner having to seek variance(s).
- If this minor subdivision is approved, two lots would result that are under the required size in that zone.
- Concerns of whether the house on the lot with existing improvement should be compatible with the neighborhood.
- Perhaps any future development on the new lot should be controlled
- The applicant's presentation was good; however, there may be complications in the future if the subdivision was approved

Councilman Harris made a motion to deny the minor subdivision application. Mr. Mitchell seconded the motion. A roll call vote was taken:

Mr. Hague - no
Mr. Sennett - no
Mr. Mitchell - yes
Mr. DeNave - no
Mrs. Pignatello - no
Councilman Harris - yes
Chairman Montague - yes

The Board suggested to Ms. Rizzuto that a condition be included that the adjoining neighbors be noticed prior to any construction begins. The subdivision deed will be presented to Chairman Montague and the Board Secretary for their signatures.

The Board specified these additional conditions to be added to the resolution:

- a grading plan will be required for the newly created lot
- the demolition of the porch must take place before the filing of the subdivision deed is made
- all escrows must be paid in full before any building permits are issued
- recording of the resolution

Ms. Rizzuto said she will try and have the resolution ready for the Board's May 7, 2008 meeting.

Ogden Memorial Church – Final Site Plan Review – 286 Main Street, Block 64 & Lot 1
Mr. Sennett and Mr. Mitchell recused themselves from this hearing.

Charles W. Foster, Esq., Board attorney for this application, was present.
Vincent DeNave served as Borough Engineer, for this final site plan review.

At 8:20 p.m. a break was taken in the meeting.

At 8:22 p.m. the meeting resumed.

Mark Knoll, Esq., the attorney for Ogden Church, was present.

Mr. Knoll summarized the history of this application before the Board:

- Ogden had submitted plans to change the traffic flows around the property and to increase the available parking on site to divert traffic back onto the church property, rather than have it spill out onto nearby neighborhoods.
- Ogden had 8 hearings before the Board on their plans

- Ogden finally came up with plans which the Board felt had met all of the requirements of the statute, was worthy of preliminary site plan approval, and would be a benefit to the neighborhood & community.
- On October 10, 2007 the Board approved the preliminary site plan (6-0)
- On November 7, 2007, the Board's preliminary approval was memorialized

Mr. Knoll reviewed the conditions, as stated in the resolution, which Ogden Church has agreed to comply with:

- Ogden's proposed increase in parking availability is not intended to support any increases in non-church uses on the premises
- Ogden confirms that there are no modifications to the drop-off & pick-up plans
- Ogden agrees to the monitoring by the Board, or a designated municipal committee, or a official selected by the Board, of the drop off/pick-up plan as described
- Ogden agrees to operate & maintain the stormwater management system
- Ogden agrees that there will be no school bus on the property having a greater than a capacity than 25 students
- Ogden agrees to a continual review of the landscaping of the property by the Board or a designated municipal official or committee selected by the Board

Robert Moschello, the engineer for Ogden, was present to testify on the Final Site Plan Review. Mr. Moschello was sworn in to testify.

Mr. Moschello brought up an exhibit previously submitted into the record as Exhibit A-12, proposed site rendering dated 10/3/07. He submitted a new exhibit: Exhibit Ogden-1, colored rendering.

Mr. Moschello testified on the following points:

- Ogden had agreed to remove the 4 parking spaces on the original plans
- Ogden will put one of those spaces in front of the church building
- Ogden will put another of the 4 spaces along the exit driveway
- Ogden's current plans now proposes 31 parking spaces
- Landscaping will be planted to screen the parking spaces along Elmwood Ave.
- Landscaping will planted along the exit drive
- This landscaping will be 3 to 4 feet when planted & will be maintained at a height of 5 feet.
- No left turns will be allowed onto Elmwood Ave.
- A right-turn only restriction will be in place for vehicles exiting onto Main Street. A DOT access permit has been obtained by Ogden.
- Crosswalks have been added between the proposed sidewalk from Elmwood Ave. to the red doors of the Sunday School building.
- The originally proposed sliver of sidewalk, linking up to the access driveway, has been eliminated.

Mr. DeNave noted that the parking shown on the east side of Elmwood is not part of Ogden Church's application. The Mayor and Borough Council have decided that the angled parking shown on the plans will be parallel parking. There will be a reduction of parking spaces. This arrangement will be done as part of the Borough's project to install drainage and roadway improvements on Elmwood Avenue. Mr. DeNave also noted that Ogden Church cannot proceed with their improvements until the Borough's drainage project is in place on Elmwood Ave. Mr. DeNave stated that he has reviewed Ogden's stormwater plans and found them acceptable.

Mr. Foster gave his comments on the conditions agreed upon:

- Update the plans (this has been done)
- Remove 4 parking spaces (this has been done)
- Ongoing monitoring of the drop-off/pick-up process (Ogden has agreed to this)
- Stormwater management plan has been approved by Mr. DeNave
- A revised lighting plan is to be submitted
- No left turn signs will be installed for vehicles exiting onto Elmwood Ave.

Mr. Foster asked Mr. Knoll if the site easement on the corner of Main Street and Elmwood Ave. had been submitted yet. Mr. Knoll answered that when the site plans are finalized, he will submit plans for an easement. Ms. Rizzuto pointed out that the easement will need to be drafted, and have a metes and bounds description done by the applicant's engineer. Mr. DeNave will review it on behalf of the Borough. Ms. Rizzuto will review it on behalf of the Board.

Mr. Foster continued with his comments:

- The resolution must be recorded
- A deed has to be attached to the preliminary site plan

There were no questions or comments from the public at this point.

The Reverend Dale Dealtrey, pastor of Ogden Memorial, was sworn in to testify. Rev. Dealtrey testified on the following items:

- The function of the church's Session, or Board of Trustees
- The Session's resolution dated January 6, 2008 is an official act of Ogden Memorial Church
- It is Ogden Church's intention to comply with the conditions set forth in The Preliminary Site Plan approval & also what is expressed in the resolution.

Ms. Rizzuto stated that she would like the president of the church's Board of Trustees, to sign a document that constitutes a contractual obligation. She will work with Mr. Knoll on this document.

Mr. Hague confirmed with Mr. DeNave that he has reviewed the access permit and finds it acceptable.

There were no questions from the public for Reverend Dealtrey.

Mr. Montague and Mr. Hague confirmed that the recording requirement will be changed so a notice of both the preliminary resolution & the final resolution which can be done together. There will be a condition that it will be recorded 30 days of the resolution of final memorialization. The Board did not feel new drawings had to be submitted.

Mr. Hague made a motion to approve the final site plan with the following additional conditions:

- 1) That the plan be amended to provide parallel parking on the church's lot on the east side of Elmwood Avenue in accordance with the Borough project on Elmwood Avenue.
- 2) That the landscaping on the northern most boundary will comply with the original condition.

Councilman Harris seconded the motion. A roll call vote was taken:

Mr. Hague - yes
Mrs. Pignatello - yes
Mr. Pfeil - yes
Mr. Bitar - yes
Councilman Harris - yes
Chrmn. Montague - yes

At 9:25 p.m. a break was taken in the meeting.

At 9:32 p.m. the meeting resumed.

Mr. Hague recused himself from the next discussion item.

Shailja/Dunkin Donuts 118 Main Street, Block 53, Lot 32 – Update

Mr. Foster, the Board's attorney for this application, was present.

Mr. Montague distributed a report giving an update on what has happened so far on the Shailja application, specifically:

- The demolition of the old gas station building
- What contacts the Board has had with the DEP on environmental matters

Mr. Foster reviewed what had transpired concerning the applicant's proposed access onto Hedges Ave. Dolan & Dean, traffic engineers for Shailja, reported they had received a letter from the DOT confirming that the town or the applicant could not restrict access to Hedges Ave. Mr. Foster has repeatedly asked Shailja's attorney, Mr. Burns, for a copy of this DOT letter; however, he has failed to send it. Mr. Foster recommended that the Board obtain all of the necessary correspondence and then consult with their traffic expert, Gordon Meth, to see what can be done at this late date.

The Board concluded that Shailja has not satisfied this condition regarding the access on Hedges Ave.; therefore, a building permit should not be issued. Mr. Foster will notify Shailja's attorney in writing of this decision.

Bernie Vella, 58 North Summit Ave., felt that Shailja was very much aware of the provisions of this resolution. Shortly thereafter Shailja went to the DOT on their own concerning this matter. This action is a direct violation of the spirit of the resolution.

Mr. Foster reviewed Condition #6 regarding environmental matters and what has recently transpired. Exxon Mobil and Kimber Petroleum Company are the parties responsible for environmental clean-up. Notices of failure to comply have been issued to EWMA who works for the applicant. EWMA never forwarded these notices to Shailja's attorney.

Mr. DeNave made the following points:

- Shailja is nowhere near close to satisfying Condition #6
- He will allow Shailja a demolition permit to demolish the gas station building.
- Additional testing has to be done underneath the slab of that building.
- Baits have been installed to see if any rodent activity on the property
- He still needs to know that all of the appropriate testing has been done
- Verification has to be given that all the soil contamination has been removed & its source has been removed
- The Borough Engineer's office should be notified of the testing activities being done on the site.
- The Borough's property maintenance code must be followed on the site.

Ms. Rizzuto pointed out that if contamination is found in the soil, it must be reported to the DEP. The DEP will visit the site immediately and document how the contaminated soil will be removed and how the remaining soil will be rehabilitated.

Bernie Vella, 58 North Summit Ave., distributed copies of a letter, dated 3/4/08, which he had received from Joe Ecker from the DEP. Attached is a copy of Mr. Ecker's response to Mr. Vella's questions concerning remediation of the site. Mr. Vella read aloud Mr. Ecker's written response to his questions. Mr. Vella recalled that Mr. Burns had testified that any contaminated soil had to be remediated and removed before the applicant started any site activities. Mr. Vella believed that a direct violation of the resolution has occurred.

Mr. Foster advised that the Board not comment on Mr. Vella's testimony until Shailja has an opportunity to appear, represented by their attorney. Mr. Vella could deliver his testimony again and be subject to cross-examined. Mr. Montague agreed that this discussion should cease now. Shailja should have a chance to be present and have copies of Mr. Vella's documents.

Ms. Rizzuto noted that there is nothing pending before this Board with respect to this application. Up-dates made by a counsel should be made in Closed Session if there is a

potential of litigation. If there is an alleged violation of the resolution, there are methods by which the Planning Board could enforce the resolution.

Mr. DeNave summed up stating that there will be no building permits issued until there has been adequate notice given to everyone that Shailja is in compliance. Mr. DeNave will determine and report to the Borough officials when Shailja is in compliance. Ms. Rizzuto reminded Mr. Vella that he can use the OPRA method to stay informed with Mr. DeNave's office.

Mr. Foster left the meeting.

Old and New Business

Bylaws Plan

Ms. Rizzuto reviewed what materials she has received from Mr. Foster. The by-laws from the Board of Adjustment have also been received.

Update of Pending Items

The Board will schedule their review on the application check-list for the May 7th meeting.

At 10:30 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Recording Secretary