

CHATHAM BOROUGH PLANNING BOARD

January 9, 2008

7:30 p.m.

Chairman H.H. Montague called the Chatham Borough Planning Board meeting of January 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, Vincent DeNave, John Bitar, Donna Cali-Charles, Councilman Bruce Harris, Mayor V. Nelson Vaughan.

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

Members Absent: Alan Pfeil

Mr. Montague noted that an up-dated list of Board members has been distributed. He asked if there were any changes to the list please let him or Ms. Holler know.

Mr. Montague welcomed the following new Board members:

John Bitar, 67 Center Avenue  
Donna Cali-Charles, 131 Center Avenue  
Vincent DeNave, Borough Engineer  
Mayor V. Nelson Vaughan

Mr. Bitar, a resident of Chatham since 1999, will be serving as the Planning Board's liaison to the Borough Environmental Commission. He has served on the Borough Open Space Committee.

Mrs. Cali-Charles, a long-time Chatham resident, has attended many Planning Board meetings as an interested resident. She will serve as Second Alternate to the Board.

Vincent DeNave will be serving as the municipal representative on the Board, taking Mr. Jankowski's place.

2008 Organization Resolutions

Councilman Harris reported that the nominating committee is recommending this slate of officers for 2008:

H.H. Montague - Chairman of the Board  
John Hague - Vice Chairman  
Alison Pignatello - Secretary

Mrs. Pignatello made a motion to nominate H.H. Montague as Chairman of the Planning Board for 2008, seconded by Councilman Harris. A voice vote was taken. Mr. Montague was unanimously re-elected as Chairman of the Board.

#### Election of Vice Chairman

Mrs. Pignatello made a motion to nominate Mr. Hague as Vice Chairman of the Board for 2008. The motion was seconded. A voice vote was taken. Mr. Hague was unanimously re-elected as Vice Chairman the Board.

Mr. Mitchell made a motion to nominate Mrs. Pignatello as Secretary of the Planning Board for 2008. Mr. Hague seconded the motion. A voice vote was taken. Mrs. Pignatello was unanimously elected as Secretary to the Board.

#### Annual Resolutions

Mr. Foster read aloud Resolution #1, appointing the following as Planning Board Officers for 2008: H.H. Montague, Chairman; John Hague, Vice Chairman; Alison Pignatello, Secretary. Councilman Harris made a motion to approve Resolution #1, seconded by Mrs. Pignatello. A voice vote was taken. The resolution was unanimously approved (9-0).

Mr. Foster read aloud Resolution #2, establishing the Board's meeting dates for 2008 and January, 2009. Mr. Sennett made a motion to approve Resolution #2, seconded by Mr. Mitchell. A voice vote was taken. The resolution was unanimously approved (9-0).

Mr. Foster read aloud Resolution #3, appointing Charles W. Foster, Esq., temporary legal counsel for the Board until their search and selection for an attorney is completed by March 1<sup>st</sup> 2008. This resolution also authorizes the Board to execute the necessary agreements and satisfy any necessary publication obligations. Councilman Harris made a motion to approve this resolution, seconded by Mr. Hague. A voice vote was taken. The resolution was unanimously approved (9-0).

Mr. Foster read aloud Resolution #4, designating the Chatham Courier as the official newspaper to publish legal advertisements of the Chatham Borough Planning Board during 2008. Mr. Mitchell made a motion to approve Resolution #4, seconded by Mrs. Pignatello. A voice vote was taken. The resolution was unanimously approve (9-0).

Mr. Sennett read aloud Resolution #5, designating the Chatham Courier and the as the official newspaper to receive notices of meetings of the Chatham Borough Planning Board and fixing charges for notices of meetings of the Board during 2008. Mr. Mitchell made a motion to approve Resolution #5, seconded by Mrs. Pignatello. A voice vote was taken. The resolution was unanimously approved.

#### Minutes

The meeting minutes of August 1, 1007 were approved as amended.

### Old/New Business

Mr. Foster noted that in July the Board had approved a minor subdivision for John & Jennifer Shaw of 99 Hillside Avenue. One of the items under discussion was the existing retaining wall which was in the street. A condition was attached to the resolution giving the Shaws the options of either re-locating the walls onto their property or else negotiate a license deal with the Borough to continue to leave the wall in the street with certain qualifications. Mr. Foster reported that he had sent a final version of the resolution to the Construction Office a day or two after the approval. This resolution was attached to an e-mail. Nothing ever happened with it. In October the Shaws' attorney finally followed up with it. In early November, Mr. Foster had the Board's recording secretary sign the resolution.

Mr. Foster noted that this condition had to be approved by the Borough. The Shaws' attorney, Hilary Sunyak, had prepared a lease and a deed of subdivision. She sent these documents to Mr. Foster. The law states that when there is a deed where a minor subdivision is being memorialized, it has to be recorded within 190 days after the approval of the subdivision.

Mr. Foster reported that he had talked with Mr. Lloyd, the Borough Attorney, after they received a draft of the lease from Ms. Sunyak. Mr. Lloyd has taken this matter to the Borough Council. This license agreement will be discussed at the January 28<sup>th</sup> Council Meeting. Ms. Sunyak has notified Mr. Foster and Mr. Montague that the 190 day deadline is approaching very fast. Mr. Foster noted that the municipal land use law, under certain circumstances, gives the Planning Board the ability to grant an extension. Ms. Sunyak has asked for an extension of 3 months. The expiration of the time period is around January 20<sup>th</sup>.

Mr. Foster asked the Board whether they would like Ms. Sunyak to appear at their meeting next week and review all that has transpired. The Board could also make a decision now about an extension.

Board members indicated that they would prefer granting the extension. Mr. Hague said he would like Ms. Sunyak to put the request in a formal letter and have it listed on next week's agenda (January 9). Mr. Foster and Mr. Montague noted that Ms. Sunyak has already written the letter. Mr. Foster and Mr. Hague agreed to have the matter on next week's agenda. Mr. Hague didn't feel Ms. Sunyak had to actually be present next week. Mr. Foster said he will go ahead and draft a resolution approving an extension. Mr. Montague noted that Ms. Sunyak's letter had just arrived yesterday. At next week's meeting he will have copies to distribute to Board members.

On other matters, Mr. Foster noted that he had sent a memo to Board members on the procedure they take when someone requests a waiver from Site Plan Review. The Board has the ability to waive site plan review if it's obvious, after examination, that it's not necessary to make the applicant to go through a complete site plan review. Mr. Foster said his memo gives recommendations to the Board on setting procedures for this type of

situation. Mr. Foster brought up the store on the northeast corner of Main Street and Center Street, formerly Swanson's Hardware store. The flooring business that has occupied that store for a short while is leaving. The next tenant wants to run a yoga/fitness studio in that store. Mr. Foster believes this yoga studio is a permitted use because it falls within retail services as opposed to retail trade. The tenant does not plan to add parking spaces or any FAR. She will just be making some minor changes on the interior.

Mr. Foster asked Board members to study his memo. The tenant wants to start work in the store in February; however, Mr. Foster has informed her that she and her attorney have to come before the Planning Board and comply with certain requirements. Their appearance and testimony will give the Board an idea whether or not a waiver should be granted. If the waiver is not granted, Site Plan approval is needed. Mr. Foster asked that this matter be added to next week's agenda. Mr. Montague agreed with this request.

Regarding the HSBC application, Mr. Foster reminded Board members that they have to memorialize the decision they had made in December. Mr. Foster said that he will complete the draft resolution tomorrow and send it out by e-mail. This resolution will be discussed and voted on at the next Planning Board meeting.

Mr. Foster reported that 221 Main Street has sued both the Planning Board and the Borough of Chatham. The complaint was filed last month. Barry Osmun, Esq., attorney for 221 Main St., has granted an extension to Mr. Foster and Joseph Bell, Esq., the attorney who is representing the Borough. A meeting with the Borough will take place in a couple of weeks.

Councilman Harris reported that the trial date for Shailja, LLC, has been postponed to January 25, 2008.

Mr. Montague distributed an up-dated list of land development issues the Board should take under consideration this year. Reviewing the B-4 District was number one on the list. He reported that he has up-dated the Applicant's Check-list with comments he received from last September. Mr. Montague said he would like to forward on the check-list to Mr. Foster and ask him to prepare a resolution. Mr. Montague also asked Mr. DeNave to review the check-list.

Mr. Montague distributed a write-up explaining the Borough Master Plan. He asked if this document needed up-dating. Former Board member Alan Robertson had written it some years ago to answer questions the public may have on land use issues and regulations. Mr. DeNave volunteered to review this document and make sure it's accurate and consistent with the LDO.

Councilman Harris suggested after Mr. DeNave reviews this document and up-dates it if necessary, a copy should be sent to the Zoning Board of Adjustment. Councilman Harris believed the Board of Adjustment's web site needed some revisions to keep all information consistent and accurate.

Mr. Montague noted that he has sent a letter to Board members about how they should review the B-4 District in the Borough. Currently the ordinance permits 3-story buildings and 100% coverage in that district. Today that district has two existing 3-story buildings. The other buildings are two stories or less. Another issue that has just arisen in that district is how a building's owner could obtain ground floor parking through a Borough parking lot. Mr. Montague suggested that the Board hire a professional planner to give them guidance on these issues. Mr. Montague's draft letter lists all the situations that the Board needs advice on.

Councilman Harris suggested that Mr. Montague present the letter to the Borough Council at a future meeting. Mayor Vaughan agreed, pointing out that these are important issues.

Mr. Montague asked Board members to review this letter and submit their comments to him. This draft will be finalized at the next Board meeting.

Mr. Montague reminded Board members of the mandatory training course they must take if they haven't already. Mr. Montague distributed information on the course. Board members who want to enroll should contact Susan Caljean, the Borough Clerk. Mrs. Caljean will make the necessary reservations.

Mr. Montague asked if there were any questions or comments from the public.

Richard Reardon, 29 Van Doren Ave., confirmed with Mr. Montague that he has received his letter. Mr. Reardon believed his letter was now "moo" because that Chatham Athletic Foundation has withdrawn with respect to the application for Haas Field. Mr. Reardon, however, requested that if the Planning Board decides to take another look at the zoning of Haas Field, they should run ads in the newspaper to alert residents of any Board meetings that will discuss this subject.

Mr. Reardon asked if the plans for the Chatham Middle School had been submitted to the Planning Board for their advisory opinion.

Mr. Montague answered yes.

Mr. Reardon asked if those plans showed the lights at the back of the Middle School.

Mr. Montague pointed out that the field and school properties belong to the Board of Education. In these situations, the Board of Education would come before the Planning Board only as a courtesy to explain their plans. All the Planning Board can do is write a letter to the State giving their views on these projects.

Mr. Montague pointed out that so far the Planning Board has not received any notification of this lighting and tower project. The Board can't act on Mr. Reardon's letter.

Mr. Reardon said his letter only had to do with the towers. He apologized if he had inadvertently caused confusion. He stated that the lights he was concerned about were the existing lights on the Middle School building. He asked if the plans for those existing lights had ever been submitted to the Board.

Mr. Montague believed those lights had probably been included in previous plans submitted to the Board.

Mr. DeNave stated that he has received complaints from the residents who live in the vicinity of the school who felt those lights on the back of the school building are more intense than what they had anticipated. Mr. DeNave said he visited that area last Friday evening after dark and he observed that the lights were "high intensity". He believed those lights were using LED bulbs which differed from what the other school light fixtures used. Mr. DeNave said he will talk with the Board of Education about this matter. The Board of Ed would have to install an entirely different type of a fixture. Mr. DeNave said he will follow up with a letter to the Board of Ed after he talks with Mr. Goodwin.

Mr. Reardon noted that where the Middle School is situated is still an R-2 zone. Prior to 1978, in the Master Plan initiated at that time, all of the government properties were unzoned.

Mr. Montague said he understood that the land development ordinances do not really apply to Board of Education properties.

Mr. Reardon agreed that the Board of Education is a state property.

Mr. Foster reminded Mr. Reardon that this proposed lighting plan was a Capital Improvement Project. The Municipal Lane Use Law requires the Board of Education to come before the Planning Board and testify how their project is within the requirements of the Master Plan.

Mr. Foster said he remembered that those earlier plans for the Middle School probably just showed a footprint of the existing building and the proposed addition. He was sure drainage had been discussed and very probably the lighting situation had not been referred to at all.

Mr. DeNave said he will look further into this matter.

Mr. Reardon thanked the Board for their time.

Mr. Montague asked if the public had anymore comments.

Anne Marie Rizzuto, Esq. introduced herself to the Board as an applicant for the position of Planning Board attorney position. She noted that Mr. Montague has requested that she submit a sample of her legal writings. She offered the Board a package of ordinances that she had worked on for another municipality.

Martha May, 20 Kimball St., said she understood from the Borough Re-Organization meeting held last Tuesday that there were two official newspapers were designated: The Morris County Daily Record and the Chatham Courier. Tonight the Board has indicated that Chatham Courier is the one and only designated newspaper. She suggested Mr. Montague look further into this.

Mr. Montague said he would look into this matter. He didn't have the material with him tonight on what was adopted by the Borough Council.

Mr. Foster read aloud the resolution closing the public portion of the meeting and beginning a closed session. The subject discussed in the closed session: Determination of Planning Board procedures for interviewing of candidates for the position of Planning Board Attorney. Such closed session of the Board shall be the final item at the Board's meeting to be held January 9, 2008 at Borough Hall.

Mr. Hague asked that the resolution be amended to include a discussion of the Board's hiring an independent engineer. Mr. Foster made the amendment.

Mr. Hague made a motion to approve the amended resolution. Councilman Harris seconded the motion. A voice vote was taken. The amended resolution was unanimously approved (9-0).

At 9:10 p.m. the public portion of the meeting ended.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary