

CHATHAM BOROUGH PLANNING BOARD

June 10, 2009

7:30 p.m

Chairman Richard Crater called the Chatham Borough Planning Board meeting of June 10, 2009 to order at 7:52 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 Joseph Mikulewicz, Chairman Richard Crater, Donna Cali-Charles\*\*, Vincent DeNave\*\*\*, H.H. Montague, Alan Pfeil, Susan Favate.

\*arrived at 8:12 p.m.

\*\*arrived 8:05 p.m.

\*\*\*arrived 9:20 p.m.

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

Members Absent:

John Bitar, James Mitchell

Open to the Public

There were no comments from the public.

Approval of Minutes

The meeting minutes of May 13, 2009 were approved as submitted.

Resolutions

Anne Marie Rizzuto, Esq.

Ms. Rizzuto reported that she is no longer with the firm of McManimon & Scotland. Last month, in Closed Session, she had asked the Board if she could still be the Board Attorney. The Board indicated that they will retain Ms Rizzuto's services. A negotiated hourly rate has been agreed upon. As of now, Ms. Rizzuto is operating her own independent law practice.

Mr. Pfeil made a motion to adopt the resolution approving the contract for the professional legal services of Anne Marie Rizzuto, Esq. as Planning Board Attorney. Mr. Montague seconded the motion. A voice vote was taken. The resolution was unanimously approved.

Romano – 184 Hillside Avenue, Block 98, Lot 40

Ms. Rizzuto summarized the resolution denying the minor two-lot subdivision and variances proposed by John and Malia Romano at 184 Hillside Avenue. Ms. Rizzuto stated that only one vote is needed to approve the memorialization of this resolution. Mrs. Favate made a motion to approve this resolution. Mr. Montague seconded the motion. One aye vote was given. The resolution was approved.

New Applications

The Gravity Vault, LLC – 40 Watchung Avenue

Daniel Cronheim, Esq. introduced himself as the attorney for Gravity Vault, LLC.

Lucas Kovalcik, the applicant, was sworn in. He testified that his business address is 107 Pleasant Ave., Upper Saddle River, NJ.

Mr. Kovalcik testified that his business operates an up-scale recreation of rock-climbing. Both beginners and advanced rock-climbers use his facilities, as well as scouts earning merit badges and birthday celebrations. He is proposing to open a rock-climbing facility at 40 Watchung Ave. He will occupy the building with Suburban Florist.

Mr. Kovalcik testified that his business hours will be operate on weekdays from 12 noon to 10 p.m. On Saturdays, the business will operate 9 a.m. to 8 p.m. On Sundays, operating hours will be 9 a.m. to 6 p.m. The hours of Suburban Florist will work well with the hours of the Gravity Vault, with just a small overlap.

Mr. Kovalcik passed around a sample of the type of wall used for rock-climbing facilities. This sample was labeled Exhibit A-1.

Mr. Kovalcik submitted Exhibit A-2, a glossy photo of what the rock-climbing equipment would look like for the youngest climber to the most advanced climber.

Mr. Kovalcik submitted Exhibit A-3, an aerial photo of the rock-climbing equipment and the soft landing material on the floor.

Mr. Kovalcik submitted Exhibit A-4, a photo showing the cardio-vascular equipment and bouldering equipment which would be available.

Mr. Kovalcik submitted Exhibit A-5, a photo of a woman “bouldering” a wall. He also submitted Exhibit A-6, a photo of someone belaying the ropes. Mr. Kovalcik described how the harnesses and crash pads functioned.

Mr. Montague asked how many people would be visiting this business. Mr. Kovalcik answered that on an average weekday, between noon and 5 p.m., 5 to 10 visitors can arrive per hour. A visitor’s session can last anywhere between 1 hour to 1 and a half hour. Between 5 p.m and 10 p.m. there could be 15 to 20 visitors per hour. After school classes can be held. Birthday parties average about 15 children. Mr. Kovalcik testified that there will be one staff member for every six children at the Gravity Vault’s birthday parties. Staff members will be certified on the proper use of the equipment.

Mr. Montague asked if there will be a changing room available for visitors.

Mr. Kovalcik answered that the visitors will come to the facility already dressed for climbing or bouldering. Climbing shoes will be available for rent. Existing lockers are available for visitors to store their personal items.

Mr. Montague asked Mr. Kovalcik if he was planning to clean up the grounds.

Mr. Kovalcik answered yes. He will clean up and maintain the entrances.

Councilman Mikulewicz asked how many employees would be on the site each day.

Mr. Kovalcik answered two full-time employees will be on the premises. There will be any where from 10 to 15 part-time employees.

At Mrs. Cali-Charles's request, Mr. Kovalcik reviewed how Gravity Vault would ensure that a visitor would be experienced enough to safely use the equipment and/or belay for another visitor.

Mr. Kovalcik and Councilman Mikulewicz discussed possible medical situations that may arise on the site. Mr. Kovalcik testified that at least one staff member on duty will be CPR trained. For bruises & scrapes, ice packs and band-aids will be available. No AED equipment will be on site. Mr. Kovalcik testified that Gravity Vault has a standard liability form that comes from their insurance carrier. People who climb at Gravity Vault will sign a waiver.

Ms. Rizzuto confirmed the following points with Mr. Cronheim:

- Mr. Kovalcik is seeking a change from a permitted use to a permitted use
- Mr. Kovalcik is also seeking a waiver of site plan
- Mr. Kovalcik will be meeting all fire code requirements for occupancy

Mr. Cronheim explained that the building materials will be very much fire resistant. The building currently has a sprinkler system installed. Mr. Cronheim reviewed the locations of the building exits. Richard Corr, the owner of the building, was present. Mr. Corr indicated that he and his brother have signed their consent to this application.

Mr. Cronheim stated that the parking lot will remain as it is. The existing number of parking spaces will remain. Mr. Kovalcik reviewed how many parking spaces his staff and visitors will be using during the week days and weekends.

Mr. Cronheim submitted Exhibit A-7, two sheets showing the proposed signage. Ms. Rizzuto noted that this proposed signage will be reviewed by the Borough Sign Committee at their meeting tomorrow. Mr. Cronheim stated that Mr. Kovalcik's proposed signage will be replacing the old signs now standing on the site. A proper light box will be created and will comply with the Borough's sign regulations.

Mr. Kovalcik discussed the canopy he is proposing for the side entrance. This canopy will protect his customers from the elements. A light will be installed under the canopy. There is lighting currently in the parking lot. Mr. Kovalcik will work with the Sign Committee on acceptable lettering for this canopy.

On other issues, Mr. Cronheim noted that this particular business does not need a loading dock. If a loading dock is ever needed, two of the four front entrances are capable of having loading docks installed.

Mr. Cronheim reminded the Board that this building was originally a recreational use. He believed the Gravity Vault and Suburban Florist, with their different business hours, will co-exist well.

Mr. Montague asked about the lighting in the parking lot. Mr. Kovalcik stated that the parking lot lights will remain on one hour after his business closes at night. There will be no motion sensor lighting.

There were no comments or questions from the public on this application.

Mrs. Favate made a motion to approve this proposed change of use and to approve the waiver of a site plan review. Councilman Mikulewicz seconded the motion. A voice vote was taken. The motion was unanimously approved.

Erin Moore – 242 Main Street – Power Flow Kids Yoga, LLC

Ms. Moore stated that she was seeking a waiver of site plan review. She is also seeking a change in permitted use for 242 Main Street. Ms. Moore stated that she currently has a yoga studio, Power Flow Yoga, at 254 Main Street, Chatham. Ms. Moore was sworn in to testify.

Ms. Moore stated that she is proposing to open a small scale yoga studio for children at 242 Main Street. This yoga studio will hold children's yoga classes six days a week. The sessions will be 45 minutes in length. From Monday through Saturday, four to five classes will be held each day.

Ms. Moore testified that she will keep the current signage. The colors on the current sign will remain the same. Only the lettering will change. Ms. Moore submitted the following exhibits:

Exhibit A-1: a close-up photo showing exterior façade of 242 Main St.

Exhibit A-1: a photo of the exterior façade of 242 Main St., a little farther away

Ms. Moore stated that the new sign will read "Power Flow Kids Yoga". The lettering will be the same size as the lettering of the existing sign.

Ms. Moore said that there will be a maximum of 10 children per class. There will be no "hot yoga" classes for the children. Ms. Moore's web site will be instructing the parents to park in the municipal lots. Ms. Moore stated there is an existing bathroom. There will not be a changing room.

Mrs. Cali-Charles asked if a front reception area will be created. Ms. Moore answered that a half-way wall will be installed to create a reception area for the parents to sit.

Regarding the signage, Mr. DeNave felt that Ms. Moore's proposed lettering may be too long and scrunched up. Ms. Moore suggested the words "Power Flow Kids" would be a better fit. She is not proposing any signage on the windows. Ms. Rizzuto noted that Ms. Moore has offered to go before the Borough Sign Committee with her proposed signage. In this particular case, it is not mandatory.

Councilman Mikulewicz made a motion to approve the waiver of a site plan review and approve the proposed change of use. Mrs. Favate seconded the motion. A voice vote was taken. The motion was unanimously approved. Mr. DeNave abstained from voting because he was not present for most of the hearing.

At 9:30 p.m. a break in the meeting was taken.

At 9:39 p.m. the meeting resumed.

#### F.A.R. Committee Report

Councilman Mikulewicz noted that Mr. Montague had organized the report. Each Board member has been given a copy. Mr. Montague was asked to give an overview.

Mr. Montague reviewed the contents of the report. He pointed out FAR regulations (Floor Area Ratio) serve as a means of protection regarding neighborhood construction. In 1997, the FAR regulations were revised. Mr. Montague explained the charts he had organized on FAR variance applications that had been heard by the Board of Adjustment from 1993 to present day. He had included the decisions the Board had made on the FAR applications and whether other variances had been included. Mr. Montague explained the lot statistics he had attached at the end of the report. He suggested Board members study this report and see if there are any problems with the current FAR regulations.

Ms. Rizzuto asked if a number of objectors come to FAR application hearings.

Mr. Montague answered less than 25% of the time objectors come to hearings.

Ms. Rizzuto asked if the FAR ordinance has even been challenged in litigation in the years that it's been in effect.

Mr. Montague and Mr. Pfeil (former Bd. of Adjustment Chairman) could not recall any litigation.

Mr. DeNave stated that he strongly discourages residents to not go before the Board, seeking a FAR variance, unless their variance is under 1% or 1.5% the allowable, or if a severe hardship exists. Very rarely does a resident go before the Board seeking 5% overage on FAR.

Mr. Pfeil noted that a number of applicants with large FAR variances modified their plans after their initial hearing before the Board of Adjustment. Modified plans were often then approved.

Mrs. Cali-Charles asked Mr. DeNave how many residents has he discouraged from seeking their original amount of FAR.

Mr. DeNave answered that he could go through his records and identify those residents.

The Board briefly discussed the issue of underground garages contributing to FAR.

Mr. DeNave reviewed what he felt were inconsistencies in the current FAR ordinance.

After further discussion, Mr. DeNave suggested the FAR subcommittee meeting should meet with the local architects to discuss these issues. Janet Siegel, an architect who has appeared a number of times before the Board of Adjustment, has definite opinions on FAR.

Councilman Mikulewicz reported that he has read the Planning Board minutes of 1997 when the FAR was revised, plus material from the Board of Adjustment. He will make copies for Board members to review.

Ms. Rizzuto suggested perhaps the Board's professional planner could give the Board guidance on this FAR matter.

Mr. Crater recommended that Board members study Mr. Montague's report. It will be revisited at the next Board meeting.

#### Update on the Board's Planner

Mr. Crater reported that he had contacted Cheryl Bergailo, the professional planner hired by the Board. Ms. Bergailo informed him that she could attend the Board meeting in July. Ms. Bergailo also had e-mailed Mr. Crater listing all the work she has so far accomplished on her assignment.

#### Sign Ordinance

Mayor Vaughan reported that a number of local merchants have come before the Borough Council on the issue of signs. An advisory committee has been formed to work on this matter. Mr. DeNave noted that there are currently inconsistencies with the current sign ordinance. He recommended that the Borough Council should give some guidance on signs. As Zoning Officer, Mr. DeNave said clarity is needed on how to enforce regulations for the many types of signs which appear in public areas.

The Board discussed the matter of temporary signs and banners. Easel signs are now being put up in front of some local business signs.

Mr. Crater confirmed that the new Sign Advisory Committee will be meeting on June 24<sup>th</sup>, 7:30 p.m., in Room 212 in the Municipal Building. Board members are welcome to attend.

Mr. Crater stated that Board members should anticipate reports from their sign subcommittee and the new Sign Advisory Committee appointed by the Mayor.

On other matters, Mr. DeNave reported that Mr. Romano informed him that he will be constructing a two-car, detached garage four feet off of Ms. Curran's property line. This action is permissible.

Mr. Montague reported on the Zoning Board of Adjustment meeting held on May 27, 2009.

Mr. Crater announced that the next Planning Board meeting will be held on Wednesday, July 8, 2009, 7:30 p.m., in the Council Chambers. No Board meeting will be held on July 1, 2009.

At 10:34 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary