

CHATHAM BOROUGH PLANNING BOARD

March 4, 2009

7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of March 4, 2009 to order at 7:30 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 Mikulewicz, Chairman Richard Crater, Donna Cali-Charles, Vincent DeNave*, H.H. Montague, James Mitchell.

*arrived at 7:45 p.m.

Anne Marie Rizzuto, Esq., attorney for the Board, arrived at 7:40 p.m.

Members Absent:

John Bitar, Alan Pfeil, Susan Favate

Open to the Public

Joanne Curran, 188 Hillside Ave., asked the status of the Romano sub-division matter.

Mr. Crater answered that the Board will be discussing this matter and taking a vote at their next meeting. He pointed out that there are a number of new members on the Board who still have to read the transcripts of the Romano hearings held last year.

Ms. Curran noted that the judge wanted this matter resolved 60 days from the case date which was March 16, 2009. She had transcriptions available if Board members needed them.

Mr. Crater said Ms. Rizzuto is in transit to tonight's meeting. She will be able to give an update on this matter to Ms. Curran and the Board.

There were no other comments from the public.

Approval of Minutes

The meeting minutes of February 4, 2009 were approved as submitted.

New Application - World Champion K Taekwondo, Byung Uk Kim – 453 Main St. (CVS Plaza) – Change of Use

Martin Fenik, Esq. introduced himself as the applicant's attorney. He stated that Mr. Kim is seeking a change of permitted for the property at 453 Main Street. Mr. Kim wishes to open a Taekwondo studio at that facility. He needs the Board's approval for the use of this property.

Byung Uk Kim, the applicant, was sworn in to testify. Mr. Fenik asked Mr. Kim questions, establishing the following points of testimony:

- Mr. Kim is the sole member of World Champion K Taekwondo, LLC
- World Champion K Taekwondo is a lessee under a lease with the property at 453 Main Street, Unit 1

Mr. Mitchell commented that the drawings of the construction plans were very small. He asked Mr. Kim to please explain the drawings to the Board. With Mr. Fenick's help, Mr. Kim pointed out the location of the recreation area, the workout area, and the two bathrooms to be constructed. Changing rooms or lockers will not be provided.

Mr. Mitchell asked if the reception area will be open. He didn't see any partitioning of this area.

Mr. Fenik explained that there will be a divider, approximately 18 feet from the front door, which will run perpendicular to the side walls. It will separate the exercise area from the reception area. There will passage-ways on either side.

Mr. Mitchell asked where the signage will be located.

Mr. Kim answered that he will be utilizing the existing sign space over the top of the entry.

Mr. Mitchell noted that there is a canopy above the door. Will the sign go above the canopy? Mr. Kim had trouble understanding the concept of a canopy.

Jim Polcaro, 34 Dogwood Drive, Chatham Township. Mr. Polcaro stated he was a good friend of Mr. Kim's. Mr. Polcaro's wife and son take Taekwondo lessons from Mr. Kim. Mr. Polcaro said he will testify from direct knowledge as a fact witness.

Mr. Fenik confirmed with Mr. Polcaro that he was familiar with the proposed signage. Mr. Polcaro stated that he believed he saw a drawing of the signage which he believed had been included in Mr. Kim's application which had been submitted to the Building Department. Mr. Polcaro described the sign plans he had seen.

Ms. Rizzuto confirmed with Mr. DeNave that Mr. Kim's proposed sign had gone before the Borough Sign Committee. Mr. Montague noted that the Sign Committee had issues about this sign. Ms. Rizzuto clarified that the sign plans had not been submitted as part of the application package for the Planning Board members. Mr. Montague felt copies of the full site plan should also have been submitted to Board members. These copies should be readable and of the correct size.

Mr. Polcaro said he and Mr. Kim had gone over all the paperwork with Mrs. Maramonte in the Construction Office. Mr. Montague reminded Mr. Polcaro that the site plans have to be the right size, drawn and sealed by someone to state they are accurate.

Ms. Rizzuto asked Mr. Fenik what were the drawings in front of him. Mr. Fenik answered that they were a set of construction drawings. These drawings were not sealed.

Ms. Rizzuto informed Mr. Fenik that the application, at this point, doesn't appear complete enough for the Board to make a review. The ordinance requires that each Board member receives a full copy of the plans. A full copy must be on file in the Borough Building Department for members of the public to review, at least 10 days before the hearing takes place. Tonight's drawings do not include a site plan. Under Municipal Land Use Law site plans must be sealed.

Ms. Rizzuto suggested the hearing be re-scheduled at a future date.

Mr. Fenik clarified that the drawings before the Board tonight are just interior plans for the facility.

Ms. Rizzuto suggested tonight that Mr. Fenik, Mr. Kim, and Mr. Polcaro at least listen to the Board's comments. They can return at a future meeting for a complete application hearing.

Mr. Montague asked what the change of permitted use was.

Mr. Fenik said he didn't know what the prior use was. The applicant had found this empty store, up for rent, and was informed that he had to do a change of use application. Mr. Montague noted that a retail business operated in that store before it became vacant.

Mr. DeNave noted that this is only the second time a change of use application has been before the Planning Board. A yoga studio was being proposed for a store on Main Street. At that hearing, the applicant presented architectural drawings of her studio. Mr. DeNave reviewed what information had been needed at that hearing: a site plan, the fit-out plans, and some working knowledge of the lease agreement to describe issues like parking spaces.

Mr. DeNave said that Mr. Kim's proposed sign had been before the Borough Sign Committee. Mr. Montague has since discovered that the proposed sign is too high. The sign has to be permitted at the elevation of the previous business. Mr. Montague pointed out that the ordinance would probably want the business signs on the CVS building to be lined up. Mr. Kim would have to go beyond the allowable 17 feet in height to make his sign line up with the others. He would have to seek a variance.

The parking situation was briefly discussed. Ms. Rizzuto informed Mr. Fenik and Mr. Kim that the Board would want to know if any particular parking spaces are limited to users of the Taekwondo business or are there general parking spaces. Information is also needed on the handicapped parking space requirements. Testimony is needed from the business operation on what he expects in the way of traffic and parking of his customers. With regard to the business sign, perhaps the letters and/or spacing could be adjusted to avoid the necessity of a variance.

Mr. Fenik noted that this particular site has undergone an initial site plan review and approval. In that context, would the Board's records reveal whether or not a variance was granted for the sign in the original approvals?

Mr. DeNave said that he had looked for those plans in the Borough Engineer's office. He'll check the Building Department records.

Mr. Fenik indicated that he will have the needed information in order at the next hearing.

At Ms. Rizzuto's suggestion, Mr. Fenik asked Mr. Kim if he had sent out the appropriate notices to all the property owners within 200 feet of his site. Mr. Kim answered yes.

Mr. Crater asked if the public had any comments at this point.

Kathy Polcaro, 34 Dogwood Drive, Chatham Township, stated that she has been a student of Mr. Kim's for 4 years. She stated that Mr. Kim's business will be a great asset to the community. Mr. Polcaro agreed with his wife's comments.

The Taekwondo application will continue to the Planning Board meeting of April 1, 2009, 7:30 p.m., Chatham Municipal Building.

Mr. Fenik said before the next hearing, he will research whether this application involves a site plan. Mr. DeNave informed Mr. Fenik that the change of use procedure is relatively new process. It is under the category of a minor site plan.

Old Business

The Board returned to the matter of Curran v. Romano.

Ms. Rizzuto reported that the Romano application has been remanded to the Planning Board. Board members are receiving copies of the Romano's plans, a copy of the meeting transcripts, and a copy of the court record. The Board will revisit this matter either at their April 1st meeting or at one of their May meetings.

Ms. Rizzuto noted that the court order was filed on February 4, 2009. The Board did not receive the court order until a week later. If the Board isn't ready by its April meeting, Ms. Rizzuto will then advise the court the status of the remand and request additional time for the Board, if necessary. Ms. Rizzuto suggested the public contact the Board secretary if they are interested in attending the Romano discussion and confirm the date. Ms. Rizzuto pointed out that no new evidence will be submitted. No comments can be given by the public, or from the applicant. Ms. Rizzuto stated that if she sends any correspondence to the court on this matter, she will send copies to Ms. Curran's attorney and the Romanos' attorney.

Checklist for Application

Ms. Rizzuto reported that she is almost 80% done with the draft. She will be circulating the draft to Board members by e-mail, seeking any final comments. Ms. Rizzuto suggested the checklist application could be re-visited at the April 1st Board meeting.

PODs Ordinance

Councilman Mikulewicz noted that a sub-committee had been formed to study this issue. Unfortunately, some of the sub-committee members have recently been away. Councilman Mikulewicz will let Mr. Crater know when the sub-committee will be meeting.

FAR Sub-Committee

Councilman Mikulewicz reported that he had met with Mr. Pfeil and received paperwork giving the history of the FAR regulations. Mr. Pfeil also had given him information on FAR applications from 1993 and beyond. He also met with Mr. Montague today to discuss the current FAR ordinance and its history.

Mr. Montague recalled that the last revision made to the FAR was in 1997. He reminded Board members that a FAR measurement is “keyed off” of the building coverage. The formula for FAR is: $1.75 \times$ (times) the building coverage. Mr. Montague reported that about 80% of the FAR applications get approved by the Board of Adjustment. Some applicants withdraw their FAR applications all together. Some of them make adjustments to their plans. Mr. Montague suggested the sub-committee review the statistics of FAR variances and see where the problems really arise.

Mr. Montague reminded Board members that attic space beyond 5 feet in height contributes to the FAR. Some applicants have felt that is an unfair penalty. Other situations that are calculated into the FAR are very large kitchens, master bedrooms with baths.

Councilman Mikulewicz said he was mainly concerned about the existing homes on the smaller lots. The owners of these particular homes don't understand why their attic height has to be measured if they are seeking, for instance, a bump-out. As Zoning Officer, Mr. DeNave said he has advised applicants that they must measure their attics. He suggested consideration might be given to grand-father in attics in homes of a certain age.

Ms. Rizzuto noted that dealing with FAR is never an easy situation. She explained that in an ordinance, a particular lot, street, or group, cannot be grandfathered in. She also reminded the Board that the timing of the effective date of an ordinance is in the hands of the governing body (Borough Council). If there is a need for some leeway on an effective date provision, the Zoning Board of Adjustment should make that need known to the governing body.

Ms. Rizzuto suggested since the FAR issue is so significant, the Board may want the input from a professional planner on the FAR issue. Perhaps a paper review could be done by a planner if or when the Board makes changes on the FAR.

Mr. Crater anticipated there will be a great deal of public comment on the FAR issue.

Mrs. Cali-Charles pointed out that some residents, seeking FAR variances, choose to either withdraw their applications or move away. It is very expensive and time-consuming to seek a FAR variance.

Ms. Rizzuto noted that under the Municipal Land Use Law, the FAR variance is one of the most difficult variances to be granted. The applicant must submit a significant amount of proof to convince the Board that they are entitled to their FAR variance. The purpose of FAR regulations is to prevent density on lots.

On other matters, Mr. Montague reported that he is currently working on a sign ordinance revision. The Borough Sign Committee had asked him to take on this assignment.

Mr. Crater noted that there is not a significant agenda for next week. The Planning Board meeting for March 11, 2009 is cancelled. The next Board meeting will be held April 1, 2009, 7:30 p.m., in the Council Chambers.

At 8:45 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler
Recording Secretary