

CHATHAM BOROUGH PLANNING BOARD
August 18, 2010 7:30 p.m

Chairman Richard Crater called the Chatham Borough Planning Board meeting of August 18, 2010 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 Bruce Harris, Chairman Richard Crater, Donna Cali-Charles, Vincent DeNave*, H.H. Montague, Joseph Mikulewicz, Matthew Wagner.
*arrived at 7:35 p.m.

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

Members Absent:

John Bitar, Susan Favate, James Mitchell

Open to the Public

There were no comments.

Adoption of Minutes

The minutes of July 21, 2010 were approved as submitted.

Current Business

Amendment of the Master Plan

This amendment was requested by the Borough's Green Initiative Committee for Open Space and Recreation Plan dated July 2010 and for the Environmental Resource Inventory (ERI) updated as of August 2010. Mr. Crater noted that the Board will hold a public meeting on these proposed amendments on September 1, 2010.

The following came forward:

Lee Byrd, Chairman of the Borough Environmental Commission

Ed DiFiglia, a representative from the Borough Land & Conservancy Committee

Mr. Byrd noted that all Board members should have a copy of the updated Environmental Resource Inventory (ERI). He reviewed the purpose and the contents of the ERI. Periodically the ERI needs up-dating. The ERI contains information on the Borough's natural and cultural resources. It contains data that the Planning Board can use in developing the Master Plan and to determine the use of land in the Borough. Mr. Byrd reviewed what up-dates and corrections were recently made in the ERI, such as up-dating the bird inventory and language concerning the Borough's noise ordinance.

Mrs. Cali-Charles and Mr. Byrd discussed the re-numbering that now needed to be done in the ERI.

At Ms. Rizzuto's request, Mr. Byrd will have a copy of the ERI with the corrected numbering available for the public hearing. The corrected copies will be mailed out to the required governing bodies. The proper notices will be made to area newspapers.

Ed DiFiglia noted that he is here to present an update to the Borough's Open Space and Recreation Plan. Most of the changes made to the Plan were of an editorial nature. Up to date figures needed to be made for the Recreation Program. The original "action plan" needed to be brought up to speed, with, for instance, the creation of the Community Gardens.

Mrs. Cali-Charles pointed out that there is no mention of Woodland Park in the Open Space Plan.

To answer that question, Mr. DiFiglia called up Paul Suszcznski, a member of the Land Conservancy Committee, from the audience. Mr. Suszcznski reported that he had studied the list of Open Space properties. He noted that in all the lists and mappings that he had reviewed, Woodland Park never showed up. Mr. Suszcznski felt the reason Woodland Park was never mentioned is because it is such a small area. Mr. Crater found Woodland Park in a resolution dated Sept. 23, 2002, under the "Land Acquisitions" tab. Councilman Harris recommended adding Woodland Park in the Open Space property list, with the correct Block and Lot numbers, and a footnote stating that part of the property is in Chatham Township.

There were no further comments from the Board. There were no comments from the public.

Mr. Crater noted that the Board will vote to adopt these plans with the proposed amendments at their September 1st, 2010 meeting.

Resolutions – Applications

Memorialization of the Application of Katarzyna Korab, tenant, for property located at 247 Main Street, Block 120, Lot 6.

Ms. Rizzuto summarized Ms. Korab's application for a Change of Permitted Use with a Waiver of Site Plan. The application was heard and approved by the Board on August 4, 2010.

Mr. Mikulewicz made a motion to approve the resolution memorializing the application of Katarzyna Korab, giving her approval to operate a delicatessen at 247 Main Street, Block 120, Lot 6. Mr. DeNave seconded the motion. A roll call vote was taken:

| | | |
|-------------------|---|-----|
| Mayor Vaughan | - | yes |
| Councilman Harris | - | yes |
| Mrs. Cali-Charles | - | yes |
| Mr. DeNave | - | yes |
| Mr. Montague | - | yes |
| Mr. Mikulewicz | - | yes |

Mr. Wagner - yes
Chrmn. Crater - yes

Memorializing of the Application of Kitchen Intuitions for property located at 242 Main Street, Block 57, Lot 18, for a Change in Permitted Use

Councilman Harris made a motion to approve the memorializing of the application for Kitchen Intuitions at 242 Main Street. Mr. Montague seconded the motion. A roll call vote was taken:

Mayor Vaughan - yes
Councilman Harris - yes
Mrs. Cali-Charles - yes
Mr. DeNave - abstained
Mr. Montague - yes
Mr. Mikuleiwicz - yes
Mr. Wagner - yes
Chrmn. Crater - abstained

Chairman Crater and Mr. DeNave abstained from voting because they were absent from the hearing.

JDS Reality, LLC – 400 Main Street (Shehadi Building), seeking Site Plan Review and a C variance for on-site parking

This is the second hearing for this application. Mr. Crater briefly summarized what transpired at the first hearing held before the Board on August 4, 2010.

David Scalera, Esq., attorney for JDS Reality, came forward. He stated that he and the applicant had taken in comments made by the Board and the public at the previous hearing. The application is now eliminating the dry cleaners as a future tenant in the upper level of the building. The application still includes seeking a Site Plan Review and the parking variance. Amdega is still included as a future tenant. Mr. Scalera believed that Amdega would be a permitted use in the B-1 zone.

Christopher Mattioli, the owner of Amdega, was sworn in to testify.

Ms. Rizzuto explained that Amdega is a professional use; however, it fits in better with the definition of retail services. She noted that the applicant is seeking to fill the remaining empty units in his building with B-1 permitted uses. For now, no medical or dental offices are being proposed. Ms. Rizzuto noted that the “C” variance will be limited to 25 parking spaces.

Mr. Montague noted that the application does not comply with the parking island. Also, the screening and loading dock issues needed to be addressed.

Ms. Rizzuto felt the island and the screening needed a Waiver of Design Standards. The application will be amended to seek a C-1 variance because a loading dock will not be provided. Answering Councilman Harris's inquiry, Mr. DeNave explained that the law firm currently operating in the building's basement was granted zoning approval and a building permit because there had already been offices in the basement before.

At Mr. Crater's request, Mr. Mattioli described Amdega and its operations. He testified on the following points:

- Amdega, established in 1874, is a high-end conservatory business, based in England
- Mr. Mattioli is head of Amdega's operations in the U.S.
- Amdega works one-on-one with their clients
- Amdega usually meets their clients in their homes or places of business
- Amdega is looking to establish their design studio in the applicant's building
- Two to three employees will work at this studio
- Nothing will be manufactured at this site
- The only deliveries that will be made to Amdega will be UPS and Fedex
- Amdega's hours of operation will be 9 a.m. to 5 p.m., Monday thru Friday

Councilman Harris felt that Amdega may not generate parking problems. He was concerned that future retail services in the building may cause these problems. Councilman Harris and Mr. DeNave discussed whether these future retail services would need a parking variance. Mr. DeNave stated a Waiver of Site Plan would be needed if the business were permitted for this particular zone, with the exception of medical and dental offices.

Mr. Crater opened the floor to the public.

Jude Tarasca, 12 Van Doren Avenue, said he had been downstairs in the applicant's building when Shehadi used it as a show room. Mr. Tarasca asked how that showroom was approved.

Mr. DeNave explained that he had met with Mr. Shehadi when his building first became vacant. Mr. Shehadi had informed him that the basement was used as offices for his rug business and his real estate business.

Ms. Rizzuto pointed out that the current use in the basement is permitted.

Mr. Tarasca believed that the residents will be absorbing even more parking issues if this application was approved. He described the parking situation on Martin Place and Dunbar Street during the drop-off and pick-up hours at the Chatham Middle School.

Colm Hogan, 11 Martin Place, felt that granting this parking variance "carte blanc across the board" was not good, especially when it's not known what retail business will move in the building in the future.

Vicky Vielguth, 5 Dunbar St. (known on the tax records as 3 Martin Pl.) reported that she has problems getting in and out of her driveway because of the parked cars for the nearby doctor's office.

Bill Tackaberry, 21 Vincent St., had serious concerns about a "blanket" variance being granted without knowing who all the tenants will be in the building. He felt that Amdega was really a retail service. If the variance is granted, the parking situation in the surrounding neighborhoods will be exacerbated.

Mr. Tackaberry submitted the following exhibits to show the current parking situation:

T-7: a photo showing a view from 14 Dunbar St. towards Main St.

T-8: a photo looking up Dunbar St. from Vincent St.

T-9: a photo showing Shehadi's parking lot, with a UPS truck exiting

T-10: a photo showing a view from 10 Dunbar St.

All photos were taken this day by Mr. Tackaberry. Mr. Scalera had no objections on the four exhibits; however, asked that Mr. Tackaberry's descriptive writing on Exhibit T-10 be omitted. Mr. Tackaberry gave his permission to remove this writing.

Mr. Tackaberry explained that Exhibit T-10 demonstrates the tight parking situation that the UPS deliveryman had to deal with.

Frank Truilo, 8 Martin Place, felt that this application "is far too ambitious and overly intensive for its own functions." Mr. Truilo explained through his own professional calculations, how he felt the number of parking spaces were even more deficient than what the applicant was proposing.

David Richards, 7 Martin Place, believed that the revised application doesn't address the parking issue. He felt the real issue was the parking situation becoming even worse if this application was approved.

Mrs. Cali-Charles confirmed with Mr. Richards that he owned the garage adjacent to the Shehadi parking lot. Mr. Richards stated that he and Mr. Shehadi had agreed to plant no shrubbery or construct any wall which may block the sunlight coming into his garage. This particular condition will be left "as is" for the time being.

Craig Vielguth, 5 Dunbar St., described the narrow passageway and unsafe conditions created by the parked cars on Dunbar St. and Martin Place. He noted that there are 19 children who live on the first section of Dunbar Street and Martin Place. He pointed out that children can't be repaired like cars, if an accident occurs.

At Mr. Crater's request, Ms. Rizzuto summarized that the application is for Site Plan Approval for Permitted Uses with a request for a variance for parking and a request for a variance for no loading zone. There will also be a Waiver for Design Standards for buffering and a parking lot island.

Councilman Harris noted that if the Board approved this application, a “blanket variance” would be granted. There would be no way to control the balance of future uses within the building. He was concerned that the building will be subdivided into even more uses.

Mr. Scalera asked Michael Tobia, the applicant’s planner, to come forward to address the issue of off-site conditions. Mr. Tobia remained under oath from the previous hearing. Before Mr. Tobia could testify, a break was taken in the hearing.

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

At 9:42 p.m. the meeting resumed.

At this point, Mr. DeNave informed Ms. Rizzuto that a Design Standard Waiver is needed for the drive isle width.

Mr. Tobia discussed the “grandfathering” situation regarding the applicant’s building. He explained how the Board cannot deny the applicant’s variance because of the doctor’s parking situation across the street. He reminded the Board that a substantial detriment must be presented to legally argue against the variance. Mr. Tobia reported on the observations he personally made on the applicant’s parking lot. The current law office in the building is a light parking user. Mr. Tobia believed Amdega will not be a heavy parking user. He believed Amdega would be a good fit for this building. As for the parking situation on Dunbar St. and Martin Pl., the Mayor and Borough Council can make changes through ordinances and police powers.

Councilman Harris asked what control the Board or the Zoning Officer would have if another professional office takes over the basement space currently used by the law office.

Mr. Tobia noted that Mr. DeNave has indicated that would fall into the same use group. In Chatham Borough, that approval is granted on an administrative level, not involving another appearance before the Planning Board.

There were no further questions from the Board. Mr. Crater opened the floor to the public to ask questions of Mr. Tobia.

David Richards, 7 Martin Place, pointed out that it’s still unknown who the remaining future tenants will be in the building. He questioned how the Board could make an informed decision with the crucial parking issue that exists.

Mr. Tobia answered that the applicant has consented that any new tenants in his building will come before the Board for another review.

Ms. Rizzuto noted that in the Borough there is no public notice requirement for Changes of Permitted Use. Currently the Board is reviewing the whole process of Changes of Uses and notification of neighbors. Mr. Tobia explained the grandfathering situation of

the building with Mr. Mikulewicz. Mr. Tobia believed the applicant's building was constructed in the mid-1950s.

Colm Hogan, 11 Martin Place, urged that the ordinance requirement of 25 parking spaces be upheld with this application.

Craig Vielguth, 5 Dunbar St., did not like what he believed were the conservative counts that Mr. Tobia made for the parking situation. Mr. Vielguth believed that if the Board granted a "blanket" approval to Mr. Shehadi, it would be unclear what tenants will move in the building in the future.

Bill Tackaberry, 21 Vincent St., explained his belief that the dry cleaners were a personal service, not a retail service. He maintained his belief that vehicles will still be parking on the street despite the applicant's parking arrangements. Mr. Tackaberry asked the Board to decline this application.

Frank Truilo, 8 Martin Place, explained, as a professional architect, how he felt the detriments outweighed the benefits in this application.

Mr. Scalera had nothing more to present.

Mayor Vaughan asked if King's Supermarket had given Mr. Shehadi any consent for his tenants using parking spaces in the supermarket's parking lot. Mr. Shehadi had indicated at the previous hearing that he would be hearing from King's regional manager on this matter.

Mr. Scalera asked if the Board would take a vote without that being an issue.

Mr. Crater asked if Board members had any further comments.

Mrs. Cali-Charles believed that the real problem in this application is the square footage of the building influencing how many parking spaces are required. If the Board does not grant this variance, it would seem to indicate to Mr. Shehadi that he will never be allowed to use the full square footage of his building. Councilman Harris and Mr. Montague did not agree with this point.

Mr. Montague made a motion to grant the parking with the conditions that were agreed upon. Mr. Wagner seconded the motion. A roll call vote was taken:

| | | |
|-------------------|---|--------|
| Mayor Vaughan | - | yes |
| Councilman Harris | - | no |
| Mr. Bitar | - | absent |
| Mrs. Cali-Charles | - | yes |
| Mr. DeNave | - | yes |
| Mr. Montague | - | yes |
| Mrs. Favate | - | absent |

| | | |
|----------------|---|--------|
| Mr. Mitchell | - | absent |
| Mr. Mikulewicz | - | yes |
| Mr. Wagner | - | yes |
| Chrmn. Crater | - | yes |

During the roll call vote, each Board member explained why he/she voted as they did.

The application was approved (7 – yes 1 – no).

Pending Business

Checklists for Application

This will be reported upon at a future meeting.

Site Plan Waiver Procedure

This will be reported upon at a future meeting.

Sign Ordinance

Mr. Crater reported that the Board will be presenting this proposed ordinance at the September 27, 2010 Council Meeting. He asked the committee who had worked so hard on this ordinance, to be present at this Council Meeting.

Planner Study for Business Districts

Councilman Harris noted that he has asked the Borough Administrator if this presentation be given at the September 27, 2010 Council meeting. Councilman Harris suggested the Board review the draft of this presentation at their Sept. 1st meeting. Mrs. Favate has reviewed this presentation. Councilman Harris suggested Mrs. Favate, on behalf of the Board, give the formal presentation to the Borough Council. She has a professional planning background.

New Business

Discussion of examination of all land use ordinances for revision before the “Time of Decision” rule takes effect

Ms. Rizzuto recommended, minimally, that the uses of each zone and their definitions be looked at either with the help of a hired professional planner or of Mrs. Favate. This is a time-sensitive matter. Mr. Montague suggested the Board ask Mrs. Favate to help with this project. Ms. Rizzuto recommended that at their September 1st meeting, the Board should decide on the actual scope of this project. Councilman Harris reported that he had conferred with Mrs. Favate, who informed him she had professional friends who may be helpful in this matter.

Before adjourning, Mr. Crater reminded Board members to send him their forms for professional providers as soon as possible.

Respectfully submitted:

Elizabeth Holler
Recording Secretary