

CHATHAM BOROUGH PLANNING BOARD
August 4, 2010 7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of August 4, 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, Vice Chair John Bitar**, Donna Cali-Charles, Vincent DeNave, H.H. Montague, James Mitchell, Susan Favate, Joseph Mikulewicz*, Matthew Wagner.

*arrived at 7:34 p.m.

**arrived at 7:40 p.m.

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

Members Absent:

None

Open to the Public

William Tackaberry, 21 Vincent St., asked if the public will have an opportunity to speak after the application (JDS Reality L.L.C.) is heard.

Mr. Crater answered yes, after the applicant's testimony is given, the public will be invited to ask questions.

Adoption of Minutes

There were no minutes tonight.

Resolutions - Miscellaneous

Miriam Gunn – Application for Extension of Time for the Resolution granting minor subdivision

Ms. Rizzuto noted that Ms. Gunn's attorney informed her that the subdivision deeds have not been finalized and reviewed. Ms. Rizzuto stated that the **metes** and bounds still need to reviewed by Mr. DeNave. The applicant still needs to accomplish the demolition that is required before the filing of the subdivision deeds. The applicant did not have the funds to complete this requirement in the time period. The applicant reported that she has a prospective buyer for the extra lot. Ms. Rizzuto stated that the Municipal Land Use Laws allows for extensions for these types of resolutions. Ms. Rizzuto's resolution tonight will give the applicant 90 days to accomplish the demolition and record the deed.

Mr. Montague made a motion to approve the resolution granting Miriam Gunn a 90-day extension for her minor subdivision application. Mr. DeNave seconded the motion. A voice vote was taken. The resolution was unanimously approved.

Applications

Waiver of Site Plan Review with a Change of Permitted Use – for Katarzyna Korab, to open a delicatessen at 247 Main Street, Block 120, Lot 6

Katarzyna Korab, the applicant, was sworn in to testify.

Gary Haydu, the applicant's attorney, was present.

Under Mr. Haydu's questioning, Ms. Korab testified to the following points:

- She is proposing to open a European market at 247 Main Street
- She will be selling pre-packaged, pre-prepared foods
- There will be no food preparation at her store
- Her food suppliers will make an effort to make deliveries before 8 a.m.
- Customer parking is available in Fire House Plaza and Post Office Plaza
- Deliveries to the store will occur once a week
- The store will have a maximum of two employees
- The hours of operation on weekdays will be 9 a.m. to 7 p.m., on Saturdays 8 a.m. to 4 p.m., Saturdays 8 a.m. to 4 p.m., and tentatively on Sundays 10 a.m. to 2 p.m.

Ms. Korab submitted a floor plan to the Board identifying a refrigerator display, a freezer display, and the shelving for dried food products and fresh bread.

Ms. Korab testified that she is looking for a two-year lease. She stated that she has worked in Chatham for 10 years as a hairdresser. She will remain a hairdresser. Her husband will help her run this new store, make deliveries and run errands.

Ms. Korab's signage will be submitted to the Borough Sign Committee. She will follow the ordinance requirements for her sign.

Ms. Korab testified that her lease for the store space is contingent upon the approval of the Board to allow her to open this facility.

Ms. Korab stated that she will have to obtain the necessary health licenses to sell fresh cheeses and fresh pasta. She stressed that her store will not be like a Quick-Chek. She gave examples of the foods she will sell at her European Market. Only take-out will be allowed. There will be no sit-down dining on the premises. There will be no displays on the sidewalk in front of her business.

Mrs. Cali-Charles urged Ms. Korab to use the existing framework for her European Market sign. Ms. Korab indicated she would keep that suggestion in mind.

There were no comments or questions from the public.

Councilman Harris made a motion to approve the Waiver of Site Plan **with** a change of permitted use, allowing Katarzyna Korab to open a delicatessen at 247 Main Street, and that Ms. Korab's sign be approved by the Borough Sign Committee. Mr. Montague seconded the motion. A voice vote was taken. The motion was unanimously approved. Mr. Bitar abstained from voting, because he was not present for most of the testimony.

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

David Scalera, attorney for the applicant, gave an over-view of the application.

Richard Schommer, the applicant's engineer, was sworn in to testify. He submitted his credentials to the Board. The Board accepted them.

Mr. Schommer submitted Exhibit A-1, site plan exhibit.

Mr. Schommer testified to the following points:

- The applicant's property at 400 Main Street is currently developed with a building, sidewalk, and parking lot currently in place
- New tenants are seeking to move into the building
- Approval from the Board is needed for these new tenants and their uses
- The uses are permitted uses for this particular zone
- A variance is needed for parking
- No expansion of the building is being proposed
- The building consists of an upper level & a lower basement level
- The lower level is currently used for an office
- Twenty-five parking spaces are needed for the building, its square footage, and the businesses which will operate there
- The existing parking lot is not striped for spaces
- The applicant will stripe the lot to create parking spaces that are 9 ft. by 18 ft.

Using Exhibit A-1, Mr. Schommer pointed out the 13 parking spaces which will be created on the north side of the building, and one space on the west side. A total of 14 parking spaces will exist on the applicant's property. One of the 14 spaces will be designated as a handicap space. The ordinance requires 25 parking spaces. An enclosed dumpster area will be installed at the west side of the building. Mr. Schommer testified a stop sign will be installed at the parking lot's exit point onto Dunbar Street.

Mr. Schommer explained that the upper story of the building has a higher demand for parking. The applicant's planner will testify on this situation. Mr. Schommer testified that there will be no increase of impervious coverage. Good screening will be provided at the rear of the site.

At Mr. Crater's suggestion, Mr. Schommer pointed out the existing lighting on the site. He felt the existing lighting will be adequate for the parking. The lighting will be shielded. Mr. Montague and Mr. Schommer discussed the screening at the rear and a resident's garage/carriage house in that section. Mr. Scalera stated that the applicant is willing to install landscaping or a fence to buffer the large window belonging to the rear neighbor's garage.

Michael Tobia, the applicant's planner, was sworn in. He has appeared before the Borough Planning Board and Borough Board of Adjustment a number of times.

Mr. Tobia submitted and explained the following:

Exhibit A-2, photo of the building

Exhibit A-3, a perspective of the front façade, looking west

Mr. Tobia testified that the upper level building has 2700 sq. ft. of gross floor area. The basement level also has 2700 sq. ft. of floor area. The basement level has been gutted and rehabbed.

Using Exhibit A-3, Mr. Tobia testified that most people will be entering the building from the back, where the 14 parking spaces will be located. Mr. Tobia submitted Exhibit A-4, showing the back of the property. He described the existing buffering in the back. The garage/carriage house mentioned earlier belongs to 7 Martin Place. If landscaping is requested by the Board in that section, it may block the sunlight coming in through the garage windows. A fence may be a better idea. No discussions have been held with the neighbor at 7 Martin Place on what he would prefer.

Ms. Rizzuto believed the landscaping would require a Design Waiver.

Using Exhibit A-4, Mr. Tobia testified that there is excellent perimeter landscaping along the parking lot.

Mr. Tobia testified that the lower level of the building is taken up by an attorney's office. The attorney and her staff work Monday through Friday, 9 a.m. to 5 p.m. The attorney has 3 employees who use the parking lot. Mr. Tobia stated that on Saturdays he observed that the building's parking lot is completely empty.

Mr. Tobia testified that Amdega, which creates conservatories and atriums, will be one of the businesses operating in the middle unit of the building's upper level. Two employees will work at this business. Ninety-five percent of this particular business will take place off site. The only deliveries received by Amdega will receive will be from UPS and FedEx once in a while. Two employees will be working in that particular unit. Mr. Tobia submitted Exhibit A-5, a catalog for Amdega.

Mr. Tobia described the dry-cleaning business which will operate in the far left side of the building. It will be a "drop shop" for customers. The actual cleaning of dropped off items will take place at an out of town location. A mini-van will visit the store once a day to pick up the items, between 1 p.m. and 3 p.m. The hours of business will be Monday through Friday, 7 a.m. to 7 p.m., on Saturdays, 8 a.m. to 6 p.m. If the Board wants, a section in the back can be striped off for the dry-cleaning. The Board and Mr. Tobia discussed whether a variance would be needed for the loading dock requirement.

Mr. Tobia pointed out there is room in the building for a fourth tenant, still unknown, in the building. This fourth tenant will be a light, professional, non-medical, office user. Mr. Tobia stated that Mr. Shehadi did not want any medical offices in his building, which would probably create parking problems down Dunbar Street.

Summing up, Mr. Tobia stated that a parking variance is being sought. The building is a legally existing, nonconforming use. It is impossible to provide the required 25 parking

spaces. He again reviewed the low intensity businesses that will be in the building. The number of parking spaces needed for these businesses add up to 14. Mr. Tobia testified that Mr. Shehadi will have permitted uses for this particular zone. It will not be an “under parked site”. What is being proposed for this building will be “a good fit” and should not be an impact on the neighborhood parking.

Mr. Mitchell asked if it would be possible to designate the parking spaces for each business in the building. He was concerned about customer parking for the dry cleaning business. Mr. Tobia answered that those customers will be going towards the back of the lot, where the dry cleaning business will be located. The first four parking spaces could be designated for the dry cleaning business. Two spaces could be for customers and two spaces could be for the employees.

At Councilman’s Harris’s request, Mr. Tobia explained how he calculated the number of parking spaces needed.

Mr. Montague asked Mr. Tobia what will be the peak times for parking for this building. Mr. Tobia answered that the peak times will probably be Monday through Thursday. At the peak time, the attorney’s office will use 3 spaces, Amdega will use two spaces, the dry cleaning business will use two spaces, and one space for the tenant space will open. This count doesn’t include customer parking. Five spaces will be for customer parking. Mr. Tobia noted that the dry cleaner has the ability to do stack parking of employee cars, if additional customer parking is needed. Amdega’s employees could also do stack parking to yield more customer parking spaces. Mr. Tobia believed the parking plan for this site will work most of the time.

Mr. DeNave asked if the applicant had explored any of the surrounding properties to see if additional parking spaces could be leased for this building.

Mr. Scalera indicated that Mr. Shehadi should answer that question. Mr. Shehadi will be sworn in to answer that question after Mr. Tobia is finished with his testimony.

Mrs. Cali-Charles asked if there was room for another parking space along the back steps of the building. Could a space be created for a compact vehicle?

Mr. Tobia said that area had been looked at. A motorcycle might fit in that section; however, a regular size car could not fit.

Councilman Harris asked Mr. Tobia if there had been any open parking spaces along Dunbar Street when he made his parking observations.

Mr. Tobia reported on his observations. He saw as many as 10 cars parked on Dunbar Street, close to Dr. Franzese’s office. If someone needed to park a car during the peak hours of the doctor’s office, he/she would have to proceed down Dunbar Street, four or five parking spaces more. Three hour parking is available. There were times when Mr.

Tobia saw only three or four cars parked near the doctor's office. Parking spaces very close to the Shehadi building's driveway then opened up.

Mrs. Favate asked what type of parking enforcement would be provided by Mr. Shehadi to prevent the doctor's patients, or family members of patients, from using the applicant's parking lot. Mr. Tobia said he will have Mr. Shehadi answer that question.

Ms. Rizzuto reviewed what restrictions would be needed in the resolution, should this application be approved. She noted that the applicant is proposing 14 spaces, where the ordinance would require 25 spaces in this particular situation. She needed more information on the restrictions on the use.

Mr. DeNave pointed out that the applicant will have to appear before the Board again if another parking variance is needed. If a retail use goes into the upper level, the applicant will have to seek a Waiver of Site Plan Review for a Change of permitted use. A variance would not be needed.

Mr. Tobia and Mr. Mikulewicz discussed Amdega. Mr. Tobia stated that 95% of Amdega's actual work will take place at their clients, homes. He believed Amdega would be considered an office use, not a retail use.

Ms. Rizzuto confirmed with Mr. Scalera that the third unoccupied unit, on the upper level, will not be a non-medical office.

Councilman Harris asked Mr. DeNave how the Borough would monitor whether the professional office use would change from attorney to a medical office on the lower floor.

Mr. DeNave explained that whenever there's a change of occupancy a Certificate of Occupancy (CCO) is applied for. At that time, he finds out what the proposed use will be. Mr. DeNave explained what past records and files he pulls and studies for applications like commercial buildings like the one tonight. He checks for any violations, resolutions, etc. There was not a great deal of material on the Shehadi building.

Ms. Rizzuto noted that the architect's plans still need to be certified.

The Board and Ms. Rizzuto discussed the proposed signage on the property. Mr. DeNave confirmed with Mr. Scalera that all the permanent signage will be submitted to the Borough Sign Committee for their approval. The parking spaces, behind the building, will not be designated for each tenant. A sign will be installed for handicap parking.

John Shehadi, the owner of the building, was sworn in.

Mr. Shehadi testified that he has spoken with Kings Supermarket management about possible parking that might be allowed for the proposed businesses in his building. Mr.

Shehadi told the management that he was willing to sign a lease to obtain some of the King's spaces not being used.

Mr. DeNave reminded Mr. Shehadi and Mr. Scalera that a public parking lot is available at Main Street and Division Ave. Mr. Scalera stated that, if the application was approved, a condition can be included specifying that his client will make a reasonable inquiry and produce evidence of that inquiry that additional parking has been sought.

Mr. Scalera had no further witnesses.

Mr. Crater opened the meeting to the public.

Frank Truilo, 8 Martin Place, felt that the applicant's building, originally a single use, is now being made into a multiple use. He asked if a multiple use was permitted in the B-1 zone.

Mr. DeNave answered yes. All the uses being proposed in this building are allowed in this particular zone.

Mr. Truilo reviewed the measurements of the parking spaces with Mr. Schommer, the applicant's engineer. Mr. Truilo asked what will happen if the parking lot becomes full. Mr. Schommer felt that there was enough room in the dumpster area for a motorist to turn his vehicle around.

David Richards, 7 Martin Place, asked what assurances the residents had that this will remain a retail use.

Mr. DeNave answered if a new tenant comes changing from a professional office to a retail use; the building owner would have to appear before the Planning Board for a Waiver of Site Plan Review.

Mr. Richards stated that he and his neighbors have noted a significant increase of traffic in their section of town. There are a number of small children in these neighborhoods. He felt the multi-uses being proposed for this building would worsen the traffic and parking situation.

Mr. Richards stated that he was the owner of the garage adjacent to the parking lot under discussion. Ms. Rizzuto confirmed with Mr. Richards that he was concerned about possible landscaping for the parking lot blocking the windows of his garage, should this application be approved. Ms. Rizzuto suggested that, if the Board approves this application, the applicant and Attorney Scalera, meet with Mr. Richards and decide on a reasonable landscaping arrangement. Their decision can then be included in the resolution. Mr. Scalera agreed with this suggestion. Mr. Richards agreed to meet with Mr. Scalera.

Ed Barmakian, 6 Dunbar St., was surprised that Mr. Tobia did not provide any testimony on how many cars would be arriving and leaving the site to visit the dry cleaning business. Mr. Barmakian noted that the new curbing installed on Dunbar Street has made the street narrower. He suggested making the parking lot one way, with the exit on the west end of the property.

Regarding a possible exit being created on the western end of the property, Ms. Rizzuto noted that approval would be needed from the NJ Department of Transportation. Mr. Schommer, the applicant's engineer, pointed out that the DOT always tries to limit accesses onto state roads.

Mr. Mikulewicz suggested a no left turn sign be installed at the parking lot's exit point. Ms. Rizzuto explained that was possible, with the sign being enforced by the police department. Mr. DeNave pointed out that if the parking lot became full, and the motorists would then make a left turn, and drive down the residential streets looking for a parking space.

Jude Tarasel, 12 Van Doren Ave., noted that his driveway exits onto Martin Place. He felt the customers for the dry cleaning business will be parking on Dunbar Street to speed up their visit to the store. He also described the traffic congestion existing in his section of town.

Bill Tackaberry, 21 Vincent Street, asked if the Board and Ms. Rizzuto had received the e-mail sent by a resident, Craig Vielguth. Ms. Rizzuto confirmed that the e-mail was received, but legally cannot be considered at this hearing. Mr. Vielguth must testify in person at the hearing, and be available for questions. Mr. Scalera indicated that he was not aware of this e-mail.

Mr. Tackaberry believed that what drives this application is the size of the applicant's building. He assumed that a Certificate of Continued Occupancy was granted to the law office on the basement level, and that the law office had met the parking requirements (11 spaces) according to their square footage. Mr. Tackaberry believed that the proposed tenants, the conservatory business (Amdega) were a retail business, which is not permitted in this particular zone. He believed the dry cleaning business is a personal service, also not permitted in this particular zone. Mr. Tackaberry believed the third tenant, a tailoring business, was also not a permitted use for this zone.

As for exterior changes, Mr. Tackaberry pointed out that the applicant proposes to install an air conditioning condenser along the first set of concrete stairs. This installation will impact a section of parking spaces. Mr. Tackaberry discussed what he believed would be the deliveries for each tenant. He felt it was not appropriate that a loading dock is not being proposed. Mr. Tackaberry pointed out that the Shehadi family owns the property where TD Bank is located. Perhaps the bank parking lot could help with parking deficiencies which may result at 400 Main Street. He noted that the 3-hour parking sign on Dunbar Street is not being enforced.

Mr. Tackaberry submitted Exhibits T-1 through T-6, a total of 11 photographs he had taken on August 4, 2010, showing the existing parking situation on Dunbar Street. Mr. Scalera reviewed the photographs and had no objections. The Board reviewed the photographs.

Frank Truilo, 8 Martin Place, noted that when unfamiliar vehicles are parked in front of his house, day after day, the neighborhood does not feel safe. He felt the parking situation in his part of town will become worse if this variance is approved. Mr. Truilo submitted Exhibits TR-1 and TR-2, two photos showing the current parking conditions, dated August 4, 2010, on Dunbar Street and Martin Place. Mr. Scalera and the Board looked at the photos.

Angie Mann, 29 Vincent St., said that, like the other neighbors, she is prevented from parking in front of her house, because of other parked cars. She described how difficult it is to pull her car into Dunbar Street with the narrow conditions created by all the parked cars.

Mr. Scalera called on Mr. Shehadi, as a sworn witness to testify.

Mr. Shehadi testified on the daily arrival and departures which occurred for years at the Shehadi Rug business at 400 Main Street. These visits occurred at a high frequency. The dumpsters were constantly full and needed to be emptied. He could not recall any car accidents in his business parking lot during his tenure there. Mr. Shehadi claimed that he has not any negative interactions with the public over the business use of his building. He has made a point of finding low impact uses for this building.

Mr. Crater opened the floor up to the public again.

Ed Barmakian, 6 Dunbar St., reiterated that no study or numbers had been done on the dry cleaning business customers visiting the site.

David Richards, 7 Martin Place, noted that the parking situation on Dunbar Street isn't getting any better with time.

Bill Tackaberry, 21 Vincent St., emphasized that he felt the proposed tenants were not permitted uses for the zone they were in.

At 10:21 a break was taken in the meeting.

At 10:29 the meeting resumed.

Ms. Rizzuto noted that there are still open issues on this application. She believed the Board was not prepared to vote on this case tonight. She suggested that Mr. Scalera and his client work on these issues and continue the case to the Planning Board's August 18, 2010 meeting. Ms. Rizzuto stated that one of the issues, raised by a member of the public, was whether Amdega, the conservatory business, was a permitted use for this zone. Also, the dry cleaning business could fit in the category of retail services.

Testimony is needed from the applicant to prove that these two businesses are permitted uses for this zone.

Ms. Rizzuto also noted that a member of the public had suggested that the applicant generate a formal traffic study instead of asking for the Waiver. She asked Mr. Scalera and Mr. Shehadi to consider that suggestion and write her a letter informing her if they want to undertake such a study.

Ms. Rizzuto believed the Board could approve Tenant #4, in the building, as a retail use as requested by the applicant.

Mr. Scalera agreed that the case will continue to the Board's August 18, 2010 meeting.

Mr. DeNave left the meeting room at 10:40 p.m.

Current Business

Amendment of the Master Plan

Mr. Crater noted that this amendment has been requested by the Borough's Green Initiatives Committee for the Open Space Resource Plan and Natural Resources Inventory. Representatives from the pertinent Borough committees will give presentations at the Board's August 18, 2010 meeting. Ms. Rizzuto explained the notice process which must be made for this amendment.

FAR Ordinance

Ms. Rizzuto reviewed the revised language, in Section A.2 of the FAR ordinance; she had composed regarding portico calculations. Mr. Montague made a motion to approve the revised language and forward it on to the Borough Council for their consideration. Councilman Harris seconded the motion. The motion was unanimously approved.

Proposed Ordinances

(1) Refuse Containers & Dumpsters

(2) Private Storm Drain Inlet Retrofitting

Councilman Harris reported that both of these issues are being handled by the Borough Attorney, Mr. Bell.

New Business

There was none.

Pending Business

Checklists for Applications

Ms. Rizzuto reported that she and Mr. Montague will meet on August 18th and continue their review on ordinances.

Sign Ordinance

Mrs. Cali-Charles, Mr. Montague, and Mr. DeNave will organize a presentation on the proposed ordinance to be given at one of the Borough Council meetings in September.

Planner Study for Business Districts

Councilman Harris will have a written presentation to pass on to the Planner Study Committee. Ultimately, the rest of the Board will see the presentation.

Mr. DeNave had returned to the room. He discussed his proposed revisions to the FAR ordinance with regard to porticos and front yard setbacks.

On other matters, Councilman Harris reviewed what items the Board may want to review before the “time of decision” rule takes effect in New Jersey.

At 11:06 p.m. the meeting adjourned.

The next Planning Board meeting will be held on August 18, 2010, 7:30 p.m., Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler
Recording Secretary