

CHATHAM BOROUGH PLANNING BOARD

March 3, 2010

7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of March 3, 2010 to order at 7:32 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, Chairman Richard Crater, John Bitar*, Councilman Bruce Harris, Donna Cali-Charles, H.H. Montague, James Mitchell, Joseph Mikulewicz**
Vincent DeNave***

*arrived at 7:33 p.m.

**arrived at 7:37 p.m.

***joined the other Board members at 8:32 p.m.

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

Members Absent:

Susan Favate, Alan Pfeil

Mr. Crater noted that a change has been made to tonight's agenda. The Board will move into Executive Session to discuss the matter of Tricare Treatment LLC and the Parrot Mill Inn, the pending filed appeal and anticipated litigation on this matter. The discussion in the Executive Session will not be disclosed to the public until the time for all appeal rights has expired.

Mr. Montague made a motion for the Board to go into Executive Session. Mrs. Cali-Charles seconded the motion. The motion was unanimously approved by the Board.

At 7:34 p.m. the Board went into Executive Session.

At 7:55 p.m. the Board returned from Executive Session. Councilman Harris made a motion to re-open the public meeting. Mrs. Cali-Charles seconded the motion. The motion was unanimously approved by the Board.

Mr. Crater noted that Board members Mr. Bitar and Mr. Mikulewicz have joined the meeting. Both members were in attendance at the Executive Session.

Ms. Rizzuto noted that Mr. DeNave, on her advice, has recused himself from the TriCare matter on tonight's agenda.

Mr. Crater informed the public that agenda number 5b will be the first item discussed tonight: Consideration of tabling of Memorializing the Resolution in the matter of Application #10-01 of Tricare Treatment Services, LLC for the Parrot Mill Inn, located at 47 Main Street, Block 129, Lot 5. Waiver of Site Plan was considered and approved by the Board at its regular meeting held on February 3, 2010.

Mr. Crater stated that Ms. Rizzuto will speak on this matter first. Public comment will be invited after she is finished.

Ms. Rizzuto stated that the Board has 45 days in which to memorialize their vote on the Tricare Treatment Services resolution. She reported that she has not prepared the memorializing resolution. It is Ms. Rizzuto's legal recommendation that the Planning Board table the matter of Tricare Treatment Services for Parrot Mill Inn, and not entertain a memorializing resolution or any other official action until after the Appeal is heard by the Zoning Board of Adjustment, **at** which time, the matter may come back to the Planning Board. However, at this point in time, the Planning Board is not the appropriate board to handle anything official with respect to this matter.

Ms. Rizzuto reported that she has advised the applicant of the tabling of this matter. She asked Chairman Crater for an official motion and vote on the tabling of the memorialization of the Tricare Treatment Services resolution.

Mr. Montague made a motion to table the Tricare Treatment Services resolution. Mrs. Cali-Charles seconded the motion. A voice vote was taken. The motion was unanimously approved. Mr. Mikulewicz abstained from voting.

Mr. Crater invited public comment. He informed members of the audience that Board members cannot answer questions tonight on the Tricare matter since an Appeal has been filed. This matter will be going before the Board of Adjustment; however, the Planning Board will still listen to any comments the public may have tonight.

Michael Callahan, 53 Tallmadge Ave., thanked the Board for following the procedures that the residents found proper. He asked Board members to read the Appeal. Mr. Callahan felt the Appeal contained a very valid argument that Tricare is not an equivalent use of a non-conformity.

Lorraine Teisch, 42 Tallmadge Ave., asked if the Planning Board would be forced to memorialize their decision before the appeal is heard by the Board of Adjustment.

Ms. Rizzuto clarified that there is no limitation on the tabling of the Tricare matter. The Planning Board will be tabling this matter until such time as the Board of Adjustment acts and possibly the Superior Court acts after that. The matter will not return to the Planning Board until the final decision is made.

Toby Kennedy, 30 Myrtle Ave., noted that his family owns the Parrot Mill Inn. He stated that he has "checked out" Michael Osborne. Mr. Kennedy felt that Tricare would be the best thing that could happen to the Parrot Mill Inn.

Ken McCullough, 33 Parrot Mill Road, stated he supported the proposed use (Tricare Services) for the Parrot Mill Inn. He asked the residents who were concerned about their children; please consider the children of the people who would be treated at Tricare.

Robert LaTorre, 35 Tallmadge Ave., confirmed that he was the one who filed the appeal. Mr. LaTorre disagreed with Mr. Kennedy's comment that Tricare Services would be the best use for the Inn. He felt the only ones benefiting from this decision would be the owner of the Parrot Mill Inn and Mr. Osborne, not the town of Chatham.

Tim Nagle, 38B Elm Street, Summit NJ, stated he was born and raised in Chatham Borough. He reported that on the 11 o'clock news tonight there will be a TV program regarding children and gambling.

Lorraine Teisch, 42 Tallmadge Ave., stated that she understood the need to get a quality tenant for that building. She reviewed the research she had found on Michael Osborne, which she found disturbing. Mr. Osborne's comments about the Craig's List Killer is upsetting the neighbors and making them feel that Tricare is an inappropriate use for the Inn.

Robert Ehrbar, 39 Tallmadge Ave., said he understood from the hearing that most of Tricare's clients will be flown in and will not be leaving the facility in order to keep their anonymity. He did not think Chatham should be hosting gambling addicts from way out of town.

Pat O'Donnell, 7 Elm Court, said he has known Toby Kennedy's family for some time. He has been inside the Parrot Mill Inn many times. He pointed out that Tricare clients will be staying inside the building to maintain their anonymity. Mr. O'Donnell supported the application because he felt both the outside and inside appearance of the Inn would be maintained.

Toby Kennedy, 30 Myrtle Ave., discussed how the Parrot Mill Inn has served as "a destination" for out of town people for years. As for the Tricare clients, Chatham does not have the right to deny people who need help. Mr. Kennedy felt the Internet findings on Michael Osborne have been blown out of proportion.

Jeninne Carrano, 138 Washington Ave., felt that no one thinks of Mr. Kennedy as "being the bad guy" in this situation. Mrs. Carrano didn't think Mr. Kennedy would be leasing his Inn to this particular tenant if it wasn't for the bad economy. However, it was Mrs. Carrano would rather see something tacky go in at the site, than have gambling addicts near their children.

Ken McCullough, 33 Parrot Mill Road, said he would not like to see anything tacky on the street where he lives.

Michael Callahan, 53 Tallmadge Ave., confirmed that the Parrot Mill Inn was in the Borough's Historic District. If the word "addict" was googled, the definition of such a person would not be an individual that residents would feel safe having in their neighborhood.

Carri Nugent, 9 Tallmadge Ave., agreed that the Inn was a beautiful building; however, the many children who live in its immediate area are beautiful too.

Phyllis Seaton, 116 Fairmount Ave., noted that she has lived in Chatham all her life. If a gambler lived next door to her, she did not believe her children's safety would be in jeopardy. She would not mind this facility being in her neighborhood.

Robert LaTorre, 35 Tallmadge Ave., stated that 70 addicts a year will be using the Tricare Treatment facility. He stated that 10% of addicts have cross addictions. Mr. Osborne's claim that he will not allow clients with cross addictions at this facility would not be enforceable.

Lorraine Teisch, 42 Tallmadge Ave., reviewed Mr. Osborne's web site Lostbets.com where he described the desperate measures taken by gambling addicts. Many times gambling addicts only seek treatment when pressured by family members. Crimes have already been committed by these addicts.

Mr. Crater reminded everyone that the Zoning Board of Adjustment will be hearing this matter at their meeting on March 24, 2010 meeting at 7:30 p.m. Ms. Rizzuto recommended that members of the public confirm with the Building Office that the Tricare Services matter will be on the Board of Adjustment's agenda on that date. No public notice is required for this appeal.

Regarding Agenda Item #4 Miscellaneous Resolutions, Mr. Crater noted that there are none.

Memorializations

Ms. Rizzuto briefly reviewed the Resolution for Application #2010-02 for Dance Innovations (Tenant: Botanical Blooms) for property located at Town Square. 13 Roosevelt Avenue. This matter was considered and approved by the Board at its Regular Meeting held on February 3, 2010.

Mr. Montague made a motion to memorialize the resolution approving a Waiver of Site Plan Review in connection with a change of permitted use, Application #2010-02, for Dance Innovations (Tenant: Botanical Blooms). Mr. Bitar seconded the motion. A roll call vote was taken:

Mayor Vaughan	-	yes
Councilman Harris	-	yes
Mr. Bitar	-	yes
Mrs. Cali-Charles	-	yes
Mr. Montague	-	yes
Mr. Mitchell	-	yes
Chrmn. Crater	-	yes

Mr. Mikulewicz abstained from voting because he was absent from the hearing on this application.

Referring to Item #6 on the agenda, New Applications, Mr. Crater noted that there were none tonight.

Checklist for Applications

Mr. Rizzuto reported that the checklist is not ready yet. She will have additions to the checklist for Board members to review.

Sign Ordinance

Ms. Rizzuto noted that Board members have Mr. Montague's most recent comments in printed form before them tonight. She stated that the Board still has to finish reviewing the draft ordinance. Much of the February 3rd Board meeting had been taken up by public comment on another matter.

At 8:32 p.m. Mr. DeNave joined tonight's meeting.

Ms. Rizzuto reviewed Ms. Favate's opinion on limiting religious informational signs on church properties. Ms. Rizzuto stated that Ms. Favate had said, at an earlier meeting, that the Borough should not place a limit on these informational signs. The matter of banners on church properties still remained under discussion. Mr. Montague expressed concern about removing language regulating the size of these signs and their lighting. The Board discussed which Borough committees should review these particular signs.

Mr. DeNave suggested the option of including church signs in the exempt section of the ordinance.

Ms. Rizzuto will include these comments in the next draft.

Mr. Montague brought up the matter of non-conforming signs. He suggested the language on these signs be modified to reflect case law. Ms. Rizzuto said she would tweak the language on this situation.

Making another point, Mrs. Cali-Charles recalled that the name of a business should be the only item on the principal sign. In another section of the draft ordinance, three to five items are permitted. Ms. Rizzuto took note of that.

Ms. Rizzuto confirmed with Councilman Harris that he had wanted her to find out when and why the Borough Sign Committee was established. Concerning Sign Committee membership, Ms. Rizzuto suggested either an ordinance or an annual resolution be enacted. Councilman Harris recommended that the Sign Committee be recognized as a permanent fixture by having an ordinance. The LDO should then have the proper references to the Borough Sign Committee. Councilman Harris recommended that the Borough Sign Committee be recognized as a permanent fixture.

Ms. Rizzuto will incorporate the latest changes into the sign ordinance. The ordinance will be forwarded to the Borough Council.

Charitable Clothing Bins Ordinance

Ms. Rizzuto noted that Mr. Montague has given her his comments on this ordinance.

Mr. Montague discussed what district these particular bins should be allowed. He didn't think allowing these bins in the "M" District would be a good idea. He felt the business districts would be a better location. Mr. Montague and Mr. DeNave agreed that the base of the clothing bin would count as lot coverage.

Mr. DeNave pointed out that if these bins were allowed in the business districts, the bin could be installed in a parking space that would be counted in their permit requirement. Ms. Rizzuto agreed, noting that adequate space would be needed for a resident's van or SUV to pull in close to the bin and unload.

Ms. Rizzuto and the Board discussed the fee situation for the installation of these bins.

Councilman Harris reviewed which "B" districts he felt the bins should not be allowed. He believed the M-3 District, alone, would be the best place to allow the bins.

Ms. Rizzuto advised the Board to keep in mind that there should be adequate room for the loading and unloading of these bins. The bins should not cause any interference of traffic sight lines. Councilman Harris reviewed what the State Statute said about the placement of bins with regard to safety.

The Board agreed that clothing bins would be allowed in the B-4 and M-3 Districts.

Mrs. Cali-Charles pointed out that there was nothing in the ordinance specifying that the bin must be kept neat and emptied out in a timely manner.

Mr. DeNave noted that the current property maintenance code would put that responsibility on the property owner, not the permit-holder for the bin. Ms. Rizzuto suggested that language be put in the ordinance that bins will be subject to the property maintenance code of Chatham Borough.

Ms. Rizzuto will return with a revised ordinance for the Board to review.

PODS and Porto-o-John Ordinance

Mr. Montague described a current POD situation in his neighborhood. He reported that the POD is in his neighbor's driveway. Mr. Montague did not want it in the front yard.

Mr. DeNave clarified that currently the preferred location for PODS is in the driveway. However, if a POD is in a driveway for months, a problem arises of where a resident can park his vehicle overnight.

Mr. DeNave suggested the allowable time span for a POD placement should be a minimum of 90 days. A reasonable allotment of time would be 120 days. The placement of a POD should be tied to a building permit. When a building permit is closed out, the property owner must then have the POD removed. The Board felt 120 days would be the most realistic timeframe. The Board also decided that a limit of two pods be allowed per property, with a maximum of 1088 sq. ft.

Mr. DeNave suggested Mrs. Maramonte in the Building Department issue the permits for PODS. These permits will cost \$20. The permit cards should be displayed in the homeowner's window. After doing research, Mr. DeNave will include suggested locations for PODS. The ordinance, with tonight's recommendations will then be forwarded to the Borough Council.

Regarding Port-o-Johns, Mr. DeNave reminded the Board that the Borough has portable outdoor johns that are placed seasonably on its athletic fields. These toilets are put in areas that are appropriately screened. He felt portable outdoor toilets in other situations should be regulated. Ms. Rizzuto recommended that the Borough Health Officer should look at this ordinance.

Mr. DeNave felt that port-o-johns should be placed in the rear yard while construction is going on. Board members pointed out port-o-johns at that location are hard to clean and/or be picked up by trucks. Mr. DeNave suggested language be included regarding how many feet the port-a-john should be kept from the curb line or sidewalk. He felt more than 10 days should be allowed for port-a-john placements.

This ordinance will be forwarded to the Borough Council and Borough Attorney for their consideration. Mr. DeNave will research to see where this ordinance will fit in the Borough Code.

Professional Planner Recommendations

Mr. Montague noted that a meeting still has to be held. One meeting had been cancelled because of a snowstorm.

Riparian Buffer Ordinance

Mr. DeNave reported that the county has to submit a wastewater management plan to the State of New Jersey. He has recently learned that the DEP has sent out a revised model ordinance that affects the proposed ordinance. On one point, Mr. DeNave found out that the Borough has no C-1 streams. The 300 ft. buffer is "off the table" for the Borough.

Mr. DeNave noted that the county wants a draft riparian buffer ordinance by next month. He discussed the requirement that the 50 feet within a watercourse cannot be disturbed. This requirement will impact property owners. Mr. DeNave recommended that the public be notified of this requirement. Homeowners, thinking of constructing additions, may have to go before the Board of Adjustment if this 50 ft. requirement goes into effect.

Ms. Rizzuto explained why she was hesitant to layer on a special notification process on municipalities.

Mr. DeNave said he still needed to define other bodies of water in the Borough. He pointed out that a number of municipalities have already adopted the first draft of riparian buffer which is highly restrictive. He noted that the Borough does not have to follow the mapping requirement. Mapping will eventually be done by the DEP.

Mr. DeNave will report back to the Board on this matter when he receives more information.

Consideration of Process and Procedure for Waiver of Site Plan with a Change of Permitted Use Application

Mr. DeNave said that as Zoning Officer, he needs to prepare on each change of permitted use application, a statement reporting where an incoming business would fall under a permitted use. At this point in the process, the Planning Board may disagree with the Zoning Officer's decision.

Mr. DeNave explained that nowadays there has been a large turnover of tenants. These tenants sign a lease before they appear before the Planning Board or Board of Adjustment. At the signing of the lease, the tenant has an expectation of an actual date of when he can physically move in and start operations. If the tenant has an outdated survey, that has an item, like a shed, which no longer exists, it wouldn't really matter. An outdated parking arrangement on the survey *would* matter.

Councilman Harris indicated he would like a written proposal on this situation.

Ms. Rizzuto suggested that she and Mr. DeNave compose a document on this change of procedure and what information, photos, etc., would be required from an applicant.

The Board discussed whether a notice requirement should be imposed on the applicant seeking these waivers.

Ms. Rizzuto said she had received the impression that a number of business owners, when a change of lease occurs, are not aware of the site waiver process. She suggested some governmental communications about this site waiver procedure. Perhaps the Chamber of Commerce should be informed of this process.

Summing up, Mr. Crater suggested Board members think this matter over some more. Ms. Rizzuto and Mr. DeNave will have a report ready for the April 7th Board meeting.

New Business

Mr. Montague reported on the presentation that he and Mr. Mikulewicz had presented recently to the Borough Council, recommending revisions to the FAR regulations. The Borough Council has scheduled First and Second Reading for the ordinance with these revisions.

Councilman Harris gave his views on detached garages and barns with regard to FAR.

Mr. Crater suggested the FAR subcommittee meet again and discuss the issue of detached garages and barns. The subcommittee can report back to the Board.

The meeting minutes of February 17, 2010 were approved as amended. Mr. Mikulewicz and Mr. Bitar abstained from voting.

At 10:20 p.m. the meeting adjourned.

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

Respectfully submitted:

Elizabeth Holler
Recording Secretary