

CHATHAM BOROUGH PLANNING BOARD

May 19, 2010

7:30 p.m.

Chairman Richard Crater called the Chatham Borough Planning Board meeting of May 19, 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:

Councilman Bruce Harris, Chairman Richard Crater, Donna Cali-Charles, James Mitchell\*, H.H. Montague, Susan Favate.

\*arrived 7:34 p.m.

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

Members Absent:

Mayor V. Nelson Vaughan, John Bitar, Vincent DeNave, Joseph Mikulewicz, Alan Pfeil.

Open to the Public

No one came forward.

Adoption of Minutes

The meeting minutes of April 7, 2010 were approved as amended.

Resolutions – Miscellaneous

There were none.

Resolutions – Applications

Application #10-01 of Tricare Treatment Services, LLC for the Parrot Mill Inn, 47 Main Street, Block 129, Lot 5.

Ms. Rizzuto reported that she had been contacted on Tuesday by a newspaper reporter that litigation has been filed against the Borough, the Mayor, the Borough Planning Board, and the Borough Zoning Board of Adjustment.

Ms. Rizzuto noted that she had contacted Barry Osmun, Esq., the attorney of record for Tricare Treatment Services. Mr. Osmun did not respond. She then contacted Lawrence Litwin, Esq., of Morristown, whose name was attached to the law suit papers. Ms. Rizzuto reported she had notified Attorney Litwin of tonight's meeting and had sent a copy of tonight's resolution #PB 2010-10. Mr. Litwin informed Ms. Rizzuto that he could not be present at tonight's meeting. He asked if the Board could hold the resolution for one of their June meetings, when he could be present.

Ms. Rizzuto and Mr. Montague discussed the "lack of jurisdiction" stated by the resolution. Mr. Montague and Mr. Mitchell felt because of the lack of jurisdiction, the Board should just go ahead and vote on the resolution tonight. They felt there was no need to delay it any further. Ms. Rizzuto pointed out that this resolution, if approved, will be reversing the Planning Board's prior vote on this application.

Mr. Montague called Ms. Rizzuto’s attention to #2 paragraph in the resolution: “The Planning Board finds that its vote to waive the filing of a Site Plan under Borough Ordinance Section 165-162 was defective and void *ab initio* due to this Board’s lack of jurisdiction.” Mr. Montague felt the Board’s decision was not defective.

Ms. Rizzuto suggested substituting “defective” with the words “is without proper basis”. The Board agreed with this amendment.

Mr. Montague made a motion to approve Resolution #PB 2010-10 as revised. Councilman Harris seconded the motion. A roll call vote was taken:

Mayor Vaughan	-	absent
Councilman Harris	-	yes
Mr. Bitar	-	absent
Mrs. Cali-Charles	-	no
Mr. Mitchell	-	yes
Mr. DeNave	-	absent
Mr. Montague	-	yes
Mrs. Favate	-	no
Mr. Mikulewicz	-	absent
Mr. Pfeil	-	absent
Chairman Crater	-	yes

The resolution is approved as revised.

#### Applications

Mr. Crater reported that at this point there are no new applications. Ms. Rizzuto advised Board members to hold onto any materials they have received from Shehadi. They may need it in the future.

#### Other Business

##### Checklists for Applicants

Ms. Rizzuto reported on the progress she has made on the Checklists:

- She has revised Checklist A and Checklist B
- She has created Checklist C: Final Major Site Plan and/or Final Major Subdivision
- She has completed Checklist E: Request for Interpretation of Borough Ordinance or Appeal from Decision of Borough Zoning Officer before Zoning Board of Adjustment

Ms. Rizzuto reported that Checklist D is not ready yet. She and Mr. DeNave will meet to work on the correct procedure.

Ms. Rizzuto noted that at a previous Board meeting, someone had wanted a guidance document for the Sign Committee. Councilman Harris has reminded her that the Board needs to create the Sign Committee.

Ms. Rizzuto noted that she and Mr. Montague will go through the ordinance once the checklists are completed, and check for consistency. She recommended that conditional uses should be added to Checklists B and C.

Ms. Rizzuto explained Checklist C – Final Major Site Plan and/or Final Major Subdivision. She reviewed the items this particular checklist required.

Mr. Montague pointed out that sometimes the Board requires an applicant to make a certain attachment to their deed. Ms. Rizzuto added that particular requirement to Checklist C.

Ms. Rizzuto explained that Checklist E – Specific Requirements Description of Required Item Borough Code or Statutory Reference. She noted that, when a legitimate dispute occurs, usually it's the Zoning Officer asking for an interpretation of the ordinance. Checklist E lists what material is required in order for the Zoning Board to make a decision on interpretation.

Mrs. Favate and Ms. Rizzuto discussed what happens if an applicant does not submit enough of the information for the Planning or Zoning Board to make a decision. Ms. Rizzuto said that the Board will give the applicant an opportunity to supplement their information. Ms. Rizzuto emphasized that the Checklists are not meant to “box out” an applicant. The checklists are supposed to help the applicants make their applications as complete as possible.

#### FYI – Sign Ordinance

Ms. Rizzuto reported that she has sent a memo to the governing body with the final draft of the sign ordinance. Councilman Harris said the sign ordinance will be a discussion item for the June 14<sup>th</sup> Borough Council meeting.

Ms. Rizzuto said she didn't see any authority to adopt an ordinance to create a Sign Commission. She stated that she is reluctant to write an ordinance to solely create this committee. She recommended that the Sign Committee be a subcommittee of the Planning Board. The Sign Committee should be adopted every year in the Planning Board's by-laws, as a subcommittee of the Board. Ms. Rizzuto will then draft an amendment to the by-laws. Every year the Planning Board can then make membership appointments to this subcommittee. Ms. Rizzuto asked the Board if they preferred having the Borough Council make the appointments to the Sign Committee.

Board members reviewed who currently serves on the Sign Committee and what entities they represent. Ms. Rizzuto confirmed that the following members should serve on the Sign Committee: a member of the public, a member of the Chamber of Commerce, the Borough Zoning Officer, a Planning Board member, a Zoning Board member, a Historic Preservation member, a sign expert.

Ms. Rizzuto asked about the length of term for a Sign Committee member. Mr. Crater and Mr. Montague recommended a three-year term. Ms. Rizzuto and the Board

discussed about whether a pre-submission hearing should be held between an applicant and the Sign Committee before the application be deemed complete. Mr. Montague pointed out that many times the signs have not yet been designed when the applicant goes before the Board.

Councilman Harris said he will notify the Borough Council that they will no longer be appointing Sign Committee members. The Planning Board will make the appointments. The Board noted that Mrs. Maramonte, in the Building Department, is an ex-officio member of the Sign Committee.

#### FYI – Charitable Clothing Bins Ordinance

Ms. Rizzuto reported that she has sent a memo to the Borough Administrator and Borough Attorney with the Board's comments on this ordinance.

#### Planner Recommendations for Business Districts

Mr. Crater noted that the subcommittee has recently met. Mr. Montague reported that a presentation will be organized, reporting on the recommendations, to give to the Borough Council. The subcommittee would like feedback from the Council. Mr. Crater suggested that the presentation be given first to the Planning Board.

#### New Business

Mr. Crater announced that Alan Pfeil has resigned from the Planning Board. Mr. Pfeil has moved out of town. A regular member slot is now vacant. Perhaps one of the alternate members will move up. Councilman Harris noted that a neighbor has approached him about joining the Planning Board. He will let the neighbor know about this opening.

On other matters, Mr. Montague asked if the recent FAR ordinance has been published yet. He would like a copy of the ordinance to present to the Zoning Board of Adjustment meeting. Ms. Rizzuto answered that the Borough Clerk is in charge of publishing ordinances. Mrs. Caljean can give Mr. Montague a certified copy.

Regarding the Adult Entertainment/Tattoo ordinance, Councilman Harris reported that it is listed on the draft agenda for the May 24<sup>th</sup> Council Meeting.

Bill Tackaberry, 29 Vincent St., brought up Item 9B on tonight's agenda: Consideration of process and procedure for Waiver of Site Plan with Change of Permitted Use Application. He asked that consideration be given as to whether a site meets the parking requirements as stated by the ordinance for its particular use. Also, Mr. Tackaberry pointed out that notifying the neighbors of pending applications is very important.

At Ms. Rizzuto's suggestion, Mr. Tackaberry will obtain a copy of the ordinance under consideration, regarding Waivers of Site Plan Review for Permitted Use applications.

At 8:55 p.m. the meeting adjourned.

The next Planning Board meeting will be held Wednesday, June 16, 2010, 7:30 p.m.,  
Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary