

CHATHAM BOROUGH PLANNING BOARD
 November 5, 2014 7:30 p.m.

Chairman Susan Favate called this Regular Meeting of the Chatham Borough Planning Board of November 5, 2014 to order at 7:35 p.m. in the Council Chambers, Chatham Municipal Building. Mrs. Favate announced that all legal notices have been posted for this meeting.

Name	Present	Absent
Mayor Bruce Harris		X
Council Member Fife	X	
Vincent DeNave	X	
Chrmn. Susan Favate	X	
Matthew Wagner	X	
John Bitar	X	
James Mitchell	X	
Joseph Mikulewicz	X	
William Heap		X
H. H. Montague	X	
Vincent K. Loughlin, Esq.	X	
Dr. Susan Blickstein		X

Robert C. Brightly, P.E., Board Engineer, was not present.

Open to the Public

No one came forward.

Adoption of Minutes

The meeting minutes of October 1, 2014, second draft, were approved with amendments. The following Board members abstained from voting on the minutes because they were absent from that meeting: John Bitar, Vincent DeNave, James Mitchell.

Resolution

Application PB #14-02

Chambon

110 Summit Avenue

Site Plan

Block 133, Lot 2

Attorney Loughlin reviewed the application and the various variances that had been sought. Testimony was given on the parking variance and the proposed signage. Revisions were made on the proposed lighting. Attorney Loughlin noted that Mr. Brightly, the Board Engineer, has reviewed the plans and has given his comments. Attorney Loughlin also went over the number of conditions agreed upon.

Mr. Wagner made a motion to approve the memorialization of the Site Plan for Chambon Electric with the agreed upon conditions, all approved at the October 1, 2014 meeting. Mr. Montague seconded the motion.

A roll call vote on the memorialization was taken of those Board members present at the 10/1/2014 hearing and who had approved the Site Plan with the conditions:

Council Member Fife	-	yes
Mr. Mikulewicz	-	yes
Mr. Montague	-	yes
Vice Chairman Wagner	-	yes
Mayor Harris	-	absent
Mr. Heap	-	absent

Applications

There were none tonight.

New Business

There was none.

Pending Business

Discussion of an Ordinance Entitled:

“AN ORDINANCE OF THE MAYOR AND COUNCIL OF THE BOROUGH OF CHATHAM, COUNTY OF MORRIS, STATE OF NEW JERSEY AMENDING CHAPTER 165 OF THE M-1, -2 AND -3 DISTRICTS AND CREATING A NEW GATEWAY OVERLAY DISTRICT IN ACCORDANCE WITH THE 2013 MASTER PLAN AMENDMENT”

Mrs. Favate noted that this ordinance has gone before the Borough Council for First Reading on October 27th. The Planning Board tonight has to decide with this ordinance is consistent with the Master Plan. On November 24th, the ordinance will return to the Borough Council for Second and Final Reading.

Mrs. Favate also noted that Board members should all have Dr. Susan Blickstein’s memo regarding the Master Plan consistency of this ordinance.

Robert Simon, Esq. from Herold Law, P.A., came forward. He stated that he was representing David Hill who owns property at 25 Commerce Street. Mr. Hill operates a metal fabrication business. Attorney Simon explained that he and Mr. Hill are present tonight to offer comments regarding the Board’s review of the proposed ordinance.

Attorney Simon noted that Mr. Hill’s property is partially on the Commerce Street cul-de-sac bulb and partially on the 40-ft. right-of-way. Mr. Hill has concerns about the additional intensity of use and the additional traffic that gets worse year after year on Commerce Street. Many of the businesses on Commerce Street are spilling out onto both the public right-of-way and the private

right-of-way along Mr. Hill's property. Attorney Simon asked if he could pass around photos that Mr. Hill had taken showing this situation.

Board Attorney Loughlin answered no. He reminded Attorney Simon that the Board is here tonight to discuss an ordinance to change the zoning. It is not within the Board's purview to consider private problems such as the impact on his client's property in the use of the right-of-way.

Attorney Simon asked if he could review certain sections of the ordinance which he and Mr. Hill have concerns about and referring back to the Master Plan and the MLUL.

Attorney Loughlin answered that would be fine; however, matters of enforcement should not be brought up for the Planning Board. Perhaps the Mayor and Borough Council could be made aware of these enforcement issues.

Attorney Simon referred to the Master Plan's language concerning the easement that extends from the end of the cul de sac to provide frontage for several additional properties that back up to the Passaic River. Attorney Simon reviewed the conditional uses mentioned in Section 165 28.1 (c), mostly repair shops. One of the permitted uses in the M-1 District includes business services. Attorney Simon asked whether towing should be included in this Section's language on auto repair shops.

Attorney Simon believed that one could question whether an ordinance for adoption that approves the frontage on a legally recorded right-of-way that connects directly to Commerce Street is legally valid. He felt that roadway must then be up to municipal standards to be consistent with the Master Plan.

Attorney Loughlin asked Attorney Simon if either he or his client had appeared before the Mayor and Council to express these comments.

Attorney Simon pointed out that the ordinance has just been introduced on First Reading. This is the venue, in essence, that he and Mr. Hill had to express their concerns.

Attorney asked Attorney Simon if he intended to appear on behalf of his client before the Mayor and Council and express similar comments to what you has stated to the Board tonight.

Attorney Simon answered that it all depended on what the Planning Bd. does.

Council Member Fife pointed out to Attorney Simon that this draft ordinance has been on the Borough website for a number of months for people to raise any questions and concerns.

Attorney Simon said he was told once this ordinance was introduced, a copy would be sent to him by the Borough Attorney. Even at First Meeting, public comments are not invited.

Mr. Mikulewicz noted that there had been subcommittee meetings during this past summer. This proposed ordinance should not be too much of a surprise to anyone on Commerce Street.

Mrs. Favate confirmed with Attorney Simon that he had a question of whether towing was included in the definition of auto repair/mechanical shops.

Attorney Simon said he also had a question on the extent of which how a construct/landscaping businesses that are down there (Commerce St.) are considered permitted uses or conditional uses.

Attorney Simon noted that Section C2 specified that all minor repairs will take place within a principal structure. All minor repairs and services are permitted to take place outdoors. He questioned what is considered "a minor repair and service". Attorney Simon recommended that section be reviewed again and that specificity be added.

Attorney Simon referred the Board to Section C7 regarding vehicles being kept outdoors overnight. He and Mr. Hill would like to stress that the vehicles be kept on the owner/operator's own property.

Attorney Loughlin pointed out that Attorney Simon's client having problems of people storing vehicles on his property is not the subject of this ordinance.

Attorney Simon referred the Board to Section C9 regarding the intensity of use and what is intended in terms of the number of operators on one particular lot. He also discussed the section regarding accessory uses in the M-1 District for principal and permitted uses.

Referring to Section 165-31, Attorney Simon pointed out that the bulk standards for the M-1 District, would require a minimum story of two stories. His client's business and others in that district are only one story. He questioned this minimum requirement of two stories.

Attorney Simon brought up the general requirements for the M-1 District as stated in Section 165-32. He pointed out that many of the lots in the M-1 District are large and expansive. Attorney Simon asked how many different uses and users are permitted on one lot. At one point does a lot become too intense for the lot itself and the surrounding neighbors?

Attorney Simon referred to Section 165-32.2 regarding additional height. He questioned whether a full third story would be appropriate for the M-1 District.

Attorney Simon complimented the Board for trying to make things better in the M Districts. He asked that his comments tonight would be taken into consideration.

Mrs. Favate and the Board discussed Attorney Simon's earlier question of whether the definition of auto repair shops would include towing and construction/landscaping companies. Mr. DeNave noted that there are two situations occurring on Commerce St. and River Rd., regarding outside storage of construction/landscaping vehicles that are not permitted. However, under the current ordinance, if the landscaper occupied the particular building and those were his vehicles, under "business service", it would be a permitted use. In this situation, it would be okay for the vehicles to be stored outside.

Mrs. Favate asked if the Board wanted to add towing to the auto repair shop definition.

Mrs. Favate asked how the Board felt the right-of-way issue brought up by Attorney Simon. After a brief discussion, the Board “noted and considered” this issue.

Mrs. Favate brought up the question of what constituted a “minor repair”. Mr. DeNave noted that auto lifts are not allowed outside. Some ancillary actions, like changing a tire are allowed outdoors. Mr. DeNave felt that minor repairs could be considered work that is done by hand tools as opposed to major power tools.

Mrs. Favate brought up Attorney Simon’s question of whether the ordinance should specify that outdoor storage must only be on the owner’s property. The Board decided to “take no action” on this requirement.

The Board discussed the requirement that, in Paragraph 9, no other uses, besides the principal use, be allowed to operate on a lot. Attorney Simon brought up the situation where a towing business is in operation on the same lot as an auto repair business. Attorney Loughlin discussed with Attorney Simon whether he was suggesting language in the ordinance “that no two permitted conditional uses may operate together on a single lot.” Attorney Loughlin advised that the Board’s only focus is to make sure this ordinance and any additional language is consistent with the Master Plan and consistent with area uses. Mrs. Favate’s suggested that the Council consider specifying that no more than one conditional use occur on the same lot. The Board agreed with this suggestion.

Mrs. Favate reviewed the question of whether accessory uses should be applied to conditional uses. The Board decided no change should be made to this requirement.

Mrs. Favate brought up the minimum height requirement of two stories for the M-1 District. Mr. DeNave said that the two-story requirement would apply to any new buildings constructed in the M-1 District. It wouldn’t apply to any buildings already existing in the M-1 District. The Board had no changes to make on this requirement.

Mrs. Favate moved on to the matter of having more than one principal building, as long as coverage is met. Mr. DeNave pointed out that there could be multiple tenants in a principal building, as long as they are permitted uses. Also, the Borough’s parking requirements must be met by the principal building.

Summing up, Mrs. Favate reviewed the three action items the Board is recommending to the Borough Council for this ordinance:

- 1) To consider whether to specify that auto repair includes towing
- 2) To consider the legal issue of the right-of-way frontage
- 3) To consider specifying no more than one conditional use with the auto repair/general use section may be permitted on the same lot

Attorney Simon thanked the Board for their time.

Attorney Loughlin recommended that the ordinance with tonight's three action items be forwarded to the Mayor and Borough Council for their consideration. An amendment to the resolution would have to be made. A cover letter will be attached to the revised ordinance and sent on to the Borough Attorney, Mr. Lott. The three typo corrections made by Mrs. Favate tonight will also be included.

Attorney Loughlin said the revised resolution will be sent to Board members by tomorrow afternoon, or Friday afternoon by the latest. If there are no more Board comments, the cover letter and the revised resolution will then be sent to Borough Attorney Lott for the Mayor and Council's consideration. The Board now felt the revised resolution was consistent with the Master Plan.

Mr. Wagner made a motion to submit the revised resolution with the recommended changes as discussed with Attorney Loughlin to Attorney Lott. The motion was seconded. A roll call vote was taken:

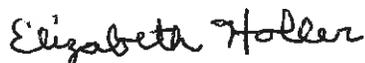
Council Member Fife	-	yes
Mr. DeNave	-	yes
Mr. Wagner	-	yes
Mr. Bitar	-	yes
Mr. Mitchell	-	yes
Mr. Mikulewicz	-	yes
Mr. Montague	-	yes
Chrmn. Favate	-	yes

On other matters, Council Member Fife reported that Peter Hoffman, Chairman of the Zoning Board of Adjustment, recently gave a power-point presentation to the Borough Council on the changing trends on Zoning Board applications over the last few years. Council Member Fife suggested that Chairman Hoffman give this presentation to the Planning Board. Mrs. Favate suggested asking Mr. Hoffman give his presentation at the December 3, 2014 Planning Board meeting.

The Planning Board meeting scheduled for Wednesday, November 12, 2014 will be cancelled.

The next Planning Board meeting will be held on Wednesday, December 3, 2014, 7:30 p.m., Council Chambers, Chatham Municipal Building.

Respectfully submitted:



Elizabeth Holler
Recording Secretary