

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

January 22, 2020

7:30 p.m.

Board member Michael A. Cifelli called this Reorganization and Regular Meeting of the Zoning Board of Adjustment to order at 7:40 p.m. in the Council Chambers, Chatham Municipal Building. He stated that adequate notices for this Zoning Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Michael A. Cifelli	X	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague		X
Jean-Eudes Haeringer	X	
Patrick Tobia	X	
Alida Kass	X	
William DeRosa, Jr.	X	
Peter Hoffman		X
Patrick Dwyer, Esq.	X	

Administration of the Oaths of Office

Attorney Dwyer administered the Oath of Office to the following Board members, for a new term on the Zoning Bd. of Adjustment:

Frederick Infante
Patrick Tobia
Alida Kass

At a future meeting William DeRosa, Alternate 1, and Peter Hoffman, Alternate 2, will be sworn in to serve on the Board.

Public Comment

There was none.

Resolution #ZB 2020-01

The minutes of the December 18, 2019 Zoning Bd. of Adjustment meeting will be reviewed and voted on at the next meeting.

Proclamation Honoring Helen Kecskemety for her years of service on the Chatham Borough Zoning Board of Adjustment

Chrmn. Cifelli read aloud the following resolution:

WHEREAS Helen Kecskemety was first appointed Secretary to the Chatham Borough Zoning Board over 25 years and she has served continuously in that capacity and serving as Secretary to the Board; and

WHEREAS she has demonstrated an uncommon measure of commitment and a standard of excellence in public service;

NOW THEREFORE, we the Chairman and Members of the Zoning Board of Adjustment, on behalf of the Zoning Board, and the people of Chatham, do hereby acknowledge and thank Helen for her many years of dedicated service to the Board and her significant contributions to the Borough; and

WE HEREBY extend our best wishes for continued success in her future endeavors.

Mrs. Kecskemety and her husband were present at tonight's meeting. She came forward to accept this proclamation. She thanked the Board for this honor.

Annual ReOrganization

On behalf of the Board's Nominating Committee for 2020, Mr. Tobia presented the following Slate of Officers for the Zoning Board of Adjustment for 2020:

Michael A. Cifelli, Chairperson
Douglas Herbert, Vice Chairperson
Jean-Eudes Haeringer, Secretary

A voice vote on each of these proposed officers. All three were unanimously elected.

Annual Resolutions

Resolution #ZB 2020-02 – Resolution appointing the Slate of Board Officers for 2020: Michael A. Cifelli, Chairman; Douglas Herbert, Vice Chairman, and Jean-Eudes Haeringer as Board Secretary. A voice vote was taken. The resolution passed unanimously.

Resolution #ZB 2020-03 – Resolution Setting the Meeting Dates for the Borough of Chatham Zoning Bd. of Adjustment for the Calendar Year 2020 was unanimously approved by a voice vote.

Resolution #ZB 2020-04 – Resolution Designating the Official Newspapers, Publication Fees and Minutes. This resolution was passed unanimously.

Resolution #ZB 2020-05 – Resolution Appointing Patrick J. Dwyer, Esq., as Board Attorney and Approving his Contract for Legal Services for 2020 was unanimously approved by a voice vote.

Resolution #ZB 2020-06 – Resolution Appointing Robert C. Brightly, P.E. as the Board's Consulting Engineer for 2020 was unanimously approved by a voice vote.

Resolution #ZB 2020-07 – Resolution Appointing Michael Sullivan, P.P., AICP, ASLA as Board Planner on a monthly basis and Approving his Contract for Planning Services for 2020 was unanimously approved.

Resolutions

Application ZB #19-016

GATE 111, LLC

Block 25 Lot 6

Side Yard Setback (Right and Left)

Attorney Dwyer summarized this application which proposed to renovate an existing home and construct a two-story addition at the rear, also an addition over an attached garage. The Board felt the proposed additions would fit with the aesthetics of the neighborhood, and that the benefits outweighed the detriments. The Board then approved the application. Mrs. Kass made a motion to approve the resolution confirming the Board's approval of Application ZB #10-016. Mr. Infante seconded the motion. A roll call vote was taken:

Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes
Mrs. Kass	-	yes
Mr. Tobia	-	yes
Mr. Infante	-	yes

Returning and New Applications

Chrmn. Cifelli announced the following applications will be heard tonight, time permitting:

Application ZB # 19-013: Happy Cheese, LLC – 310 Main Street

Application ZB # 19-017: Wilcox – 112 North Passaic Avenue

Application ZB #19-018: EVO Group – 94 Elmwood Avenue

Application ZB #19-013

Happy Cheese, LLC

310 Main Street

Block 64 Lot 45

Use Variance

Maximum Building Coverage

This is continued from the December 19, 2019 hearing.

Gary Haydu, Esq., attorney for the applicant, came forward. Attorney Haydu stated that he had, tonight, a copy of a Chatham Borough Planning Board resolution which covers the parking situation on the site. This resolution confirms exactly what Mr. Oakley, the applicant, had testified to last month. This resolution granted Mr. Oakley six parking spaces. He has been required to maintain these six parking spaces. Mr. Oakley has agreed to continue maintaining these six parking spaces. He is not proposing in this current application to increase the parking at 310 Main Street.

Attorney Haydu reviewed that the applicant is seeking a use variance to convert his property from what is now a mixed-use property, with currently no residential use on the first floor, to a mixed-use property with a partial residential use on the first floor. The footprint of the building

will not be altered. No additions are being proposed. Attorney Haydu stated that the interior of the building is configured as a house.

Vern Oakley, the applicant and owner of Happy Cheese, LLC, was present and remained under oath.

Attorney Haydu noted that the applicant's planner and engineer had presented their testimony at the first hearing last month. The only issue remaining was the earlier variance that the Board had wanted to review. Attorney Haydu distributed copies of the earlier resolution for 310 Main Street.

Chrmn. Cifelli asked what the pre-existing nonconforming aspects of 310 Main Street are.

Attorney Haydu answered that the only issue was for building coverage. Attorney Haydu explained that the existing building coverage is 1,623 sq. ft. The proposed building coverage is 1,654 sq. ft. Attorney Haydu felt that would be only a minimal change influenced by the new garage shed arrangement in the back.

Chrmn. Cifelli and Mr. Oakley reviewed the arborvitae situation on the property. Mr. Oakley testified that arborvitae existed at the end of the property line between his property and the dentist's property next door.

Attorney Haydu closed this application and submitted it to the Board for a vote.

The public had no questions for the witnesses for this application

There were no comments from the public on this application.

Chrmn. Cifelli asked for Board discussion. Mr. Tobia noted that the parking issue from the last meeting has now been resolved. The proposed plans will make the building more functional for the owner. He will support the application. Mr. Herbert pointed out that there will be no change to the exterior of the building. These proposals will reduce the amount of traffic that this business would produce if it involved the entire building. Mrs. Kass felt there would be no detriment from this application. Mr. Haeringer and Mr. Infante agreed with the comments made by their fellow Board members. Mr. Infante complimented the applicant for acting in good faith, and not proposing any outward changes to the building. Chrmn. Cifelli agreed with the earlier comments made.

Chrmn. Cifelli made a motion to approve Application ZB #19-013: Happy Cheese, LLC – 310 Main Street with the agreed upon conditions from the prior approval of 310 Main Street to remain in place. Mrs. Kass seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mr. Herbert	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes

Chrmn. Cifelli - yes
Mr. Tobia - yes
Application ZB #19-013 was approved.

Application ZB #19-017
Jonathan & Joanne Wilcox
112 North Passaic Avenue
Block 48 Lot 18
Side Yard Setback (Right)

The following were sworn in to testify:
Jonathan Wilcox, the applicant
Douglas Miller, the architect for the applicant

Chrmn. Cifelli noted that Mr. Miller has appeared before the Board a number of times. His credentials as an architect have always been accepted by the Board.

Mr. Wilcox testified that his house is a Cape Cod home with currently two bedrooms on the first floor and one bedroom on the second floor. The house was built in the 1960s. He and his wife would like to make some changes. They want this to be their only home.

Mr. Miller submitted Exhibit A-1: A photo-board and a radius map of surrounding properties.

Mr. Miller described the homes in the neighborhood, a number of which had been improved and modified over time. Mr. Miller stated that the applicant is proposing to take the current first floor bedrooms and move them to the second floor, so the family can all sleep together on the same floor. Some thought was given to re-working the first floor; however, because of budget constraints only the second floor will be the primary focus.

Mr. Miller testified that the applicant's lot measures 50 feet by 165 feet, which is smaller and narrower than what is required for the R-2 Zone. The applicant's lot is at least 10 feet narrower than the neighboring properties on the same side of the street. Mr. Miller pointed out that the houses across the street are in the R-3 Zone, and are not really comparable to the applicant's home.

Mr. Miller described the floor plans. Chrmn. Cifelli confirmed with Mr. Miller that the only intensification will be at the rear of the house. Mr. Miller confirmed that the only variance being sought is for the side yard setback on the right side of the house. The proposal is to extend the second floor to the required 12-foot setback line.

Mr. Miller testified that not many changes will be made on the first floor. The staircase will be flipped to go up from the front, as opposed to the back. The second floor could then be entered at a more logical area.

Mr. Miller testified that the second floor will be re-configured to contain three bedrooms. The proposed master bedroom will measure 13 ft. by 13 ft. 4 inches. A master bathroom and closet will be included. Two children's bedrooms will measure 11 ft. by 12 ft. A modest hall bathroom will be created.

Mr. Miller discussed the intensification of the existing nonconforming setback. Due to the hardship of having the house sided with the existing nonconforming setback, left the applicant with no choice on how to expand. Mr. Miller testified that the footprint will not change. The building coverage or lot coverage will not increase. The number of windows on the proposed second floor will be kept to a minimum for the privacy of the neighbors.

Mr. Infante confirmed with Mr. Miller that the variance being sought is only for the second floor.

Chrmn. Cifelli asked Mr. Miller for testimony regarding the proposed changes to the front of the house.

Mr. Miller submitted Exhibit A-2: A street view of the applicant's home, proposed and existing.

Chrmn. Cifelli asked how far up the roofline will extend, as compared to its present height.

Mr. Miller answered 7 ½ feet.

Mr. Miller explained that the footprint of the applicant's house will not be maxed out. An effort was made to create what the applicant wanted, but to also keep it to a minimum.

Summing up, Mr. Miller testified that an effort was made to minimize the scale of the proposals. The appearance of the house will be improved. The functionality of the home will improve. The proposed addition will conform with all of the requirements of this particular zone.

Chrmn. Cifelli stated he understood the reasons of the proposed changes; however, the Board has to consider the impact the addition may have on surrounding properties, especially an impact on the neighbors' light and air. Also, how will this addition fit into the neighborhood. Is there any neighborhood data for the Board to consider?

Mr. Miller stated that he could not find any data on the existing setbacks of the neighboring properties. He had looked through the tax files and met with the Zoning Officer. Mr. Miller had taken measurements with the neighbor to the right. He felt that all of the neighboring Cape Cod homes in the neighborhood were built at the same time, by the same builder, and have similar setbacks.

Mr. Herbert asked Mr. Wilcox whether his property was the only one in the neighborhood 50 feet wide.

Mr. Wilcox answered yes. He felt it was the narrowest lot on the block.

There were no questions from the public for Mr. Miller and Mr. Wilcox.

The Board had no further questions for Mr. Miller and Mr. Wilcox.

Mr. Miller closed the application and submitted it to the Board for a vote.

The public had no comments on the application.

Chrmn. Cifelli asked the Board for their comments. Mr. Infante pointed out that the applicant's lot is undersized and underbuilt. He felt the application is not overly aggressive. The proposed revisions made to the house will not affect the light and air of the neighboring homes. Mr. Infante believed that the benefits outweighed the detriments with this application. He will support it. Mr. Haeringer believed a good balance will be achieved with the proposed addition. He will support the application. Mrs. Kass felt the plans will be a creative way to increase the functionality and aesthetics of the home. She will support the application. Mr. Herbert believed the proposed plans will be a good upgrade to the home. Mr. Tobia agreed with Mr. Infante's points. Chrmn. Cifelli felt the proposed addition will be a good remedy for a Cape Cod home with limited space on the second story. Mrs. Kass made a motion to approve Application ZB 19-017 – 112 North Passaic Avenue with the applicant to follow any recommendations regarding stormwater as stipulated by the Borough Engineer. Mr. Tobia seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mr. Herbert	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Chrmn. Cifelli	-	yes

Application ZB 19-017 was approved.

At 8:50 p.m. a break was taken in the meeting.

At 9:00 p.m. the meeting resumed.

Chrmn. Cifelli made a motion to amend Resolution #ZB 2020-03, setting the 2020 Meeting Dates for the Zoning Bd. of Adjustment, to correct the November and December dates to read November 18th and December 16th. Mrs. Kass seconded the motion. A voice vote was taken. The motion was unanimously approved.

Application ZB #19-018

EVO Group

94 Elmwood Avenue

Block 61 Lot 7

Side Yard Setback (Right and Left)

Rear Yard Setback

Building Coverage

Robert Simon, Esq., attorney for the applicant EVO group, came forward. EVO is seeking to permit approvals for the development of a single-family home at 94 Elmwood Avenue. Attorney Simon reviewed the variances that are being sought. He stated that a single-family home,

measuring almost 1100 sq. ft., currently exists on the property. This existing home is not in good condition. The applicant is proposing to replace it with an attractive home measuring less than 3,000 sq. ft. This proposed home will have 4 bedrooms and 2 ½ baths.

Attorney Simon stated that the deviations on both side yard setbacks will be improved. The property is a corner lot and is somewhat narrow, additional relief is needed for side yard setbacks. The application meets all of the other bulk requirements in this zone, including height, lot coverage, and FAR. A one car garage is being proposed. Currently no garage exists. The new driveway will lead out into Elmwood Ave., instead of Milton Avenue. Landscaping and drainage improvements will be done on the property.

Attorney Simon noted that the applicant has had communications with the neighbor who lives next door.

Attorney Simon asked Douglas Miller, the architect for the EVO Group, to come forward.

Douglas Miller, the architect for the applicant, was sworn in to testify. The Board was very familiar with Mr. Miller's professional qualifications and accepted them.

Mr. Miller testified that he had created the floor plans and elevations for this proposed single-family home. He also stated that he was familiar with the surrounding properties.

Mr. Miller testified that the current home on the property is in disrepair and has been abandoned. The home is too far gone with disrepair for the applicant to try and rebuild it. Non-conforming setbacks exist. The lay-out of the existing house does not meet the needs of a modern family. The only option is to demolish the existing house and construct a new home that would meet the needs of modern day living.

Mr. Miller submitted Exhibit A-1: A photo-rendering of the proposed new home.

Mr. Miller described the proposed first floor of the new home. The new driveway will open out onto Elmwood Ave. The new garage will then be placed on a less busy street. The owner of the proposed home will not have to back his vehicle out onto busy Milton Ave. with the heavy school traffic. Constructing the garage to the home will give the structure a tight envelope appearance as well as creating an open rear yard space.

Chrmn. Cifelli noted that the Borough ordinance prefers detached garages. What are the reasons for attaching the garage to the home?

Mr. Miller felt that a detached garage would decrease the light, air, and open space in the rear yard. A detached garage in the rear would create an awkward flow into the house, into the yard.

Chrmn. Cifelli confirmed with Mr. Miller that a detached garage in the rear would need a driveway leading onto Milton Avenue. Also, such an arrangement would increase impervious coverage.

Returning to the proposed floor plans, Mr. Miller described the second floor of the new home. Four bedrooms will be created, one of which will be the master suite with a private bathroom and closet. A laundry area will be on the second floor. A hallway bathroom will be constructed on the second floor. Mr. Miller believed that the proposed home will be modest in scale. It will fit in with many of the houses in the neighborhood.

Mr. Miller put Sheet A-3 of the elevations on the easel. He pointed out the shadow lines of the new home which would improve the curb appeal of the home. Mr. Miller felt that the front portico will give identity to the home. A side porch will be constructed along the Milton Avenue side of the house. This porch will have a sliding glass door which will lead into the family room.

Mr. Infante confirmed with Mr. Miller that the square footage of the new home will be consistent with the neighboring homes. Mr. Miller said the applicant's planner had researched the Borough records on this matter. The planner will testify more in depth on what exists in the neighborhood.

Attorney Simon confirmed with Mr. Miller that he had studied what the neighboring homes looked like.

Mr. Haeringer noted that the applicant is "starting from scratch" with this new home and a number of variances are being sought.

Mr. Miller answered that the existing home had been closer to the neighboring home to the right. The existing home had been closer to Milton Avenue. He noted that applicant is seeking an interior side yard setback and 9 feet for the proposed garage; however, these particular arrangements are consistent with what the Borough allows for new homes. More open space will be created.

Mrs. Kass noted that the rest of the variances have to do with the home being on a corner lot. The Board often has applications before them involving corner lot homes. Mrs. Kass felt that the building coverage variance was very small, being less than 1%,

At Chrmn. Cifelli's request, Mr. Miller reviewed the dimensions on the first and second floor rooms of the proposed home.

Chrmn. Cifelli asked if the home will have a basement, or will it be constructed over a slab.

Mr. Miller answered that the house will have a basement.

Mr. Miller testified that the new home is conforming with the FAR regulations. Only a small amount of building coverage is being sought by the applicant. Mr. Miller felt that the proposed calculations would be much larger if a detached garage had been proposed. More construction, more paving, and more walkways would result. Chrmn. Cifelli agreed with Mr. Miller's points about having a detached garage. Also, the detached garage would entail a driveway that would spill out onto Milton Avenue, where numerous elementary school children move around.

Mr. Miller felt a detached garage would be a disservice to the home behind the applicant's new house. This neighbor's backyard would then have its light and air adversely impacted.

Summing up his testimony, Mr. Miller stated that what is being proposed will be an attractive house that will be significantly better than what currently exists on the site. It will enhance the usefulness of the property. The proposed house will be a benefit to the community and will fit in well with the neighborhood.

The public had no questions for Mr. Miller.

The Board members had no questions for Mr. Miller

Richard Keller, the professional planner and engineer for the applicant, was sworn in to testify. Mr. Keller's professional qualifications had been accepted by the Board for many applications.

Attorney Simon asked Mr. Keller to review the engineer aspects of the plans, including stormwater management, landscaping, and the overall dimensions of the property.

Mr. Keller submitted the following:

Exhibit A-2: an aerial view of the subject property

Exhibit A-3: a photo-board of the subject property & the neighboring homes.

Copies of these exhibits were given to Board members.

Referring to Exhibit A-2, Mr. Keller gave the dimensions of the applicant's property. Technically, this property is an undersized lot when the buildable envelope is taken into consideration.

Mr. Keller explained the color-coded portions of the proposed home on Exhibit A-2. The new home will be fully compliant with the front setback regulations. A perceived setback will be created on the Milton Ave. side of the new home. Mr. Keller reviewed the distance of separation existing between homes in the immediate area. Mr. Keller felt that the 15.3 feet of separation between the new house and the home next door will be consistent with what exists in the neighborhood.

Mr. Keller described each photo of Exhibit A-3, which included the neighboring homes. The windows of the new home's second story and the neighbor's second floor windows (92 Elmwood Ave.) will be approximately 44 feet. Chrmn. Cifelli confirmed with Mr. Keller that the closest point of the neighboring home at 92 Elmwood Ave. and the applicant's home would be "garage to garage". Mr. Infante confirmed with Mr. Keller that the windows of 92 Elmwood Ave. would be a compliant portion of the new structure.

Mr. Keller pointed out that the new home will sit to the north of 92 Elmwood Ave., so any shade or shadow projected would really come from the second floor of 92 Elmwood Ave. Mr. Keller testified that the only shade or shadow projected by the new home will only possibly happen

from the noontime sun. The new home, sitting on the most northernly section of the street, will not adversely affect the air, light, and open space for the properties at 92 Elmwood Ave. or 21 Duchamp Place.

Referring to Photo #6 of Exhibit A-3, Mr. Keller discussed 91 Elmwood Ave., which is across the street from the subject property. This property is compliant with FAR regulations.

Mr. Keller testified that the new home proposed for 94 Elmwood Ave. is in the middle of the size, in terms of footprints and FARs that exist in the neighborhood.

Attorney Simon confirmed with Mr. Keller that the proposed dimensional setbacks are consistent with the neighborhood. Mr. Keller testified that the new home will not be atypical with the rest of the neighborhood.

At Attorney Simon's request, Mr. Keller reviewed the advantages of the proposed driveway leading out to Elmwood Ave. instead of Milton Ave. He also reiterated the advantages of the new home having an attached garage in this situation, rather than a detached garage.

Referring Mr. Keller to A-1, Mr. Infante asked if the trees shown in this rendering really existed. Mr. Keller answered no. Mr. Keller testified that an inventory was done of the existing trees on the property. A series of trees have grown along the back property line, most of which will be removed. They are not in good condition. The applicant is seeking to remove 11 existing trees. An arborist and licensed landscaper reviewed these trees. Eleven new trees will be planted. Hedges and lower bushes will also be planted. Street trees will also be planted.

Mr. Keller noted that the owner of 92 Elmwood Ave. has requested that the street trees not be planted, because of the closeness these trees would be to their driveway.

Mr. Keller discussed the applicant's plans to re-build an existing retaining wall. Right now there is an effort to maintain the existing drainage pattern. All of the roof leaders of the new home will collect the water, directing the water by pipe, into an inlet, where it will disperse.

Chrmn. Cifelli asked about a possible flow into the neighbor's property behind the subject property.

Mr. Keller explained that a failing railroad tie caused "a bleed" of water from the subject property onto the back of 21 Duchamp Place. A new wall will be installed to ensure any water on the subject property will end up in the inlet. No water will be allowed on either of the two neighbors.

Mr. Haeringer confirmed with Mr. Keller that Mr. DeNave, the Borough Engineer, had approved of the plans for the retaining wall, grading/drainage plan and the landscape plan.

Board Attorney Dwyer asked Mr. Keller if the applicant had applied for a Borough Tree Removal Permit.

Mr. Keller answered no, not yet.

Attorney Dwyer recommended that be done. It will be a condition, if the application was approved. Mr. Keller agreed.

Mr. Keller reviewed how he believed these plans met the requirements of both the C-1 and C-2 variances. Air, light, and open space will be preserved with this new construction. The proposed building will be a reasonably sized home which will meet the needs of a modern family. The home would also be suitable for empty nesters who could use the extra bedrooms for visitors. Mr. Keller testified that the aesthetics of the proposed home will be attractive. The current ranch-style home on the property is out of style and is in poor condition. The proposed plans will not be a detriment to the public good. Mr. Keller testified that there will be no real negative impact to the neighbor living to the north. The proposed plans will not be a detriment to the Borough Master Plan.

Mr. Keller reviewed how these proposed plans met the goals of the 2016 Reexamination of the Master Plan. He testified that the new house will be a great improvement to the neighborhood. Mr. Keller submitted the application to the Board for consideration.

Chrmn. Cifelli asked if the public had any questions for Mr. Keller.

Nancy Johnson, 21 Duchamp Ave., reviewed with Mr. Keller where the retaining wall will be rebuilt.

Chrmn. Cifelli asked Mrs. Johnson if her property had a problem with run-off from the subject property.

Mrs. Johnson answered no.

Mr. Keller testified that the applicant will maintain and improve the retaining wall that exists right now.

Mr. Herbert asked what the wall will be made of.

Mr. Keller answered a modular block will be used for the retaining wall which will prevent the wall from degrading over time.

Mr. Haeringer asked Mr. Keller if he was agreeable, if the application was approved, to have the design of the necessary pipe and the water collection system meet the approval of Mr. DeNave, the Borough Engineer, and the neighbors.

Mr. Keller answered that he would prefer to have this pipe and water collection be approved by Mr. DeNave. He felt Mr. DeNave will look after the interests of the neighbors.

Mrs. Johnson pointed out that one of the future trees on the landscaping plans was known to produce berries that were poisonous to dogs.

Mr. Keller answered that he will look into that situation. He would be happy to replace that tree with a more suitable one, suitable to Mr. DeNave's approval.

Bruce Harris, 92 Elmwood Ave., explained how a swale forms in his backyard. The swale ends up into a pipe that runs under his property. Mr. Harris distributed a photo of this corrugated iron pipe that runs under his property into the storm sewer network. He identified the neighboring properties that dumps into this sewer system. Mr. Harris reported that when a heavy rain storm occurs, if the storm sewer isn't clear of debris, his yard floods.

Chrmn. Cifelli asked Mr. Harris what did he see would be the resolution for this situation.

Mr. Harris answered that having the Borough Engineer, Mr. DeNave, the decision is more clear. However, Mr. Harris felt some consultation with the neighbors would be a good idea. He would like an assurance that the pipe under his property is in good condition and will always be maintained and kept clear. Also, he suggested the applicant should promise not to damage the trees.

Chrmn. Cifelli confirmed with Mr. Harris if he would be satisfied with Mr. DeNave's approval of the stormwater plans. Mr. Harris would also like ongoing maintenance of the underground pipe.

Attorney Simon stated that he will leave it up to Mr. DeNave to notify the neighbors as to his determination of these water run-off plans.

Chrmn. Cifelli noted that it has been his experience with Mr. DeNave, that as Borough Engineer, he always seems to find a resolution to satisfy all parties in situations like this. It could be included as a condition, if the application was approved.

Mr. Infante asked if a condition could always be included that the underground piping be kept clear .

Chrmn. Cifelli answered that the Zoning Board has always struggled on whether they could require maintenance of an installation. The Board has decided consistently that it does not have the authority to require maintenance as a condition of approval.

Attorney Dwyer pointed out that there is not a homeowners association involved at this location. This pipe is on private property. Chrmn. Cifelli also questioned who would enforce the requirement to keep the pipe clear.

Mr. Herbert asked who the owner of the property is. Also, what is the owner's intent?

Attorney Simon answered that the owner of the property is a limited liability company. A principal of the company is present tonight.

Mr. Herbert is the intent of the owner to live in the new home, or sell it?

Christian Chavez, the principal of the EVO Group, was sworn in.

In answering Mr. Herbert's questions, Mr. Chavez testified that he lives in Richfield NJ. Mr. Chavez testified that he has owned 94 Elmwood Avenue for almost a year. He testified that his intent is to fully develop the property to either sell it or keep it for his family. Mr. Chavez stated that at this point he is 50-50 on these two courses of action.

Mr. Herbert asked Mr. Chavez if he would serve as the primary point person who the neighbors can contact if an issue arises.

Mr. Chavez answered yes.

Mr. Herbert asked if the EVO Group was a New Jersey group.

Mr. Chavez answered yes.

Mr. Infante asked what had been decided about the tree next to the neighbor's driveway. He felt that tree could be a safety issue when the neighbor backs out of the driveway.

Mr. Keller said if the neighbors felt that particular proposed tree was a problem, they would eliminate it. After further discussion, Mr. Keller marked on Sheet 1 the tree to be omitted.

The Board and the public had no further questions for Mr. Keller.

Attorney Simon closed the application and submitted it to the Board for a vote.

Chrmn. Cifelli asked the public if they had any comments on the application.

Jeff Johnson, 15 Duchamp Pl., was sworn in to testify. He noted that his property was behind the subject property. Mr. Johnson felt the proposed plans were aesthetically pleasing. He supported the application.

Marc Boisclair, 92 Elmwood Ave., was sworn in to testify. He stated that he was the neighbor who had spoken earlier with Mr. Keller about the proposed trees in front of the subject property. He noted that the site lines at that end of Elmwood Avenue were very attractive. That is the reason why he had requested the removal of the tree that was to be planted close to his driveway at 92 Elmwood Avenue.

Mr. Herbert asked Mr. Boisclair how he felt about the proposed house.

Mr. Boisclair felt it was very attractive.

Nancy Johnson, 21 Duchamp Pl., was sworn in to testify. Mrs. Johnson noted that her concerns about water run-off and the rear yard setback have been resolved. However, she felt the proposed home with the landscaping will look nice.

The public had no further comments.

Chrmn. Cifelli asked for comments from the Board. Mrs. Kass felt the applicant has presented a very strong case that the benefits of the application, outweigh the detriments. The building coverage is triggered by the proposed porch. Porches are favored by the Borough. Good testimony was given for the attached garage. She will support the application. Mr. Herbert believed that the applicant has dealt well with the challenges of designing a home on a corner lot. The neighbors seem okay with the plans. Mr. Haeringer complimented Mr. Chavez on selecting such competent professionals for this project. Good testimony was given. He was glad the applicant communicated with the neighbors. Mr. Haeringer urged them to continue these communications with the neighbors. Mr. Infante agreed with the earlier comments. Mr. Tobia felt that the applicant sincerely cared about what the home would look like and had kept in touch with the neighbors. Also, the plans will improve the setback situations. Chrmn. Cifelli discussed the challenges of constructing on a corner lot. He felt the proofs of the application had been well presented. The proposals will have a minimum impact on the neighbors' light and air.

Chrmn. Cifelli made a motion to approve Application ZB #19-018: EVO Group – 94 Elmwood Avenue, with the applicant to follow any recommendations on stormwater as made by the Borough Engineer. Mrs. Kass seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mr. Herbert	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Chrmn. Cifelli	-	yes

Application ZB #19-018 was approved.

At 11:05 p.m. the meeting adjourned.

The next Chatham Borough Zoning Board of Adjustment meeting will be held on Wednesday, February 26, 2020, 7:30 p.m., in the Council Chambers, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler
Recording Secretary