

CHATHAM BOROUGH ZONING BOARD MEETING

July 22, 2020

7:30 p.m.

Chairman Michael A. Cifelli called this Regular Meeting of the Zoning Board of Adjustment to order at 7:30 p.m. Chrmn. Cifelli was present in the Council Chambers. All other Board Members and Attorney Dwyer were present by Zoom. Chrmn. Cifelli 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, Esq., Chairman	X	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia	X	
Alida Kass	X	
Peter Hoffman	X	
Patrick Dwyer, Esq.	X	

Borough Administrator Steve Williams was present, as a host, to help run the technical aspects of this Zoom meeting.

Chrmn. Cifelli explained to the members of the public how they could participate in this Zoom meeting by phone or computer.

Public Comment

There was none.

Resolution #ZB 2020-01

Mr. Montague made a motion to approve the minutes of the May 27, 2020 Zoning Bd. of Adjustment meeting as submitted. Mr. Herbert seconded the motion. A voice vote was taken. The minutes of the May 17, 2020 Zoning Board meeting were approved.

The minutes of the June 24, 2020 Zoning Bd. of Adjustment meeting will be reviewed at a future date.

Resolutions

There were none.

Returning and New Applications

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

Application ZB # 20-003: Springbrook at Chatham – 534 Main St.

Application ZB # 17-013A: First Student, Inc. – 29 River Rd.

Application ZB #20-002: Kneebone – 187 Washington Ave. will be carried to the August 26, 2020 Zoning Bd. meeting.

Application ZB # 20-003

Springbrook at Chatham

534 Main Street

Block 33 Lot 5

Preliminary & Final Site Plan

This is a continuation from the June 24, 2020 hearing.

Steven Azzolini, Esq., was present and identified himself as the attorney for the applicant.

Chrmn. Cifelli and Attorney Azzolini reviewed which Board members would be eligible to vote tonight on this application.

Attorney Azzolini reviewed which experts testified for the applicant at the June 24th meeting: Andrew Clarke, Hans Gilman, Henry Hentersign.

Attorney Azzolini recalled that at the last hearing, questions had arisen concerning the removal of a large pin oak tree. Mr. Gilman, the applicant's tree expert had testified that this pin oak tree was in a dangerous condition and needed to be removed. Unfortunately, this proposed removal had not been included in Mr. Gilman's report. Mr. Gilman has since submitted the Zoning Board a revised report concerning the pin oak tree. Attorney Azzolini also recalled that the Board had also wanted their Borough Arborist, Mr. Linson, to look at this tree and give his opinion on the vitality and health of this tree.

Attorney Azzolini noted that Board members should now have both Mr. Linson and Mr. Gilman's reports. Both reports contain the same opinion – that the pin oak poses a substantial danger and should be removed.

Attorney Azzolini stated that a landscaping plan has now been submitted by the applicant's expert, Mr. Hentersign, who is present tonight and is available for testimony. Attorney Azzolini reviewed what other experts were present tonight, by Zoom, to address any further concerns.

Chrmn. Cifelli confirmed with Attorney Azzolini that tonight's amended plans do not change any of the testimony the applicant's experts gave at last month's hearing. However, Attorney Azzolini would like to have the applicant's expert testify on the revised landscaping plan tonight.

Mr. Hentersign, the applicant's landscape architect and professional planner, came forward.

Mr. Hentersign testified that the revised landscape plans have not changed dramatically from last month's plan. He showed the plan on the Zoom screen. Referring to Andrew Clarke's earlier report, Mr. Hentersign felt that the 2 ft. wall that had previously been proposed would still remain to provide minimal grading around existing trees.

Mr. Hentersign stated that the shade trees in the parking lot islands will be eliminated, because the isles would provide room for snow to be piled up after the snowplows came through. Also, apartment resident would cross those islands to get to their dwellings. Any landscaping on those islands would probably get trampled.

Mr. Hentersign noted that the proposed pin oak trees in the parking lot area perimeter have now been changed to red oak trees or one or two maple trees. The white pine trees in the back have now been changed to holly or another tighter growing evergreen species.

Mr. Hentersign testified that anything that will be planted will be mulched, except for the center island of the parking lot.

Mr. Hentersign noted that modification had been made to the engineering drawings for this application. The two parking spaces that were encroaching on the Borough property have now been removed.

Mr. Hentersign testified that the application proposes to remove 23 trees on the property. The applicant proposes to plant 16 shade trees and 25 evergreen conifers. Mr. Hentersign felt that the vegetation to be planted in the interior of the parking area will benefit the residents and parking area itself. Chrmn. Cifelli confirmed with Mr. Hentersign that the sound of vehicles moving in and out of the parking area will be buffered by this vegetation.

Attorney Azzolini confirmed with Mr. Hentersign that any trees to be removed on the applicant's property will comply with the Borough ordinance concerning tree removal.

Mr. Herbert and Mr. Hentersign discussed the holly trees that would be planted. Mr. Hentersign believed these trees would make a good evergreen buffer. It would provide coverage all year long.

Mr. Haeringer asked if any or all of the trees to be planted – could any of them ever become a landmark tree?

Mr. Hentersign answered that the maple and oak trees, if they have adequate space, could become large and stately as they get older.

Mr. Montague asked why spruce trees were being proposed.

Mr. Hentersign explained that spruce trees provide density as time goes by. They provide a good screen, and they are deer resistant.

Answering Mr. Infante's inquiry, Attorney Azzolini reviewed which trees, by species, will now be removed: 9 White Ash trees, 6 Black Walnut trees, 4 Norway Maples, 1 Red Maple, and 1 Pin Oak tree. Attorney Azzolini asked Mr. Hentersign to relay what had transpired today regarding the Pin Oak tree.

Mr. Hentersign testified that the Borough Arborist (Mr. Linson) stated in his report that the existing pin oak tree in question was not healthy. One of the large limbs has a large cavity in it. That limb recently crashed down. Mr. Hentersign noted that many of the existing maple and ash trees are not in good condition on that property.

Mr. Hentersign testified on the new trees to be planted: 7 October Glory Red Maple trees, 6 Honey Locust trees, 3 Red Oak trees, and 3 White French trees. Regarding the new evergreen trees to be planted, there will be 7 American Holly trees, 15 Leland Cypress trees, and 5 Norway Spruce trees.

Attorney Dwyer confirmed with Mr. Hentersign that the proposal is now to remove 23 trees. Forty-one new trees will replace them.

Attorney Dwyer suggested Donna Miller, the Borough's professional planner to give her comments.

Donna Miller was sworn in to testify. Ms. Miller discussed the new landscape plans that had been submitted. She felt the proposed Norway Spruce trees to be planted will accent to the other evergreen trees in providing shading. Overall, the changes made to the applicant's landscaping plans are satisfactory.

Chrmn. Cifelli thanked Ms. Miller for her comments. He then asked Attorney Azzolini if the amended plans made any changes to the proposed lighting. Attorney Azzolini asked Andrew Clarke to answer that question.

Mr. Clarke answered that there will be no changes made to the proposed lighting.

Chrmn. Cifelli asked if the public had any questions.

Jane Moore, 14 Garden Ave., stated that she and her husband supported the proposed parking lot and understood the need for it. She thanked the applicant for taking another look at the pin oak tree that had been discussed at the last hearing. Mrs. Moore asked if the existing mulch pile belonging to the current parking area will be discontinued.

Mr. Clarke clarified to Board members that Mrs. Moore is referring to an area at the back of the existing parking lot, where leaf debris and fallen branches have been deposited. Mr. Clarke felt that situation will certainly change because of the drive aisle extension and the new landscaping plans.

Attorney Azzolini asked Mr. Hentersign to give his planning testimony. He asked Mr. Hentersign if he had reviewed the 2013 application that had been granted by the Zoning Bd. concerning this same property.

Mr. Hentersign answered yes, he did review the previous application and the proofs that had been provided by the applicant. This present application will not acerbate the existing density variance that was approved in the 2013 application. Mr. Hentersign believed that the new

application will vastly improve the landscaping versus the application in 2013. There is a definite need for the parking spaces being proposed.

Attorney Azzolini pointed out that the current application will increase the number of parking spaces to 89.

Attorney Azzolini stated that he had no further witnesses.

Chrmn. Cifelli asked if the Board members had any more questions for the applicant's witnesses.

Mr. Infante asked how many garages were on the site.

Mr. Clarke answered that there are 12 garage spaces in the rear. There are 9 garage spaces on the easterly side of the property.

Mr. Infante confirmed with Mr. Clarke that would make 21 garages in total. Including the parking spaces, there would be 65 spaces in total for vehicles.

Mr. Infante asked the applicant's planner, if he had done a traffic study for this application? How would this proposed parking plan impact Main Street? Mr. Infante felt more vehicles would now be pulling in and out of Main Street.

Mr. Clarke pointed out that this application does not propose any new apartment unit. The same number of vehicles will be exiting and pulling in and out of Springbrook as it exists now. Mr. Clarke believed there would be no net increase in traffic. The proposed plans will give the Springbrook residents a safer proximity from their parking area to their dwelling.

Chrmn. Cifelli asked if the public had any questions on the application.

There were none.

Attorney Azzolini closed the application. He gave his closing statement on this application. He noted that the application is to amend a previously approved Site Plan. The applicant is seeking certain waivers which continue to exist regarding the condition of the drive aisles. These aisles will be expand them to 18 feet per the Fire Department's recommendations. The previously approved light poles will now be reduced, however will comply with the foot candles requirements established by the Borough. Attorney Azzolini stated that all the reasons and justifications that were previously presented have not changed. All the trees that will be removed on the site are in poor or moderate condition, except for one tree in the middle of the parking lot. The applicant will comply with the requirements of the Borough's tree removal ordinance. The existing fire hydrant will be relocated as requested by the Borough Fire Department.

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

There were none.

Chrmn. Cifelli asked the Board for questions. Mr. Herbert felt this was a good application. He approved of the landscaping plan. Mr. Herbert suggested perhaps a time-line be in place for the tree work and the construction work. Mr. Haeringer agreed with Mr. Herbert's points and his suggestion for a time-line. Mr. Haeringer asked if the 2013 application be cancelled as a condition. Chrmn. Cifelli explained, legally, why that may not be a good move. Mrs. Kass, Mr. Tobia, Mr. Infante and Mr. Hoffman approved of the application. Mr. Hoffman arrived late in the hearing, so he was ineligible to vote. Chrmn. Cifelli felt the plans will be improving the landscaping in the area and the parking situation for the residents.

Chrmn. Cifelli made a motion to approve Application ZB #20-003: Springbrook at Chatham – 534 Main Street, with the applicant to follow any recommendations made by the Borough Engineer regarding stormwater. A roll call vote was taken:

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

Application ZB # 20-003 was approved.

At 8:45 p.m. a break was taken in the meeting.

At 8:57 p.m. the meeting resumed.

Application ZB #17-013A

First Student, Inc.

29 River Road

Block 140, Lots: 7.01, 8, 9 & 10

Amended Preliminary & Final Site Plan

Michael Oliveira, Esq. the attorney for First Student came forward.

Attorney Oliveira gave a brief overview of the application, submitted by First Student, that had been approved last year. The application had proposed to increase the number of buses to be parked on the River Road site. The application had also proposed to improve Lots 9 and 10. Ultimately, the applicant decided to eliminate Lot 9 completely from the application. The applicant realized that his proposals to expand and continue the existing use ran contrary to the Gateway Redevelopment Plan, which governs this immediate area. The applicant then proposed a time limit for his approval, as well as temporary variances for the parking of First Student vehicles. The approval of this amended plan was due to expire on August 31, 2020.

Attorney Oliveira stated that First Student has full intentions of selling its River Road property. Hopefully, the property can be sold to a residential and mixed-use developer, so that the property can be developed in accordance with the redevelopment plan. However, with the pandemic that has overtaken the country has made the marketing and the potential sale of this property next to impossible at this time.

In addition, Attorney Oliveira reported that his client has been approached by the School District of the Chathams, requesting that its contract for bus services be renewed for an additional year. Attorney Oliveira reviewed the three witnesses he will be calling on to testify on behalf of First Student.

The following witnesses were sworn in:

Brian Fitzgerald, Sr. Vice President of First Student

Peter Daquila, Business Administrator, School District of the Chathams

Chrmn. Cifelli asked Attorney Dwyer how the Board should look at this unique application.

Attorney Dwyer noted that the Board had granted First Student a use variance the last time. He believed the same criteria applies in the present application, which is seeking an extension to that previously granted variance. Attorney Oliveira concurred with Attorney Dwyer's explanation. He clarified that First Student is now seeking an extension to what was previously granted last year. Attorney Oliveira asked Brian Fitzgerald to come forward.

Mr. Fitzgerald testified that First Student is only asking for a one-year extension to their previous application. He testified that First Student's real estate brokers made serious efforts to finding an alternate location for their bus services, to operate somewhere in the vicinity of Chatham. In March of this year, everything dried up with their search. No progress was made in March and April, because of the pandemic. First Student has been working with Mr. Daquila to create different scenarios to solve the bus location issue and still be of service to the School District. It became evident that a new location could not be found in time.

Chrmn. Cifelli summed up that there are two issues going on:

- 1) First Student needs to find another location, close enough to service the School District of the Chathams
- 2) Whether or not First Student is able to sell the property to a developer

Mr. Fitzgerald agreed that these two issues. When March arrived, the issues grinded to a halt. Mr. Fitzgerald reported that there had been momentum for a potential sale.

Attorney Oliveira confirmed with Mr. Fitzgerald that even if First Student were to sell the property to someone, there would probably be a contingency in the contract for a development approval.

Attorney Oliveira also confirmed with Mr. Fitzgerald that First Student has not found a buyer for the property yet. However, he is confident, when things stabilize, a buyer could be found in eight months.

Mr. Fitzgerald agreed with Attorney Oliveira's assessment that the Zoning Board does not really concern itself of whether or not First Student can find an alternate site, because it does not have anything to do with the site in question.

Mr. Herbert asked Mr. Fitzgerald, if the Board granted this extension, how much longer would it take for First Student to find a new location.

Mr. Fitzgerald answered that First Student believes it can find a buyer in the next 6 months or so. There is still the issue of First Student finding an alternate site. Many properties have been looked at by he and Mr. Daquila.

Attorney Oliveira confirmed with Mr. Fitzgerald that First Student is seeking an extension of one year. He also confirmed with Mr. Fitzgerald that First Student would be able to move the bus parking facility out, prior to the expiration of that year.

Mr. Herbert asked Mr. Fitzgerald if one year was enough time to find a buyer, to negotiate to close the sale, and to remove all the buses.

Mr. Fitzgerald answered that a year would be enough time for First Student to find a buyer and close on the property. He was not sure whether an alternate site could be found in one year.

Chrmn. Cifelli pointed out that if it wasn't for the COVID pandemic, First Student wouldn't be here now. All the opportunities that First Student had before them, after their earlier variance was granted, were still in play until the pandemic hit.

Attorney Oliviera called Peter Daquila, Business Administrator for the School District of the Chathams, forward.

Mr. Daquila stated that the whole reason that the First Student situation is being revisited is because of the COVID and the financial impact it has put on the State, businesses, and revenue. New Jersey is in a financial crisis. He explained that in March every school district is allotted a certain budget from the Governor. That budget has already been flashed by approximately \$350,000. The budget numbers will be revised when the State re-does its budget in August. The School District anticipates another reduction in State aid. Due to the Coronavirus, the School District is working hard to get a plan to re-open the schools. Due to the re-opening, and trying to avoid the crowding of students, the District cannot offer full-day kindergarten. To keep the number of students on the buses low, subscription busing will not be offered.

Mr. Daquila stated that if the School District is able to renew with First Student, and they can operate out of Chatham, those funds will be available in the School District budget. If First Student services the District from East Orange, the cost to the School District will probably escalate some where between \$175,000 to \$250,000. The bus routes would also have to be re-bid. Mr. Daquila pointed out that there is a big shortage of bus drivers. All of the bus companies are currently over-worked.

Mr. Daquila also explained what goes into disinfecting school buses and providing other needed protections for students and drivers. He stressed that it is really because of a financial hardship that he is asking the Board to allow First Student to stay on their property for a year, to save some of the School District's assets.

Chrmn. Cifelli asked Mr. Daquila, from a legal point of view, whether he was comfortable in renewing the contract with First Student, as opposed to re-bidding the contract.

Mr. Daquila answered that he was 100% comfortable with renewing the contract. He reiterated that the one year extension being sought would benefit the School District immensely.

Chrmn. Cifelli asked Board members if they had any questions for any of the First Student witnesses.

There were none.

The public had no questions for these witnesses.

Summing up, Attorney Oliveira stated that First Student, this past November when the Board gave the original approval, had no idea of returning to the Board for any kind of extension. The applicant was aware, at that time, the Borough was looking to improve that piece of property on River Road. Unfortunately, the Coronavirus pandemic made it very difficult to sell the First Student property. Also, the School District now has to deal with the added expenses that the COVID-related items. Attorney Oliviera explained how the School District is now caught between a rock and a hard place. He felt a fair solution was now being offered to this handle this conundrum. He saw no negative impact if this extension were to be granted.

The public had no comments on this application.

Chrmn. Cifelli asked for comments from the Board. Mr. Herbert stated that he approved of the application; however, his only concern is that the one year for the extension would not be long enough. Mr. Herbert and Mr. Haeringer believed that granting this extension would benefit the community. Mrs. Kass stated she was comfortable with the application. Mr. Tobia, Mr. Hoffman, Mr. Montague and Mr. Infante believed the extension was a reasonable request. Chrmn. Cifelli agreed with a point made by Mr. Hoffman, that if the Board declined the extension, and First Student was forced to leave the property, it would be seriously detrimental to both Chatham Borough and Township.

Chrmn. Cifelli made a motion to approve Application ZB # 17-013A: First Student, Inc., 29 River Road, granting Amended Preliminary & Final Site Plan. Mrs. Kass seconded the motion. A roll call vote was taken:

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

Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Chrmn. Cifelli	-	yes

Application ZB # 17-013A was approved.

Chrmn. Cifelli announced that Application ZB # 20-002: Kneebone – 187 Washington Ave. will be carried to the August 26, 2020 Zoning Board of Adjustment meeting.

At 9:46 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, August 26, 2020, at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. It will probably be a virtual meeting, using Zoom.

Respectfully submitted:

Elizabeth Holler
Recording Secretary