

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

November 28, 2007

7:30 p.m.

Chairman Joel Boroff called this Regular Meeting of the Zoning Board of Adjustment to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. He stated that adequate notices of this Board of Adjustment meeting was given as required by the Open Public Meeting Act.

Members Present: Chairman Joel Boroff, Patricia D'Ambrosio, James Clancy, Peter Hoffman, Helen Kecskemeti, H.H. Montague.

Alan A. Siegel, Esq., attorney for the Board, was present.

Members Absent: Walter Voytus, Elaine Rocha Bennett, Frederick Infante.

Approval of Minutes

The meeting minutes of October 24, 2007 were approved as amended.

Old/New Business

Mr. Siegel reported that he is still waiting for a decision on the Omnipoint case.

Mr. Montague reported that the Planning Board is reviewing a site plan submitted by HSBC. HSBC is proposing to construct a bank in the empty lot next to Kings Supermarket on Main Street.

Mr. Boroff asked for volunteers to serve on the Board's nominating committee. The committee will put together a new slate of officers for 2008. Mr. Hoffman and Mrs. D'Ambrosio will serve on the committee.

Resolutions

There were no resolutions to memorialize tonight.

New and Return Applications

Mr. Boroff announced the following applications are scheduled to be heard tonight:

Abrams – 139 North Passaic Ave.

Greenwood – 76 Rowan Road

Christie – 8 Vincent Street

Behrmann – 9 Red Road

Bischoff – 25 Fuller Avenue

Abrams – 139 North Passaic Avenue

This is continued from the September 26, 2007 meeting.

Julie Abrams, the applicant, was present.

Diana Hoffman, the architect for the applicant was present.

Ms. Abrams and Ms. Hoffman remained under oath from the previous hearing.

Mr. Boroff noted that revised plans, dated 10/9/07, have been submitted.

Mr. Siegel confirmed with Ms. Hoffman that the only exhibit she has submitted so far was Exhibit A-1, photo-board.

Ms. Hoffman testified that at the last meeting, the applicant was requesting a variance for a rear yard setback for a two-story addition. At that time, the proposed deck was aligning with the existing garage. The Board members had asked the applicant to consider pushing the deck around the corner so that it would tuck into the existing recess between the dining room and living room. Ms. Hoffman stated that the revised plans have followed through with this suggestion. The proposed deck has been pushed back 7 feet, which now makes the deck conform to the rear yard setback requirements. The rear yard setback will now be 31 feet.

Ms. Hoffman pointed out a little bridge that has been created to get to the main part of the deck. This bridge measures 4 feet 6 inches. The “active” part of the deck is 35 feet from the property line. In shifting the deck back, the height of the deck has been reduced to grade.

Ms. Hoffman submitted Exhibit A-2, revised site plan dated 10/9/07 with a noted dimension from the new re-located deck to the rear property line. The dimension is 31 feet which conforms to the ordinance for deck setbacks. Ms. Hoffman believed that the ordinance requires 30 feet. Mr. Montague reminded Ms. Hoffman that the deck needs to be 3 feet in from the side of the house. Ms. Hoffman then asked for an additional variance for the 3 ft. setback, because the required measurement for a side yard setback is 18.75 feet. The proposed plans have 32 feet. Even though the proposed deck is not 3 feet in from the corner, it's close to twice the minimum setback.

Mr. Boroff asked how far in is the deck in from the side of the house. Ms. Hoffman answered that the deck itself is one foot in from the side of the house because she and the applicant wanted the deck to conform to lot coverage. The deck and the steps conform to lot coverage. Ms. Hoffman pointed out that when she followed the advice of the Board and tucked the proposed deck into the existing recess, the lot coverage increased slightly because of the bridge connection to the deck to the kitchen. Ms. Hoffman testified that she placed the corner of the deck in from the right side wall one foot so it would conform. The two bottom steps stick out 2 feet beyond the right corner of the deck of the house.

Mr. Boroff and Mr. Montague confirmed with Ms. Hoffman that the applicant is seeking a variance for 5 feet.

Mr. Siegel noted that the public probably was not notified of this particular variance. Mr. Boroff reviewed the notice that stated “and all other variances as may be discovered so as to permit a two story addition”.

Ms. Hoffman referred the Board to Sheet #5 which shows the deck being pushed 7 feet in from the back wall of the garage. She reminded the Board that the applicant’s property has a severe slope. The highest point of the revised deck is 10 ft. 6 in. The deck now has a step-down from the dining room, consisting of 2 steps, and measuring 9 ft. 4 in. at this particular point.

Ms. Hoffman submitted Exhibit A-3, Revised Site Plan.

Mr. Montague asked her to testify on the green section shown on Exhibit A-3.

Ms. Hoffman noted that the Board had asked the applicant if she were willing to put in plantings at the base of the deck to make it appear less tall. The applicant agreed to put in those plantings.

Ms. Hoffman referred the Board to Sheet #7 which showed the challenging topography of the site. The only way to currently access the house is near the kitchen. Currently there is no access to the back yard from the house. There is only access to the driveway. The proposed plans will correct this situation. The proposed deck will allow the applicant’s family access to their back yard.

Ms. Hoffman submitted Exhibit A-4, neighborhood analysis. She recalled previous testimony was given stating that several neighboring properties on Passaic Ave. have the hardship of having severe slopes. Ms. Hoffman noted that the Board had asked her and the applicant to measure the height of the existing decks adjacent to the Abrams’ property. Ms. Hoffman said she and an assistant did those measurements and organized Exhibit A-4 and aerial maps.

Ms. Hoffman gave the height to grade of each neighboring deck shown in Exhibit A-4. Ms. Hoffman testified on the views that could be seen from different angles of the applicant’s house. She noted that from the corner of the applicant’s dining room to the back of the family room measures 59 feet.

Ms. Hoffman testified that this application’s building coverage, lot coverage, and FAR all conform. The construction over the existing garage is not conforming. Also, the steps intruding into the side yard are not conforming.

Mr. Boroff asked what the applicant would plant for screening.

Mrs. Abrams answered that arborvitae does not do well in shade. Her yard is extremely shady.

Mr. Montague suggested Mrs. Abrams consult with Matthew Petitjean; Chairman of the Borough Shade Tree Commission on what would be a good planting.

Ms. Hoffman gave further reasons of why the applicant's garage is protruding into the side yard setback. The rear wall of the house "jogs". It is really two-fifths of the total length of the house that sticks into the rear yard. The applicant's property has a severe slope as well the situation of having the original house set further back from the street than what the ordinance requires.

Ms. Hoffman believed that the application involves minimal land disturbance and enough light and air will remain. She pointed out that the concentration of the addition on the left side of the applicant's house and the center of the property will be kept open; therefore, the proposed application is consistent with the Master Plan.

Mr. Boroff asked if the public had any comments or questions.

Two neighbors came before the Board:  
Elise Santos, 146 Center Ave.  
Jose Pinheiro, 146 Center Ave.

Ms. Santos and Mr. Pinheiro remained under oath from the previous hearing. They submitted Exhibit O-1, a photo-board. Ms. Santos explained that she had taken these photos from inside and outside her house looking out at the back of the applicant's house. She explained where she had taken each photo. One photo was taken from her (Ms. Santos') deck, which is 4 steps from the ground. Another photo showed Ms. Santos' back yard with a 5 ft. fence.

Mr. Pinheiro stated he and Ms. Santos would like to negotiate the privacy matter brought up at the last hearing. Mr. Pinheiro and Ms. Santos would like the applicant to put in plantings between their two properties to shield their view of the proposed deck from different rooms of their house. Ms. Santos testified that there are eight windows on the side of their house which would look out on the proposed deck.

Mr. Siegel noted that the applicant's house appears to tower over Mr. Pinheiro and Ms. Santos' house. He asked what is the elevation between Mr. Pinheiro's house and the applicant's house. How much higher is the applicant's house? Some Board members estimated at least 20 feet.

Mr. Boroff concluded that from any point of the applicant's house, the applicant can look down into the Pinheiro/Santos house. He asked if Ms. Abrams would make a considerable investment in screening.

Ms. Abrams noted the Pinheiro/Santos backyard is smaller than hers. She is willing to plant trees in her own yard.

Mrs. D'Ambrosio suggested that Mr. Petitjean, Chair of the Shade Tree, be consulted about which trees or plantings would be best to screen this view. Ms. Abrams, Mr. Pinheiro and Ms. Santos agreed to seek Mr. Petitjean's advice.

Ms. Hoffman noted that the Board's earlier suggestion to push back the proposed deck was a good idea.

Mr. Montague suggested that a condition be put in the resolution that both sides will work with Mr. Petitjean for acceptable screening before building permits are issued. Mr. Boroff agreed with this suggestion.

There were no more comments from the public.

Mr. Boroff asked for comments from the Board.

Mrs. Kecskemety felt that the revisions made by the applicant have helped to lower the height of the deck and provide a little more privacy to the neighbors at the rear. The existing steep slope is a difficult issue to deal with in this application.

Mr. Montague asked that a resolution be included requiring a maintenance plan to make sure the trees planted for screening don't die or are eaten by deer.

Mr. Clancy pointed out the applicant's back yard is currently not useable. There are a number of existing, high decks in the applicant's immediate area.

Mr. Hoffman agreed that the applicant has a hardship situation with her property. The proposed cantilever is only 2 feet. The bedrooms should not be made any smaller. He believed it would be a good idea to let a professional give advice on adequate screening. It takes a while for screening to grown in.

Mr. Boroff felt that the height adjustment of the proposed deck was well done. He was glad that both Ms. Abrams and her neighbors are willing to work together on the screening.

Mr. Siegel suggested a time span be specified for an agreement to be reached on the screening. Mr. Siegel and Ms. Abrams agreed on a time span of 90 days. If an agreement is not reached in 90 days, Ms. Abrams will return to the Board for further review.

Mr. Montague made a motion to approve this application as revised with these modifications:

- 1) Notation that the rear yard is not 24.1 feet, but is 22.4 feet.
- 2) There will be a variance for the deck's setback.

- 3) The Santos/Pinhiero will reach an agreement regarding natural privacy screening at the rear of the applicant's property.
- 4) A plan for this screening must be filed with the Borough within 90 days and signed off by Mr. Siegel. If this deadline is not met, the applicant must return to the Board.

The motion was seconded. A roll call vote was taken. 6 – yes 0 – no.

#### Greenwood – 76 Rowan Road

The attorney for the Greenwoods noted that one of the variances being sought was for FAR. He asked if the application could continue to the December 19, 2007 meeting when there would be a fuller number of Board members present. The Board granted his request.

Mr. Boroff officially announced the Greenwood application will continue to the December 19, 2007 meeting.

#### Christie – 8 Vincent Street

Patrick Christie, the applicant, was sworn in to testify.  
Stephanie Pantale, the architect, was sworn in.

Ms. Pantale submitted her professional credentials to the Board. The Board accepted them.

Mr. Christie testified that his house is currently a one-story ranch house. He is proposing to add a second story. The existing foundation will not change. He noted that the side yard set back regulations were changed during the time he was looking to hire a contractor. He now needs a side yard variance.

Ms. Pantale stated that she and the applicant were proposing to add trim to the portico, which would extend 3 inches beyond what the Borough ordinance allows. The Zoning Officer told her that was all right. Also, an existing shed will be demolished. Mr. Christie would like to use that extra area for a portico footprint. At that time, the Zoning Officer said that was okay.

Ms. Pantale noted that the zoning had changed in July, and Mr. Taylor informed “everything had to be listed according to the State of New Jersey”.

Mr. Boroff suggested that Ms. Pantale focus her testimony on the building coverage issue.

Ms. Pantale stated that the existing shed will be removed and the portico will be added. She felt these actions would be reducing the overall building coverage; however, the Zoning Officer divided it as an accessory use, not as one total building coverage. A building coverage is now needed.

Also, Ms. Pantale noted the current side yard setback is 13.68 feet, where 15% of the lot width is required. Ms. Pantale stated she personally calculated the lot width taken at the setback line. It measured to 115 feet. This figure didn't agree with Mr. Taylor's calculation. Mr. Boroff believed that Mr. Taylor took the measurement from the property line. Mr. Siegel confirmed with Ms. Pantale that a side yard variance is still needed.

Ms. Pantale pointed out on the site plans where the proposed second floor would be added. She stated that this second floor could not be pulled back because of where the stairs are located in the existing house.

Mr. Siegel asked her to testify on why the second floor could not meet the allowable 19.18 feet. Ms. Pantale explained that if she pulled the second floor back 5 feet, the bedrooms, with the hallway going through, would be 10 feet with a 2 ft. closet. These rooms could not function as bedrooms. Mr. Siegel asked if the number of bedrooms could be decreased and make the remaining bedrooms slightly larger. Mr. Pantale explained that the bedroom in front would virtually be cut almost in half, if the second story was pulled back. Unfortunately the proposed plans were completed but not submitted before the side yard setback regulations were revised.

Mr. Boroff confirmed with Ms. Pantale that she is reducing building coverage from 1,942 sq. ft to 1,877 sq. ft. Mr. Boroff asked Ms. Pantale to explain how that reduction will come about. Ms. Pantale testified that the existing shed will be removed and a portico will be constructed. Mr. Boroff confirmed with Ms. Pantale that the building coverage is non-conforming by 133 sq. ft. Also, that non-conformance is being reduced to 1,877 sq. ft. Ms. Pantale referred to the applicant's property as being "pizza shaped".

Mr. Siegel asked Ms. Pantale if she believed a C-1 variance was needed because of the shape of the applicant's property. If this property were rectangular-shaped, would it meet the ordinance requirements? Ms. Pantale answered that if the lot was rectangular, a C-1 variance would not be needed.

Mr. Boroff asked if there were many second story houses in the applicant's neighborhood.

Mr. Christie submitted and discussed Exhibit A-1, photos of the neighbors' home that have second stories and front porticos.

Mr. Boroff confirmed with Mr. Christie that the predominant number of houses (90%) in the 200 ft. radius have two stories. He also confirmed with Mr. Christie that his proposed second story and portico will make his house more adaptive to the streetscape. Mr. Montague reviewed the measurements of the portico columns to the stoop with Ms. Pantale.

At Mr. Montague's request, Ms. Pantale showed the proposed floor plan. Mr. Montague noted that the height to the roof front of the house is not shown. He wasn't clear how the

Zoning Officer computed this feature. Ms. Pantale referred the Board to Sheet A-6. She measured from the floor of the attic to the ridge pole. Mr. Montague believed that there was some attic space that needed to be counted into the FAR. Ms. Pantale said she will be lowering the roof ridge on the main portion of the second floor to 4 feet 11 inches to make it conform. Mr. Boroff suggested that particular action be included in a resolution.

Mr. Montague asked about the garage. Ms. Pantale answered that there is an existing two car garage in the basement. Mr. Christie clarified that one of the car spaces in the garage has been closed off for FAR reasons. He showed a drawing of the garage to Mr. Montague. Ms. Pantale testified that the existing pavement for the driveway will be kept.

Mr. Siegel asked that by closing up the garage in order to satisfy the Borough's FAR requirements, where will the car that ordinarily goes in that garage now go?

Ms. Pantale answered that the car will go on the driveway.

Mr. Siegel asked wouldn't that re-location be another conflict with the LDO.

Ms. Pantale answered that she had brought that fact up to the Zoning Officer. Mr. Taylor had informed her that the applicant is only required to have a place or a garage for his car.

Mr. Christie stated it was never his intention to close up his garage. He has very young sons, and it is much easier to remove them from a car in the garage, than outdoors on a driveway.

Mr. Montague asked if all the overhangs are less than 2 feet. Ms. Pantale answered yes.

Ms. Pantale believed a front yard variance may be needed for the portico columns and the trim. Mr. Boroff noted the Zoning Officer believed the front yard conformed.

There were no questions or comments from the public.

Mr. Boroff asked the Board members for comments.

Mr. Hoffman pointed out that the irregular shape of the applicant's lot presents a little hardship. The proposed amount for building coverage is very minor and reasonable. Also, the proposed plans are not making the applicant's structure go into the side yard any more than it already is.

Mr. Montague reminded the applicant and architect that they will have to re-submit the drawings of the roof ridge being lowered to meet the FAR requirements.

Mr. Boroff felt the proposed plans will be improving the streetscape, which mostly consist of two-story homes. He felt the application was well presented and positive.

A motion was made/seconded to approve this application with the re-submission of the roof ridge changes. A roll call vote was taken. 6 – yes 0 – no.

At 9:30 p.m. a break was taken in the meeting.

At 9:35 p.m. the meeting resumed.

Behrmann – 9 Red Road

Mr. Behrmann asked if he could continue his application to the December 19, 2007 meeting, when more Board members will be present to consider his FAR variance.

The Board granted his request.

Mr. Boroff officially announced the Behrmann application will continue to the December 19, 2007 meeting.

Bischoff – 25 Fuller Avenue

Mr. Bischoff asked if his application could be continued to the December 19, 2007 meeting. He needed a certain neighbor to testify. Given the lateness of the hour, this gentleman won't be able to attend tonight. The Board consented to his request.

Mr. Boroff officially announced that the Bischoff application will continued to the December 19, 2007 meeting.

Before adjourning, Mr. Montague said he will review the 15% rule for side yards with the Planning Board. He noted that the Planning Board was very specific about where the measurement should actually be taken. Mr. Montague will consult with the Zoning Officer on this matter.

Mr. Boroff reported that Mrs. Maramonte, the Control Person in the Construction Office has been out several weeks due to an ankle injury. Mr. Jankowski and other Construction employees are trying hard to check applications over and send out the packets to Board members.

At 9:45 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary

