

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

March 26, 2008

7:30 p.m.

Chairman Walter Voytus 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 notice of this Board of Adjustment meeting was given as required by the Open Public Meeting Act.

Members Present: Chairman Walter Voytus, Peter Hoffman, Patricia D'Ambrosio, H.H. Montague, Frederick Infante, Tayfun Selen, Michael Cifelli.

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

Members Absent: Herb Ramo, Helen Kecskemety.

Approval of Minutes

The meeting minutes of February 20, 2008 were approved as submitted.

Old/New Business

Mr. Siegel reported there was nothing to new regarding the Omnipoint litigation.

Concerning Planning Board matters, Mr. Montague noted that the 45-day limit for the second appeal for the Shailja application to return to court has expired.

Mr. Voytus introduced two new Board members: Tayfun Selen and Michael Cifelli. Mr. Selen will serve as a regular member of the Board. Mr. Cifelli will serve as Second Alternate. Mr. Voytus noted that tonight there are 7 Board members tonight who can vote.

Mr. Voytus noted that there are no residential resolutions to be voted on tonight; however, there is a special resolution to be read tonight:

Mrs. D'Ambrosio read aloud the following resolution:

WHEREAS Joel Boroff has served 5 years, 2003 – 2007, as an active member of the Zoning Board of Adjustment and;

WHEREAS, as a member, later Vice Chairman and Chairman of the Zoning Board, Joel Boroff has demonstrated remarkable knowledge and skill in handling numerous applications, and

WHEREAS, throughout his five years of service to the Zoning Board, Joel Boroff has acted with the utmost integrity and concern for the preservation of the character of the Borough of Chatham;

NOW, THEREFORE, be it resolved by the Zoning Board of Adjustment of the Borough of Chatham that the Board hereby commends Joel Boroff for his service to the community and wishes him good health and much happiness in his future endeavors.

Mr. Boroff came forward to accept this resolution. Mr. Voytus thanked him for his years of service on the Board.

New and Return Applications

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

Greenwood – 76 Rowan Road
Behrmann – 9 Red Road
Maluga – 15 University Avenue
McFadyen – 14 Pihlman Place
Noah’s Bagels, Inc. – 465 Main St.
Peters – 58 Van Doren Ave.

Pentony – 8 Carmine Street has withdrawn.

Mr. Voytus reported that there is a slight back-log of applications. The Board will try and hear as many applications as possible this evening. Tuesday night, April 8th, is a tentative date to hold an extra meeting if a back-log still exists after tonight’s meeting. Applicants who decide to continue their cases tonight can choose either the April 8th meeting or the Regular meeting scheduled for April 23rd.

Greenwood – 76 Rowan Road

Mr. Voytus noted that the Greenwoods had started their application in December. He also noted that there are two new Board members who haven’t heard this application’s testimony. Mr. Voytus gave the Greenwoods a choice of either to go ahead and have the five Board members who have heard the testimony vote on the application; or, they can start the application over again and have all seven Board members eligible to vote on their case. The Greenwoods decided to start over again. Mr. Siegel returned all their exhibits to them.

The following were present:
Graham Greenwood, applicant
Alan Leonard, architect

Mr. Greenwood and Mr. Leonard were sworn in to testify.

Mr. Greenwood said that FAR is one of the variances he is seeking. He testified that his house has no attic space except for the storage space above his one car garage.

Mr. Voytus suggested he give the Board a description of the whole proposed plan.

Mr. Greenwood stated that his first phase of internal improvements have been approved by the Construction Office and completed. The second phase is what he is proposing to the Board tonight. He is proposing to add a bay window to the right rear of his house. The bay window will extend approximately 2 feet. It will not be constructed from the ground going up. It will just extend out the side of the wall.

Mr. Greenwood said that the Zoning Officer at the time, Mr. Taylor, discovered that the bay window extends out further than what is allowed by ordinance. Mr. Greenwood said a variance would be needed for this installation.

Mr. Greenwood stated that he is looking to improve the space above his garage. Currently, that area is the only attic space his family has. He is proposing an addition above the garage, which would step back from the front and from the side. It would not extend over any of the existing building. This addition creates an increase in FAR.

Mr. Greenwood felt his existing house had particular hardships. The crawlspace under his garage currently gets water. The crawlspace is only 2 feet at its highest point. The house's utility equipment in that hard-to-reach location. Mr. Greenwood reported that currently the only way to access the space above the garage is by a pull-down ladder. Any storage items to be put in that space have to fit the width of the ladder space. Mr. Greenwood testified that there is no attic in "the actual house proper."

Regarding the proposed bay window, Mr. Greenwood stated that he has a corner property. The new side yard setback rule impacts his property greater than other properties. His original plans were within regulations until the new side yard ordinance came into effect. Mr. Greenwood said even if the proposed space was approved, his house would still be smaller than a number of the homes within the 200-ft. radius. He felt a number of the homes have attics and/or basements. Mr. Greenwood testified that the proposed additions would have no impact on the neighbors' light and air.

Mr. Siegel suggested that the applicant list the four variances and focus on them one at a time.

Mr. Leonard testified that a FAR variance is being sought. The applicant is seeking 3,239 sq. ft. where 3,095 sq. ft. is allowed. The applicant's proposed FAR is 1.195% over what is allowed. Mr. Leonard stated that the proposed building coverage is 1,839 sq. ft. There will be an increase of 16 sq. ft. for the bay on the side. The room over the garage does not bring in new coverage. It's .13% over what is allowed. Mr. Leonard testified that the side yard setback variance is for the proposed bay window. He noted that the front yard setback is required to be 30 feet. An entry roof with brackets, which has already been built, is 29.2 feet. Mr. Leonard felt that the proposed bay and proposed room over the garage contribute to the FAR.

Mr. Leonard reviewed that the Master Plan requires what the applicant will have to demonstrate for his FAR variance. Mr. Leonard testified that the proposed addition will

not be out of character or inappropriate for the neighborhood and will be addressed later in the hearing. Mr. Leonard said he will testify on the proposed bay and lastly on the proposed room over the garage.

Mr. Leonard reviewed the exhibits which had submitted earlier:

Exhibit A-1, photo-board of applicant's home

Exhibits A-2, A-3, and A-4: photo-boards of applicant's neighborhood

Exhibit A-5, photos of houses with basements

Exhibit A-6, photos of houses with rooms over garages

Exhibit A-7, Rowan Road side yard setbacks

Mr. Leonard submitted additional exhibits:

Exhibit A-8, photo-board of houses with covered entries

Exhibit A-9, photo-board of houses with rooms over their garages

Exhibit A-10, FAR comparison

Exhibit A-11, photo-board of the bay area on the existing house

Mr. Siegel asked Mr. Leonard if the entry roof was the reason for the front yard setback variance. Mr. Leonard answered yes.

Mr. Montague pointed out that the front yard setback is measured from the steps to the property line, not from the entry roof. There are existing steps in front of the platform.

Mr. Voytus noted that the steps are existing. If the applicant had not built the roof, he would have been granted a pre-existing condition and would not have required him to seek a front yard setback.

Mr. Montague stated that the ordinance permits only 2 ft. over-hangs. He believed that situation is what is driving the front yard setback ordinance. Mr. Voytus added that the setback is measured from the steps.

Mr. Leonard calculated that 26.15 feet is now the correct proposed front yard setback.

Mr. Leonard reported that he had brought photos of other covered porches in the neighborhood. Mr. Siegel confirmed with Mr. Leonard that this portico was built after a permit was issued from the Borough.

Mr. Leonard described the proposed bay at the side of the house. The bay will come 2 feet off the side of the house which violates the setback. The applicant does not have a rectangular lot. The bay adds 16 sq. ft. of FAR as well.

Mr. Siegel asked why the bay is needed.

Mr. Leonard answered that the dining room's interior dimension is 12 ft. 4 in. wide by 11 ft. 3 in. The proposed extra 2 feet would allow a reasonable 6 ft. table.

Mr. Leonard said Exhibit A-11 has photos showing the inside of the dining room, as well as inside, down it, and as it faces the neighbor.

Mr. Voytus brought up a neighbor's house to the right. Mr. Montague asked Mr. Leonard if he had measured the distances between the applicant's house and the neighboring houses. Mr. Leonard answered yes. He testified that the distance between the proposed bay and the face of the neighbor's house (74 Rowan Rd.) is 22.2 feet. The current distance is 24.2 feet.

Mr. Siegel and Mr. Leonard discussed the window situation of the applicant's house and the next door neighbor. Mr. Siegel concluded that the neighbor's family room windows will be looking into the applicant's dining room, 2 feet closer than current conditions. This view will be at an angle.

Mr. Siegel asked if any shrubs would be planted for buffering.

Mr. Greenwood answered that he has met with landscapers last weekend. The landscaper will be submitting potential screening options. Mr. Greenwood said he would accept a condition from the Board requiring him to plant screening on his property.

Mr. Montague expressed concerns about the space between the two houses being reduced with these plans. He pointed out that the ordinance requires a minimum of 12 feet. He asked why the bay window could be put at the rear. Putting the bay window and the dining room at the rear would not reduce the side yard and would not require a variance.

Mr. Leonard said an existing deck is at the rear of the house. There are French doors that lead out to the deck.

Mr. Montague still had concerns about the violation to the side yard setback ordinance.

The Board discussed what the FAR would be if the bay was put at the rear. Mr. Leonard pointed out how awkward it would be for the dining room table and chairs if the bay was put in that location.

Mr. Siegel reiterated Mr. Montague's concerns by reminding Mr. Leonard that the proposed bay will be sticking 2 feet from the side of the house. This addition impacts the side yard. This situation requires a "C-2" variance. Testimony is needed to convince the Board that this proposed bay window is a better option than what the current ordinance requires. Personal needs, like the placement of a dining room table, don't justify a variance.

Mr. Leonard noted that there are more minimal setbacks existing in the neighborhood. He felt the proposed bay would have minimal impact on the neighbors.

Returning to the FAR, Mr. Leonard testified that the bay is 16 sq. ft. He reviewed the measurements of the proposed room over the garage. The room would step back 11 feet

4 inches from the face of the garage. Unfortunately it creates new FAR. Mr. Leonard stated that a genuine hardship of the applicant's property is that it has no basement. Currently there is limited storage space over the garage. The garage can currently handle one car. Previous owners of the house converted the second garage bay to a mudroom. They also took the ceiling off at the height of the rest of the house. This action limited the storage space over the garage. The applicant is now trying to get additional storage space. Mr. Leonard and the applicant felt if the roof was raised, it would be out of character with the neighborhood.

Mr. Leonard submitted the following exhibits:
Exhibit A-9, photo-board of neighboring homes with rooms over the garage
Exhibit A-10, FARs of neighboring homes

Mr. Leonard testified that 5 houses in the applicant's immediate neighborhood have rooms over their garages. In many of these instances these rooms have taken up the whole footprint of the garage. Mr. Leonard testified that the majority of the neighborhood homes aren't over on FAR; however, most of them have basements.

Mr. Montague asked for more information on the porch. Was it a small porch?

Mr. Leonard explained that the porch was small with a shed roof. It was enclosed and heated. The walls were taken out to make one room. This work has already been completed.

Mr. Voytus asked Mr. Greenwood where he currently parked his cars.

Mr. Greenwood answered in his driveway. Currently his garage is being used for storage.

Mr. Siegel asked Mr. Greenwood if the proposed room over the existing garage will be used for storage. Mr. Siegel asked where on the plans it shows that room will not be used as a bedroom. Mr. Leonard answered that Mr. Greenwood has no use for another bedroom. Mr. Voytus and Mr. Siegel pointed out in the future it may be used as bedroom.

Mr. Leonard brought up the other option of raising the roof to provide more storage space. He felt that would be out of character with the neighborhood and out of scale with the applicant's house.

Mr. Siegel reminded Mr. Leonard that the Board cannot prevent the applicant from using this proposed room as a bedroom.

Mr. Montague questioned what would be the reasonable amount of storage space. He felt that in reality the Board is approving a bedroom, not a storage space. If the proposed room was smaller, it may not be such an issue.

Mr. Greenwood testified that he had looked at other options to obtaining more storage space. He felt the present proposal took aesthetics into consideration.

Mr. Montague suggested that the applicant extend the garage roof up and build a small dormer on the back side, resulting in less square footage.

Mr. Leonard reiterated the client's need for storage again.

Mr. Siegel reminded him that an applicant cannot justify FAR variance by asking for a room that can actually be used as a bedroom. The applicant still has to demonstrate how this proposed room would advance the purposes of the municipal land use law. Mr. Siegel suggested Mr. Greenwood and Mr. Leonard ask to continue this application and think of another way to add storage space that wouldn't resemble a bedroom.

Mr. Voytus asked if there were any safety issues for why this room is being proposed.

Mr. Leonard answered that there is the safety issue in that the current access to storage space is a pull-down stair with a small opening.

Mr. Montague pointed out that the proposed room above the garage has a closet. It resembles a bedroom to him. He reiterated his recommendation of extending the dormer off the back. It may bring the FAR down to a minor amount or clearly would show that the room would be for storage only.

Summing up, Mr. Voytus reviewed the 3 options the applicant could take:

- 1) Make no changes to the plans & ask the Board to vote on it
- 2) Ask for a continuation & reconsider revisions to the plans that may be more acceptable to the Board.

Mr. Leonard asked if the Board could vote take separate votes on the different variances. After some discussion, the Board and Mr. Siegel agreed that that the "D" variance (regarding the attic space would be voted on separately. Also, the front yard setback (concerning the overhang) and the side yard setback (the bay window) will be voted on separately.

There were no comments from the public.

Mr. Voytus asked for comments from the Board.

Mr. Hoffman discussed the proposed bay. The bay doesn't seem completely out of character with the neighborhood. The applicant has agreed to plant shrubbery to lessen the impact. Also, the bay won't be looking directly into the next door neighbor's house. He believed the proposed building is fairly minimal. Mr. Hoffman said he was still weighing the "D" variance.

Mr. Infante commented that he is also struggling with the proposed FAR. He did not think the basement issue should play a part in the Board's deliberations on this variance.

Mrs. D'Ambrosio also expressed serious concern for the FAR. Perhaps the mudroom could be used for storage.

Mr. Selen and Mr. Ciffeli agreed with the points made by the other Board members.

Mr. Voytus felt the proposed bump-out was di minimus because it is part of the first floor. The applicant's property is somewhat handicapped because it is a corner lot. The fact that an individual has to use their garage for storage begins to impact parts of the Master Plan, which wants us to use garages for cars. Mr. Voytus noted that the applicant's house has no basement. The applicant has a definite need for storage space; however, he didn't believe the proposed room over the garage would be the appropriate way to provide this space.

A motion was made/seconded to approve the front yard variance. A roll call vote was taken: 7 – yes 0 – no.

A motion was made/seconded to approve the side yard and building coverage variances regarding the proposed bay window. A roll call vote was taken: 6 – yes 1 – no.

A motion was made/seconded to deny the FAR variance regarding the proposed storage room above the garage: 4 – yes 3 – no.

Mr. Voytus informed Mr. Greenwood that he could construct the bay window; however, the storage room as designed cannot be constructed. If Mr. Greenwood wants to return to the Board with a new design of that room, that's fine.

Mr. Voytus announced that the following applications will be heard on April 23, 2008:
Noah's Bagels, Inc. – 465 Main Street
Peters – 58 Van Doren Ave.

Mr. Voytus announced that the McFadyen application – 14 Pihlman Place, will be heard on April 8, 2008.

At 9:24 p.m. a break was taken in the meeting.

At 9:30 p.m. the meeting resumed.

Behrmann – 9 Red Road

This hearing was started at the December 19, 2007 meeting. Like the Greenwood application, the Behrmanns asked to start their application from the very beginning.

The following were sworn in to testify:

James & Heather Behrmann, the applicants
Douglas Miller, the architect

Mr. Miller testified that the detached existing 1 ½ car garage measures internally 16 feet by 16 feet. He stated that this garage is too small to park 2 cars in. The garage is located about 94 feet away from the existing house. The applicant is proposing to attach this garage to his house where an existing one-story deck is located. This action will create a full two-car garage.

Mr. Miller stated that he and the applicant had looked at ways to minimize the bulk on this site and still achieve the two-car garage.

Mr. Miller submitted Exhibit A-1, photo-board of the applicant's house & neighborhood. Mr. Miller pointed out that the area under the existing deck is unattractive. It is full of debris and clutter. The existing detached garage creates a large area of pavement to accommodate the applicant's vehicles pulling in from Red Road and reaching the existing garage.

Mr. Siegel asked how deep the slope to the garage is. Mr. Miller answered 8 or 9 feet over the course of 94 feet. It is a 10% slope.

Mr. Miller said attaching the garage to the house would remove a dangerous situation in the wintertime. In the winter, it is difficult to access the existing garage. The slope gets icy. Mr. Miller asked Mr. Behrmann to testify on this situation.

Mr. Behrmann testified that the existing garage is unusable during the winter time because it is so far down to walk. It is a shaded area and the conditions are usually icy and unsafe to drive on. Currently he and his wife park the cars as close to the street as possible.

Mrs. D'Ambrosio confirmed with Mr. Behrmann that the current driveway is paved. She reminded him that the new garage will influence the FAR variance.

Mr. Behrmann answered that the pavement beyond where the garage currently sits will be torn up. Grass will be planted in its place.

Mr. Behrmann submitted Exhibit A-2, aerial view. He testified another advantage to attaching the garage to the house, is the removal of the existing macadam, which would improve his lot coverage situation and restore green space to the neighborhood. A room will be constructed underneath the area occupied by the deck. A turn-around will be created for the family cars.

Mr. Miller submitted Exhibit A-3, garage area plan. Mr. Miller testified that he and Mr. Behrmann had studied the surrounding houses within their designated area to determine whether or not a request for a two-car garage was outside the norm for that section of

town. He stated that there are 9 lots that do not have garages for a second car. There are 10 lots that have two-car garages.

Mr. Miller reminded Board members that the applicant's house was built at the turn of the century, 1904 or 1906. It has a finished attic on the third floor. The staircase from the first floor goes all the way up to the attic. He noted that the ordinance specifies any attic space over 5 feet is FAR. This house has a steeply pitched roof which contributes a large amount to the FAR. If that pitched roof did not exist, the garage would be closer to conforming.

Mr. Miller pointed out that the large existing porch, extending across the front of the house, also contributes to the FAR. To remove the porch would be a detriment to the streetscape.

Mr. Miller testified that by attaching the garage to the house and utilizing the space under the deck, will improve the light, air, and green space throughout the neighborhood. A significant amount of structure is not being added to the property.

Mr. Voytus asked Mr. Miller to elaborate on his testimony stating that if the third floor was not existing, the garage would be closer to conformity.

Mr. Miller stated that the attic, over 5 feet, measures 590 sq. ft. The applicant is seeking an additional 308 sq. ft. to the house. If the attic was removed, Mr. Miller felt it would remedy the FAR issue.

Mr. Montague disagreed, saying the FAR would still be way over. Mr. Miller recalculated noting that the proposed FAR would be 130 feet over the allowable. Mr. Montague had concerns because he felt the proposed garage is very large.

Mr. Voytus asked for testimony on the garage.

Mr. Miller believed a mistake was made on the FAR calculations. He has revised plans to represent that statement. Mr. Miller had consulted with Mr. Siegel about the FAR. Mr. Siegel asked him if he had anything from Mr. Taylor, the Zoning Officer, to show that he agreed with his latest calculations.

Mr. Miller pointed out the area between the garage and the house. He and the applicant considered leaving this area open. Mr. Taylor had informed him that if this area is not part of the garage and not an area to park the car in, and storage space is created in the garage, it will be calculated as part of 50% of the entire basement area. In this situation, the entire basement area would be more than 50% below grade. Mr. Miller testified by having this gap between the garage and the house would make the property's aesthetics more pleasing.

Mr. Miller said he could distribute the new plans. Mr. Voytus and Mr. Montague informed him that he could not submit the plans if the Zoning Officer had not reviewed it

and provided a denial letter. Mr. Voytus pointed out that he can't take Mr. Miller's word alone that this area in question is basement area. Mr. Voytus felt that particular area resembled a garage and a first level room. He preferred to hear the Zoning Officer's views on this matter. Mr. Montague added that the public still had to be notified of these new plans.

On another point, Mr. Siegel reminded Mr. Miller and the applicant that they are proposing the highest FAR numbers that the Board has seen. He strongly recommended the applicant ask for a continuation and consider reducing the proposed size of the garage, thereby reducing the FAR. When the applicant returns, he should illustrate clearly to the Board the proposed new bulk would not conflict with the purposes of the FAR ordinance. Also, the applicant should indicate to the zoning officer that the Board needs any revised numbers.

The Behrmann application will continue to the April 8, 2008 meeting.

Maluga – 15 University Avenue

Even though the Malugas appeared in the December, 2007 meeting, they asked to start their application from the beginning.

The following were sworn in to testify:

Ella & Richard Maluga, the applicants.

Charles Rush, the applicant's engineer & land surveyor

Mr. Maluga reviewed the exhibits he is re-submitting:

Exhibit A-1, interior & exterior photos of the present home

Exhibit A-2, FAR analysis of houses within the 200 feet radius

Exhibit A-3, two aerial photos of 15 University Ave. taken from Google

Exhibit A-4, a closer view of the two aerial photos of 15 University Ave.

Exhibit A-5, photos of the neighboring homes

Exhibit A-6, photos of commercial buildings near the applicant's home

Exhibit A-7, landscaping ideas

Exhibit A-8, proposed safety improvements (P-Q).

Mr. Maluga testified that his house was built in 1949 and has never been renovated. He believed his property was underutilized. Mr. Maluga stated that he is seeking 3 variances: FAR and two front yard variances.

Mr. Maluga recalled that at the last hearing, Mr. Montague had asked for more detailed measurements, especially concerning the front yard variances. Mr. Maluga reported that he has now submitted a survey. The proposed plans are now signed, dated, and sealed as requested earlier.

Mr. Maluga brought up the latest denial letter. He pointed out that the proposed FAR has gone down by 1.4%.

Mr. Siegel confirmed with Mr. Maluga that his front yard variance is a lesser non-conformity problem than what exists now. The proposed construction will now go back 2 feet further away from the property line. Mr. Maluga testified that he is proposing to build a porch and moving the non-conforming walls. He noted that his house sits on a corner lot. One front of the house faces University Avenue and the other front faces Taft Street. The proposed porch will be a “little bit” on University Ave. and a great deal of it will be on Taft St. The walls, which are currently non-conforming, will be push back from the street, thus reducing a non-conformity. The zoning officer believed a front yard variance for the porch was required.

Mr. Montague asked where the measurements were taken from.

Referring to the survey, Mr. Rush testified that currently the setback of the wall from University Ave. is 22 feet. The existing steps, from the existing structure, measure 15.1 feet from University Ave. This proposal will have the wall at 22 feet and the front steps at 19 feet. The non-conformity at University Avenue will be decreased by 4 feet. At the Taft street frontage, the applicant will be using existing walls and foundations as much as possible because he wants to re-construct his dwelling “in place”.

Mr. Rush testified that the existing setback from Taft Street is 12.6 feet and will remain 12.6 feet; however, there is an existing chimney that extends 2 feet into the setback. The chimney will be removed.

Mr. Voytus asked if this proposed construction was essentially a tear-down.

Mr. Rush answered that the applicant will be using existing walls.

Mr. Rush testified that 30% of the houses on University Avenue exceed FAR. He pointed out the existing house immediately to the west on Lot 3 is 5% over on FAR; therefore, what the applicant is proposing is not out of context with the neighborhood. Mr. Rush noted that the applicant is proposing a wrap-around porch which will utilize the two existing front walls. That area is 90 sq. ft. contributes the FAR calculation.

Mr. Siegel asked why couldn't the 140 sq. ft. of FAR be made smaller.

Mr. Rush argued that the porch would be an aesthetic feature. He felt that if the porch was lost, the whole design would suffer.

Mr. Voytus believed that the applicant was essentially building a new house. He wanted to know why the applicant can't just build a new house in compliance.

Mr. Rush explained that he was trying to keep the whole design together without losing 140 sq. ft. from one of the living spaces.

Mr. Siegel asked why the applicant needed 140 sq. ft. more than what is allowed.

Mr. Maluga testified that the original application had greater FAR. He felt he had responded to the advice recommending that the FAR be made smaller. Mr. Maluga stated that he had reduced the proposed livable area as much as possible. The 140 sq. ft. of excess, 94 sq. ft. comes from the porch.

Mr. Maluga believed that the homes in his neighborhood pre-dated FAR. He submitted Exhibit A-5, photos of the neighboring homes which exceed FAR. The Board could use this exhibit to help them decide whether 1.4% FAR that he is proposing is a detriment or not. Mr. Maluga believed that 5 Taft Street, directly behind his home, has a 3 ½% excess of FAR. He testified that 2 out of 3 houses on Taft Street exceed the allowable FAR. Mr. Maluga discussed the bulk of the neighboring homes on University Ave. He testified that 7 out of 25 homes within 200 sq. ft. radius exceed FAR.

Mr. Siegel asked Mr. Maluga if these homes shown in Exhibit A-5 are comparable to what he is proposing. Mr. Siegel noted that if Mr. Maluga's proposals were approved and constructed, his house will be one of the largest on University Ave.

Mr. Maluga testified that 65% of his neighborhood is commercial. He noted that Exhibit A-6, photos of these commercial properties. Mr. Siegel didn't believe this exhibit was relevant. Mr. Voytus recommended that Mr. Maluga focus his testimony on neighboring homes which have FAR similar to what he is proposing.

Mr. Maluga referred the Board to Exhibit A-5. He pointed out that 5 Taft Street has 351 square feet in excess of FAR. His plans for 15 University Ave. have an excess of 140 sq. ft. in FAR.

Mr. Siegel asked Mr. Maluga if he knew when 5 Taft Street was constructed. Mr. Maluga answered that he was unsuccessful in finding that out. Mr. Montague believed that house was probably built before the FAR regulations took effect.

Referring to Exhibit A-5, Mr. Maluga described 7 University Ave. That house has 25 sq. ft. in excess of FAR.

Mr. Maluga believed the proposed additions, if approved and constructed, would not make the house the largest nor make it the smallest in the neighborhood analysis.

Mr. Montague reminded Mr. Maluga that the proposed rooms were still very large. He did not believe the proposed porch was not the only items driving the large FAR. Mr. Maluga mentioned the possibility of removing the proposed porch. Mr. Montague reminded Mr. Maluga of the large proposed second floor and the proposed wing.

Mr. Siegel suggested that testimony be given on the positive criteria for granting this "D" variance. This testimony should give proof that these 140 square feet of FAR advance the cause of municipal land use zoning and planning. How will these proposed large rooms help the residents of Chatham?

Mr. Maluga quoted from the LDO requirement for providing open light, air, public health, safety be required. He felt that the proposed porch would provide open space.

Mr. Siegel pointed out that light and air have to do more with a “C” variance argument. He explained the reasons for the bulk ordinance. He asked Mr. Maluga to explain the reason for the 140 sq. feet of proposed bulk.

Mrs. Maluga testified that the existing shed of 100 sq. ft. will be removed. This shed is very close to the neighbor behind them and blocks the neighbor’s light and air. Mr. Siegel confirmed with Mrs. Maluga that the demolition of the shed was included in the FAR calculations. The proposed master bedroom measures 16 ft. by 15 ft. The proposed family room measures 16 ft. by 17 ft.

Mrs. Maluga testified that she will be planting landscaping all around her house. She believed these plantings will limit the impact of the proposed construction on the neighborhood.

Mr. Siegel asked the Malugas how these proposed additions, the 140 sq. ft. over the allowable amount of bulk, would advance the goal of good municipal zoning for the Borough.

Mr. Maluga explained how the proposed porch would be a better alternative.

Mr. Infante brought up the possibility of Mr. Maluga reducing other portions of the house and still keeping the porch.

The attorney for the Malugas asked the Board if the applicant received approval for the two set back variances and a denial on the FAR variance, could they re-submit plans to the Construction Office that confirm to FAR regulations and not have to return to the Board. Mr. Voytus and Mr. Siegel answered yes.

Mrs. Maluga asked the Board to vote on the front yard setbacks and the FAR variance separately.

Mr. Siegel reminded the Malugas that they have presented proofs for negative criteria; however, their positive criteria for FAR seems weak so far. He reiterated the question of whether their proposed FAR advances the causes of good zoning in the Borough.

Mr. Voytus brought up the question of whether this house, with the proposed additions, would be appropriate for the applicant’s neighborhood.

Mr. Maluga still felt that including the proposed porch in the plans would be a better alternative. He and Mrs. Maluga reiterated their request that the Board vote separately on the front yard setback variances and the FAR. They had no further testimony.

There were no comments from the public.

Mr. Voytus asked for comments from the Board.

Mrs. D'Ambrosio believed that if the additions were approved, the applicant's house will be very large for the immediate area. She was very concerned about the proposed bulk. She didn't feel any special reasons were given to grant the FAR variance. Mr. Montague commented on the large sizes of the proposed rooms. He reminded the Malugas that the bulk of their house has to be in reasonable scale with the size of their property. Mr. Selen felt if the porch was eliminated, the rest of the proposed excess would still have to be justified. Mr. Cifelli noted that he hadn't heard any real positive criteria. Mr. Hoffman felt that the proposed additions were not in keeping with the applicant's neighborhood. He believed the 140 sq. ft. could be reduced and/or brought into conformity. Mr. Voytus said the design for the porch is beautiful; however, he has difficulty accepting the proposed FAR.

A motion was made/seconded to approve the two front yard variances. A roll call vote was taken: 7 – yes 0 – no.

A motion was made/seconded to deny the FAR variance. A roll call vote was taken: 7 – yes 0 – no.

Mr. Voytus announced that the Board will hold a Special Meeting on Tuesday, April 8, 2008 at 7:30 p.m. in the Council Chambers. The following applications will be heard at this April 8th meeting:

Behrmann - 9 Red Road

McFadyen – 14 Pihlman Place

Mr. Voytus announced the Board will also be holding their Regular Meeting on Wednesday, April 23, 2008 at 7:30 p.m. in the Council Chambers. The following applications will be heard at the April 23rd meeting:

Noah's Bagels, Inc. – 465 Main St.

Peters – 58 Van Doren Ave.

The meeting adjourned at 11:10 p.m.

Respectfully submitted:

Elizabeth Holler
Recording Secretary

