

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

April 8, 2008

7:30 p.m.

Chairman Walter Voytus called this Special 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, Herb Ramo.

\*arrived at 7:32 p.m.

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

Members Absent: Helen Kecskemety.

Behrmann – 9 Red Road

This is a continuation from the December 19, 2007 and March 26, 2008 meetings.

James & Heather Behrmann, the applicants, were present and remained under oath from the previous hearings.

Douglas Miller, architect for the applicant was present, and remained under oath.

Mr. Behrmann discussed his family's difficult car situation. One car has to be parked in the street, and the second car is parked in the driveway. He testified his current garage, at the rear of his property, is located down a long hill and is unworkable. His neighbors also park on the street, making Red Road, at times, capable of only one-way traffic. Mr. Behrmann is proposing to take the current garage and put it under the deck. The garage would then be more assessable and the over-all bulk of the house would be reduced. This proposal would also open up his backyard and make it more usable.

Mr. Miller referred the Board to Exhibit A-2, and pointed out the long narrow lots existing on Red Road. He stated that moving the applicant's garage and removing the existing asphalt would open up more green space. The new garage would provide storage for the applicant's cars and be more aesthetically pleasing for the neighborhood. This proposal would give the applicant's family a safer way to access their garage than the present way of dealing with the steep slope under icy conditions.

Mr. Miller noted that at the last hearing, the Board had indicated that the proposed garage was too large. He and the applicant have now revised the plans and eliminated every possible square foot of garage space that wasn't needed. Mr. Miller referred the Board to page A-2 of the plans. Mr. Miller said he has now designed the smallest 2-car garage possible, measuring 20 ft. by 22 ft. The only additional space in the proposed garage is the new proposed staircase. The existing staircase is very tight, winding and awkward.

This staircase will be removed and a more normal staircase, accessing the garage from the kitchen, will be constructed.

Mr. Miller reminded the Board that the applicant has a historic house with three levels. The finished attic contributes 590 sq. ft. of FAR. He noted that the existing front porch contributes 153 sq. ft. of building coverage. Mr. Miller stated that a two-car garage is not unusual for the neighborhood. He reviewed the types of garages he and the applicant had observed in the neighborhood.

Mr. Miller reported he had done an analysis on other houses on 50 ft-wide lots with attics in the applicant's area. This analysis should prove what the applicant is proposing is not out of the norm. He submitted this analysis as Exhibit A-3.

Mr. Siegel reminded Mr. Miller that the Board wants to see the whole neighborhood and what the bulk looks like in the whole neighborhood, and what the applicant is proposing compares to that neighborhood bulk. He suggested the testimony focus on the lots facing Red Road between Fairmount Ave. and Fuller Ave.

Regarding the Red Road properties, Mr. Miller reviewed the building coverages and FARs for Lots 17, 14, 12, and 13. Mr. Voytus concluded that 40% of the houses are over the allowable FAR and 60% are under the allowable FAR.

Mr. Siegel noted that this testimony indicated that the applicant's house, with the proposed changes, would have more FAR than the average house in the immediate area.

Mr. Miller stated that driving around the applicant's neighborhood, it's not really evident which lot is large and which is small. It's more the perceived scale of the houses in the area. The Berhrmanns' house was built long before the zoning ordinances went into effect. Certain factors, like the finished attic, have contributed more FAR into the calculations.

Mr. Voytus pointed out that finished attics are not the issue. The measurement in the attics, particular if it goes beyond a 5 feet height, is the issue.

Mr. Miller felt this particular application is about the calculated numbers. It is about people's perceptions. He stated that the proposed addition would be an improvement to the applicant's property, not a detriment.

Mr. Voytus asked how much of the existing driveway would be removed. Mr. Miller answered about 200 sq. ft.

Mr. Siegel asked if the attic, measuring 595 sq. ft., was removed from the FAR calculations, would the house still be 100 sq. ft. over the allowable. Mr. Miller agreed. Mr. Siegel noted that if the porch measurements were eliminated from the FAR calculations, the house would still be over on FAR.

There were no more questions from the Board for Mr. Miller or Mr. Behrmann. There were no questions from the public.

Mr. Voytus asked for comments from the Board.

Mr. Selen felt that the proposed plans would bring more green space to the applicant's property. He believed the impact on the neighbors would be minimal. Mr. Ramo said he both drove by and walked by the property and didn't feel the proposed addition would be a problem. Mr. Infante noted that an increase in FAR would result; however, he believed that moving the garage to the main structure would be a better situation than what exists now. Mr. Montague brought up the benefit to the community is that this new garage arrangement, is taking cars off the street. Also, as viewed from the street, the increase in bulk, if this is approved and constructed, will not be seen. Mrs. D'Ambrosio pointed out that Red Road is a very busy road and the plans will be taking parked cars off the street. She also pointed out that it is very hard, safety-wise, to walk down to the existing garage. Mr. Cifelli noted that the applicant returned with minimized plans for his garage. The garage is a real necessity for the Behrmanns. Mr. Hoffman pointed out that the Behrmanns have a historic home on a relatively small lot. He felt the new proposed garage arrangement would not be a detriment to the neighborhood. Mr. Voytus noted that the proposed changes will provide more safety to the applicant's home. Also, the visual impact of the property will be improved.

A motion was made/seconded to approve this application as presented. A roll call vote was taken: 8 – yes 0 – no.

#### McFadyen – 14 Pihlman Place

John McFadyen, the applicant, was sworn in to testify.

John Van Lenten, the architect, was sworn in.

Mr. McFadyen stated this his current address is 4 Brown Court, Mendham NJ. He will be moving into 14 Pihlman Place in the near future.

Mr. McFadyen testified that he had purchased 14 Pihlman Place in October, 2007. He noted that this house was built in 1948 and had only one owner. An elderly lady lived in this house, was hospitalized, and passed away. The pipes in the house froze and burst. The first floor level is completely gutted. The heating system is very limited. The second floor the lower sheet rock is gone. The house was put up for auction and Mr. McFadyen purchased it. Very minimal improvements were done to this house. At some point the masonry steps were re-built and a new furnace had been installed. Mr. McFadyen is proposing to create 3 bedrooms and 2 bathrooms in this house.

Mr. Van Lenten testified that the applicant proposes to renovate and modernize the first floor. New siding and new roofing will be constructed. New energy efficient windows will be installed. Mr. Van Lenten testified that the existing rooms are very small and inadequate by today's standards. The plans propose a small addition to the rear of the

house for a family room. The existing kitchen will be expanded towards the rear of the garage. The garage will be pulled forward to make the kitchen larger. The dining room will be opened to the living room and family room. A new front portico will be constructed. This new portico will provide a safer means to enter the house.

Mr. Van Lenten discussed the proposed plans for the second floor. A new master bathroom will be constructed within the foot-print. This new bathroom takes up space from one of the existing bedrooms. An existing bathroom will be renovated. A small addition will be constructed towards the front to include two small closets.

Mr. Van Lenten testified that the proposed family room on the first floor requires a side yard variance and a rear yard setback variance. The front addition for the garage, to allow for the kitchen expansion, will require no variances because it meets the front yard setback requirements. Regarding the second floor, the proposed rear addition over the existing first floor, will require a side yard setback variance and a rear yard setback. The small addition over the front portion of the garage will require a side yard setback variance. The proposed plans also require a FAR variance.

Mr. Van Lenten put the proposed elevations up on the easel and pointed out the proposed changes. He testified that the proposed plans will “spread the impact out over the property” rather than constructing one large addition off the rear of the house. He pointed out the new proposed windows which will be arranged to ensure the privacy of the next door neighbor.

Mr. Voytus asked for testimony on the proposed deck. Mr. Van Lenten stated the deck will measure 15 ft. by 10 ft. 8 in. The deck will have access from the family room and will be adjacent to the kitchen.

Mr. Van Lenten submitted the following:  
Exhibit A-1, comparison of properties on Pihlman Place.  
Exhibit A-2, area calculations  
Exhibit A-3, tax map  
Exhibit A-4, aerial view #1  
Exhibit A-5, aerial view #2  
Exhibit A-6, neighborhood photo-board  
Exhibit A-7, neighborhood front facades

Regarding Exhibit A-1, Mr. Van Lenten explained how he made the calculations for the 17 neighboring properties. He testified that the applicant’s proposed plans are below the average for this particular neighborhood streetscape. He noted the applicant’s lot is small for that particular zone. It’s almost half of what it should be.

Mr. Van Lenten held up and discussed the aerial photos of the applicant’s and the neighboring properties. He pointed out that a number of homes on Pihlman Place have put on additions similar to what the applicant is proposing. He testified that the proposed addition at the rear of the house will not be seen from the front.

Mr. Voytus asked for testimony on the side yards. Mr. Siegel confirmed with Mr. Van Lenten that the two side yards will not be changing. Mr. Van Lenten submitted Exhibit A-8, survey of the property dated 11/5/07.

Mr. Montague believed technically the front yard setback is incorrect. He reminded Mr. Van Lenten that the ordinance requires the front yard setback be measured from the front steps. He pointed out that the front yard setback is close to being non-conforming and would like to see a dimension for it. Also, Mr. Montague informed Mr. Van Lenten that the ordinance requires the deck to have a 3 ft. setback from the side of the house; otherwise, a variance is needed. Mr. Van Lenten answered that a variance was being sought for that situation. He will give testimony for that variance. He pointed out how the neighboring house extends beyond the proposed deck. Mr. Siegel recommended Mr. Van Lenten give testimony on why the proposed deck has to be this particular size.

Mr. Van Lenten said that the deck will be making good use of the yard. It will be part of the family's interaction section at the rear of the house.

Mr. Voytus confirmed with Mr. Van Lenten that the neighboring property at the rear is quite a distance away. Mr. Van Lenten held up the aerial photo to show the surrounding properties. Mr. Montague pointed out that one of the properties (on Hillside Ave.) at the rear of the applicant's lot is undergoing a subdivision. Mr. Voytus noted that the rear yard issue is really less intrusive than the side yards in relation to the neighbors. Mr. Van Lenten suggested that the deck be reduced 3 feet on the side and increase to the rear by 2 feet. Mr. Voytus agreed that revision would then eliminate the side yard setback variance for the deck.

The Board confirmed with Mr. Van Lenten that the proposed family room and garage will both be one-story.

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

Mark Hamilton, 12 Pihlman Place, the applicant's next door neighbor, was sworn in to testify.

Mr. Hamilton stated that he was opposed to these plans. He felt the proposed additions would be massive and less than average for the neighborhood in regard to FAR and coverage. Generally the lots are small on Pihlman Place, and this proposed project would be significantly larger than any thing else in the neighborhood. Mr. Hamilton pointed out that the applicant's proposed rear addition will be only 9 feet away from his property. He believed he will be facing a wall right on his property line if the FAR variance is granted. On Exhibit A-6, Mr. Hamilton pointed out where his backyard is located.

Mr. Hamilton testified that currently there are an unusual number of abandoned houses on Pihlman Place. He believed that in the near future there will be a significant turn-over of these properties which are in disrepair. He expressed concern that the Board will be approving large FARs in the future in compacted neighborhoods like his own.

Mr. Voytus asked Mr. Hamilton if he preferred this house to remain vacant.

Mr. Hamilton disagreed, he would like this proposed project to progress as quickly as possible; however, he would like it to stay within reason. He would not oppose to some variances for an addition that other homes on Pihlman Place may already have. He just did not want a large increase of FAR being so close to his property line.

Mr. Van Lenten noted that Mr. Hamilton had a one-story addition at the back of his house. He asked what that addition was used for.

Mr. Hamilton answered that it was a family/playroom. A previous owner had put that addition on. When Mr. Hamilton bought the house, the deck already existed.

Mr. Voytus asked for comments from the Board.

Mr. Montague noted that there are only 3 properties in the immediate area that are over on FAR. Only two properties are over on building coverage. He pointed out that the FAR is being driven by the rear addition. He was also concerned that the proposed construction would be close to the next door neighbor's home. Regarding the "D" variance, Mr. Montague stated he hasn't heard any testimony proving that this proposed addition would be beneficial to the Borough.

Mr. Cifelli agreed with Mr. Montague's point of whether the proposed addition would be beneficial to the town.

Mr. Voytus believed the proposed renovations would be a definite improvement. For instance, the current kitchen is unsafe and undersized. He would like to see the deck redesigned so it won't intrude on the next door neighbor's property. Mr. Voytus could accept the side yard setbacks. He would like to see an official measurement of the front yard setback. He felt the proposed plans would be in keeping with the streetscape and would improve the neighborhood.

Mr. Hoffman noted that he hadn't heard much testimony on how granting this "D" variance would advance the causes of zoning or benefit the town. He had reservations about the FAR; however, he felt the house with the proposed additions will remain a reasonable size, not a McMansion.

Mr. Cifelli felt the proposed plans were aesthetically pleasing; however the applicant's personal needs cannot be a reason to grant a "D" variance.

Mr. Infante noted that the applicant had bought the house knowing that it was 6 feet from the next door neighbor's property line. Having the applicant's house become larger would seem to compound the problem. If this FAR is approved, it may open the door to other properties being beyond the scope of what the property is intended to be and beyond what the zoning ordinance requires.

Mr. Ramo said he could accept the proposed FAR. He felt an abandoned property, like this one, should be inhabited as soon as possible.

Mrs. D'Ambrosio said she usually cannot accept large FAR proposals; however, this is a very unusual situation. The existing house is very small, measuring 1900 sq. ft. She felt the applicant was trying to make it livable.

A motion was made/seconded to approve the application as presented, subject to reducing the deck by 3 feet on one side and extending it by 2 feet back. A roll call vote was taken: 5 – yes 2 – no.

#### Old/New Business

Mr. Voytus reported that the June 25<sup>th</sup> Board meeting has to be re-scheduled. The Board of Freeholders will be using the Council Chambers that night. He will be sending a note to Board members to consider some alternate meeting dates.

Concerning the Omnipoint case, Mr. Voytus reported that the judge reversed the Board's decision. Mr. Siegel said that the judgment will be a direction to the Board to approve the application. The attorney for Omnipoint will write a judgment, submit it to the judge, and give a copy to Mr. Siegel. Mr. Siegel will have five days to object to it. He hasn't received this copy yet. The Board suggested if Mr. Siegel did not receive a copy of the judgment by tomorrow, he should definitely ask for it. He reviewed what the Board had requested of Omnipoint for this installation. Mr. Voytus brought up the question of whether the Board should appeal this judgment. Mr. Siegel reminded the Board that all of the testimony given was supporting the position of application. The people opposing the application did not spend any money to get witnesses. The only witnesses were neighbors who expressed unhappiness about the proposed installation.

After further discussion, Mr. Siegel said he will communicate with the applicant's attorney regarding the agreements made for the plantings and the fence, particularly the height.

The next Zoning Board of Adjustment meeting will be held on Wednesday, April 23, 2008, 7:30 p.m. in the Council Chambers, Chatham Municipal Building.

At 10:20 p.m. the meeting adjourned.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary

