

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT

April 26, 2017

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. in the Council Chambers, Chatham Borough Hall. He stated that adequate notices for this Zoning Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Chrmn. Michael Cifelli	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert		X
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia – 1 <sup>st</sup> Alternate		X
Alida Kass	X	
Patrick Dwyer, Esq.	X	

Resolution #ZB 2017-09

The minutes of the March 22, 2017 Zoning Bd. of Adjustment meeting were approved as amended.

Old/New Business

Mr. Montague reported on the Planning Board meeting of April 5, 2017. At that meeting, a Planning Study for Post Office Plaza was held. The Board will also look at a request to amend the building height regulation which is currently set at 35 feet. Mr. Montague also reported that the Planning Bd. will be hearing some steep slope applications in the future.

Public Comment

No one came forward.

Resolutions

Application ZB #14-29

4 Watchung Avenue, LLC

4 Watchung Avenue

Appeal of Zoning Official Decision/Site Plan Approval

Block 134, Lot 1

A court stenographer for the applicant was present to record the vote. Attorney Podvey, attorney for 4 Watchung Ave., was also present.

Attorney Dwyer summarized this application which was seeking permission to store automobiles at Block 134, Lot 1. This storage has been happening for years on this property. The applicant was seeking an appeal of the Zoning Officer’s Notice of Violation issued in September 2014. The applicant believed that this storage had been a pre-existing nonconforming use and a

variance had been granted in 1971. After listening to the testimony, the Board had denied the application.

A vote was taken memorializing the Board's decision of whether or not the Appeal should be granted. Mrs. Kass made a motion to deny the Appeal of the Zoning Official's Decision. Mr. Infante seconded the motion. Mr. Montague was asked to abstain from voting. A roll call vote was taken:

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

Application ZB #17-01  
Linda & Ronald Francesco  
31 Broadview Terrace  
Side Yard/Building Coverage  
Block 97, Lot 18

Attorney Dwyer summarized this application which was seeking to expand into the right side yard setback to add a vestibule and mudroom to an existing house. A building coverage variance was also needed. After listening to testimony, the Board granted both variances. Mrs. Kass made a motion to approve the resolution taken, confirming the Board's approval of the Side Yard Variance and the Building Coverage Variance. Mr. Montague seconded the motion. A roll call vote was taken:

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

Application ZB #14-29

At this point, Attorney Dwyer returned the Board to the second resolution for 4 Watchung Ave., LLC. He noted that a motion had not been made or seconded on the second resolution. Mrs. Kass made a motion to approve the resolution denying the variance for automobile storage at 4 Watchung Ave. Mr. Infante seconded the motion. A roll call vote was taken:

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

New and Returned Applications

Chrmn. Cifelli announced the status of the following applications:

Application ZB #17-02: Evans & Morris: 43 Rowan Rd. – will carry to the May 24, 2017 meeting.

The following applications will be heard tonight, time permitting:

Application ZB #17-03: Glenbrook Properties, LLC – 66 No. Hillside Ave,

Application ZB #17-04: Kotarba – 113 Weston Avenue

Application AB #17-07: Kelley – 61 Highland Avenue

Application ZB #17-06: Klein – 33 Jackson Avenue

Application ZB #17-03

Glenbrook Properties, LLC

66 North Hillside Avenue

Side Yard/Front Yard

Block 55, Lot 5

Board member Haeringer recused himself from the hearing, because he lives within the 200-ft radius of the applicant's property.

Gary Haydu, Esq., attorney for the applicant, came forward. He called his first witness forward.

Gary Worley, P.L.S., the applicant's land surveyor, was sworn in to testify. Mr. Worley submitted his professional credentials to the Board. The Board accepted them.

Mr. Worley testified that he was involved in the creation of the plan for this application. Mr. Worley had drafted part of the plan. He testified that he was familiar with the applicant's property and neighborhood.

Mr. Worley described the existing dwelling, which is an older house, one and a half stories, measuring approximately 821 sq. ft. A driveway runs down the right side of the house, and enters the rear of the property. An existing block patio exists in the backyard. It is attached to the dwelling. A framed shed sits on the rear left corner of the property. The property slopes from the front to the rear.

Mr. Worley testified that the applicant is seeking to add a one car garage to the rear of the property. There is also a proposal to expand the existing half story upward. The height of the home will increase a little. Mr. Worley testified that the new height will conform with Borough regulations.

Chrmn. Cifelli asked if the proposed garage had any factors in driving the variances being sought.

Mr. Worley testified that the proposed garage is triggering the impervious coverage.

Mr. Montague asked about what appeared to be a body of water at the rear of the property.

Mr. Worley clarified that there is a drainage ditch that runs to the rear of the property and extends to a number of neighboring properties. The applicant will re-trench that situation to facilitate a better water flow. The ditch tends to clog and prevent the flow of water.

Chrmn. Cifelli confirmed with Mr. Worley that if the application was approved, the applicant would follow any directions on water run-off as per Mr. DeNave, the Borough Engineer. This re-trenching would be included.

Attorney Haydu confirmed with Mr. Worley that the side yard setbacks and the front yard setback are pre-existing non-conforming situations. Attorney Haydu also confirmed with Mr. Worley that the existing violation of the right and left side yards will remain, if the proposals were approved.

Chrmn. Cifelli reviewed the three variances being sought. Attorney Haydu noted a fourth variance, a lot coverage variance, was needed for an additional 2.4%. Chrmn. Cifelli reviewed the front yard setback with Mr. Worley. They agreed a pre-existing nonconforming use exists with this situation.

Attorney Dwyer asked for testimony on how the proposed driveway arrangement would contribute towards lot coverage. Attorney Haydu explained that an effort is being made to create a reasonable access to the garage, that will be placed at the rear of the property. The vehicles need room to safely maneuver back there.

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

Joyce Martinsen, 64 North Hillside Ave., stated that her property was next door to the applicant's property. She had photos of the applicant's existing driveway, which, she felt, ran directly on her property line.

Chrmn. Cifelli reminded Mrs. Martinsen that, at this point in the hearing, only questions to this witness can be submitted. Comments can be submitted later in the hearing.

Mrs. Martinsen said there had been some question of whether an existing fence was on the applicant's property. Hence, she was concerned about how the correct property line ran.

Mr. Worley testified that when he had surveyed the property, he had observed the chain link fence that Mrs. Martinsen is referring to. He testified that the chain link sits on the property line. An iron marker sits on the front of the property line; however, there is not one in the back.

Mrs. Martinsen stated that ultimately she and her husband would like the chain link fence to be removed.

Attorney Haydu stated that the fence would be removed.

Chrmn. Cifelli asked Mrs. Martinsen that if the application was approved, with a condition stating that the chain link fence be removed, would it alleviate her concerns about the property line?

Mrs. Martinsen answered yes. However, she pointed out that the chain link fence travels through the ditch in the rear and ends up on the other side. Water runs into the ditch.

Chrmn. Cifelli assured her that the fence will be removed and the ditch will be taken care of.

Jim Martinsen, 54 North Hillside Ave., stated that he had photos to substantiate his wife's statements. At Attorney Dwyer's request, Mr. Martinson will submit them at a later time when it was appropriate.

Attorney Haydu called his next witness, Miroslaw Lewandowski, the applicant's architect, was sworn in to testify. He submitted his professional credentials to the Board. The Board accepted them.

Mr. Lewandowski testified that the existing house has 3 bedrooms and one bathroom. The proposal is to keep the home for one family, with 3 bedrooms, but with two bathrooms. A large family room will be created on the first floor. Mr. Lewandowski pointed out that there are 2 ½ story homes already existing on the street. He felt the proposals will look attractive from the street. The visibility of the proposed garage will be absent from the streetscape. Currently there is no garage on the property. Only a driveway currently exists and two strips of concrete.

Chrmn. Cifelli reviewed the proposals for the home's interior. Mr. Lewandowski stated that some changes had been made to the interior, after the plans had been submitted to the Board. Mr. Lewandowski confirmed with Chrmn. Cifelli that these interior changes will not affect the proposed front yard variance, the left side yard variance, and the side yard rear variance. Also, the lot coverage variance will not be influenced by the latest changes to the home's interior.

Mr. Montague pointed out that the elevations needed dimensions.

Chrmn. Cifelli stated that he was satisfied that the amendments to the application do not substantially change the application. He didn't believe a re-application needed to be made.

Mr. Lewandowski submitted the following:

Exhibit A-1: the revised first floor plan.

Exhibit A-2: existing basement plan

Mr. Lewandowski testified that the proposed fireplace will not trigger a variance. He also testified that the basement is currently unfinished. Chrmn. Cifelli confirmed with Mr. Lewandowski that all 3 bedrooms in the plans will be on the same floor. Also, the footprint of the existing house will remain the same.

Attorney Haydu confirmed with Mr. Lewandowski that the house, with the proposals, will blend in well with the neighborhood.

Attorney Dwyer asked for the distance from the neighbor's house to the property line.

Mr. Worley, the applicant's surveyor, returned to the easel. Measuring from scale, Mr. Worley stated that the house to the right is 8.5 feet off of the property line. The house on the left is 5.5 feet off of the property line. With the proposals, the house's roof line will reach 27 feet 9 inches. Mr. Lewandowski testified that the height of the proposed dwelling will be similar to the heights of the other dwellings in the immediate area. The height conforms with the Borough ordinance.

Chrmn. Cifelli asked when was the house built. Attorney Haydu estimated in the late 1950s or early 1960s.

Chrmn. Cifelli asked that testimony be given concerning how much, if any, impact would the proposals have on the light and air in between the properties.

Chrmn. Cifelli asked that in order for the plans to conform to the ordinances, could space could be created to not only be attractive, but functional as well. Mr. Lewandowski answered that the house could not be functional if the proposals were made to conform with Borough regulations. In that situation, the bedrooms would have to be long and narrow. Little space would remain for an extra bathroom.

Mr. Lewandowski testified that the proposals were the best alternatives for the proper expansion and development of this house.

There were no further questions for Mr. Lewandowski.

Attorney Haydu asked that Vincent Scordley, one of the principals and one of the owners Glenbrook Properties, LLC, come forward. Vincent Scordley was sworn in to testify.

Mr. Scordley testified that he had been involved in the proposed development of the subject property. He stated that he was familiar with the neighboring properties. Mr. Scordley testified that the proposed plan is consistent with the surrounding houses and their heights. As it currently exists, the house appears to be one of the lower homes in the neighborhood.

Mr. Scordley testified that the proposals will bring the house more in line with the neighboring roof lines. He also testified that the proposed design will be consistent with the neighborhood.

The public had no questions for Mr. Scordley.

Chrmn. Cifelli asked for comments from the public.

Joyce Martinsen, 64 North Hillside Ave., was sworn in. Mrs. Martinsen submitted three colored photos and labeled them as Exhibit O-1. She stated that she and her husband believed the applicant's home, with the proposals, will fit in well with the neighborhood. However, she had concerns about the driveway, water run-off, and the property line. Mrs. Martinsen believed that the drainage from the current house at 66 No. Hillside currently runs down the driveway and is

caught on her property at 64 North Hillside. Mrs. Martinsen noted that her property has a lower elevation.

Mrs. Martinsen asked for reassurance that a drywell will be installed, or a tie-in for the leaders and gutters to carry off the run-off from her property line. She also discussed the placement of the proposed garage window, looking out on her backyard.

Attorney Haydu informed the Board that the window on the garage will be on the interior side, not on the Martinsen side.

Attorney Dwyer confirmed with Mrs. Martinsen that the chain link fence will be removed.

David Thompson, 63 North Summit Ave., was sworn in to testify. He stated that his property is directly behind 66 North Hillside Avenue. Mr. Thompson was happy to hear the chain link fence will be removed and that the ditch will be re-graded. However, Mr. Thompson had concerns about a former flowerbed washing into the ditch, causing blockage. He asked for assurance that the ditch will be kept free and clear.

Chrmn. Cifelli stated that Mr. DeNave, the Borough Engineer, would require functional drainage. To achieve functional drainage, the ditch would have to be free and clear of debris. Chrmn. Cifelli didn't believe the Board had the authority to require future maintenance of the ditch. However, if an issue arises with the ditch, the residents should speak with Mr. DeNave.

Attorney Haydu closed his application and submitted it to the Board.

Chrmn. Cifelli asked for comments from the Board. Mr. Infante believed the proposed upgrade to the property is commendable and will be good for the neighborhood. He believed that the detriments outweigh the benefits with this application. Mrs. Kass felt the improvements were modest. She believed the four variances being sought do not really impact anyone. Mrs. Kecskemety complimented the applicant for using a house that already exists; however, still adding extra bedrooms and bathrooms that are needed. Mr. Montague agreed with Mrs. Kecskemety's point about keeping an existing home, making improvements; however, not doubling its size.

Chrmn. Cifelli reviewed the agreed upon conditions, should the application be approved:

- 1) Entirely remove the existing chain link fence
- 2) The placement of the garage window will be moved from the neighbors' side to the interior side
- 3) The ditch in the rear will be re-trenched per Mr. DeNave's requirements
- 4) The applicant will follow any requirements on run-off as stipulated by Mr. DeNave, to prevent impacting the neighboring properties on the down slope
- 5) The revised plans will be submitted to Mr. DeNave, showing the recent changes made to the first floor and the proposed height of the roof line

Mrs. Kass made a motion to approve Application ZB #17-03: Glenbrook Properties, LLC – 66 North Hillside Ave. – with the agreed upon conditions. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mr. Montague	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes
Mrs. Kass	-	yes
Chrmn. Cifelli	-	yes

At 9:22 p.m. a break was taken in the meeting.

At 9:32 p.m. the meeting resumed.

At this point, Chrmn. Cifelli noted that Application ZB #17-07: Kelley – 61 Highland Ave. can, at least, be started at tonight’s meeting.

Chrmn. Cifelli announced that Application ZB #17-06: Klein – 33 Jackson Ave. will be carried to the May 24, 2017 Zoning Bd. of Adjustment meeting.

Mr. DeNave, the Borough Engineer/Zoning Official was now present at the meeting.

Mr. Haeringer returned to the Board table.

Application ZB #17-04

Christine Kotarba

113 Weston Avenue

Building Coverage

Block 68, Lot 7

Christine Kotarba, the applicant, was sworn in to testify.

Ms. Kotarba testified that the house was built in the early 1950s. She is the third owner of the property. Ms. Kotarba didn’t believe any improvements had been made to the structure. The existing home has 3 bedrooms and one integral garage. The house sits on property measuring 50 ft. by 125 ft.

Ms. Kotarba testified on the smallness of the existing dining room. Currently, a person cannot walk freely around the dining room table. The existing kitchen does not have room to even have stools for sitting and eating at a counter. No family room exists on the first floor. The current living room measures 12 ft. by 17 ft. and contains a hallway that is about 4 feet wide.

Ms. Kotarba stated that 89 sq. ft. of building coverage, beyond the allowable amount, is being sought. This square footage is being proposed for the back of the property. It would allow for space to expand the kitchen, add a family room, and a breakfast area. Also, the bathroom on the second floor could be expanded. Ms. Kotarba felt her proposals would bring the house up to modern standards. There is no FAR variance being sought.

Mark Stefanelli, the applicant's architect, was sworn in to testify. He submitted his professional credentials to the Board. The Board accepted them.

Chrmn. Cifelli asked if the proposed push-out at the rear of the house would extend evenly across the back of the house.

Mr. Stefanelli answered that he will expand on that situation.

Mr. Stefanelli testified that the applicant's lot measures 50 ft. by 125 ft., which he felt was slightly undersized by about 3,000 sq. ft. The lot is not the typical required size for the Borough. The proposal exceeds the allowable building coverage by less than 2%.

Mr. Stefanelli stated that he and the applicant tried hard to set the proposed addition back. It doesn't go straight across the back. An effort was made to prevent encroachment on the side yards.

Mr. Stefanelli submitted Exhibit A-1: two colored photographs: one photo shows the applicant's existing home; the other photo shows the two homes to the right of the applicant's house.

Mr. Stefanelli testified that a small parking lot is being proposed for the front of the property. This small parking area will be within the lot coverage regulations.

Mr. Stefanelli reviewed the existing conditions of the house. He reviewed the proposed changes as testified earlier by Ms. Kotarba. A small wooden deck, measuring 110 sq. ft., is being proposed. Mr. Stefanelli reviewed the proposed rear elevation. A stone fireplace is being proposed.

Mr. Montague and Mr. Stefanelli discussed the height of the home with the proposals. Mr. Stefanelli testified that the overall height would be 28 feet, which would be below the ridge height. The addition will not be seen from the street.

Mrs. Kecskemety and Mr. Stefanelli discussed the proposed length of the kitchen.

Mr. Stefanelli testified that the proposals will improve the livability of the house and will bring it up to the neighborhood standards.

There were no questions or comments from the public for Mr. Stefanelli or for Ms. Kotarba.

Ms. Kotarba and Mr. Stefanelli reviewed the heights of the neighboring houses with Mr. Montague.

The applicant's presentation was finished. She and Mr. Stefanelli submitted the application for the Board's consideration.

Chrmn. Cifelli asked for comments from the Board. Mrs. Kecskemety felt it was a good application. Chrmn. Cifelli pointed out that the proposals would not be intrusive in any way. The addition will not be seen from the street. Light and air between properties will not be impacted. Mrs. Kass agreed with Chrmn. Cifelli's comments. Mr. Infante stated that the building stock will be upgraded with these proposals. Mr. Haeringer strongly approved of the application.

Mr. Montague made a motion to approve Application ZB #17-04: Kotarba – 113 Weston Ave. with the applicant to follow any drainage stipulations required by the Borough Engineer. Mr. Haeringer seconded the motion. A roll call vote was taken:

Mr. Haeringer	-	yes
Mr. Montague	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes
Mrs. Kass	-	yes
Chrmn. Cifelli	-	yes

Application ZB #17-07

Paul & Janet Kelley

61 Highland Avenue

Steep Slope Variance (165-14G)

Block 8, Lot 5

The following were sworn in to testify:

Paul Kelley, the applicant

Justin Mihalik, architect for the applicant

Joseph Leyton, planner for the applicant

At this point in the meeting Vincent DeNave, the Borough Engineer/Zoning Official was present.

Mr. Kelley stated he was seeking relief on the Borough's steep slope ordinance. He testified that he will be demolishing his existing home. A new home will be constructed in its place. Mr. DeNave informed him that the proposed construction would involve steep slope soil disturbance. Mr. Kelley testified that variance relief is needed in order to build a walkway to his house. The new house will be built on the footprint of the original home.

Mr. Kelley noted that a berm had been created when the original home was built.

Vincent DeNave, the Borough Engineer/Zoning Officer, was sworn in to testify.

Chrmn. Cifelli asked Mr. DeNave to explain the steep slope ordinance, and the reason for the steep slope variance being sought in this application.

Mr. DeNave testified the steep slope ordinance was enacted in 1999. At that time, the Borough Council had noted that construction was starting to be proposed for steep slope lots, particularly on Fairmount Avenue. One of these lots has construction work being done on it for the past two

years. In 1999, the Borough Council had wanted to limit the disturbance of steep slopes. Mr. DeNave felt the ordinance was largely intended for vacant land in the Borough; however, the ordinance does not specifically state that intention.

Mr. DeNave stated that the applicant, Mr. Kelley, is proposing to expand his driveway and construct a two-car garage. Mr. Kelley is also proposing to expand his front portico area. Mr. DeNave testified that those proposals are the majority of the disturbance being done on a steep slope. He pointed out that all the properties on Highland Ave. have some steep slopes. Mr. DeNave believed that when Mr. Kelley's house was constructed, the slope had been created at that time.

Mr. Kelley testified that the slope in question is in the front of his property. When his house was constructed, the work crew pushed a wall of dirt up that would not have existed otherwise. To help illustrate this point, Mr. Kelley submitted Exhibit A-1: three photos.

Chrmn. Cifelli asked Mr. DeNave what was the intent of the steep slope ordinance.

Mr. DeNave answered that water run-off and erosion were concerns. He testified that the steep slope ordinance was not intended for properties like Mr. Kelley's. Mr. DeNave felt the intent of the ordinance was intended more for an undisturbed lot. Mr. DeNave testified that the proposed application will not create any detrimental effects on the neighborhood. He felt the proposals were tastefully done. Any slopes that will be disturbed will not create a run-off or drainage problem.

Chrmn. Cifelli confirmed with Mr. DeNave that he had sent a letter to the Board dated March 20, 2017.

Mr. DeNave explained that the proposed driveway will be created in the same location as the existing driveway, but will be made wider to accommodate the two-car garage.

Mr. Haeringer confirmed with Mr. DeNave that the steep slope variance has nothing to do with the applicant's new home. Mr. DeNave testified that the proposed new home complies with Borough regulations for height, FAR and set-backs. The steep slope situation is the only issue which needs a variance in this application.

Chrmn. Cifelli and Mr. DeNave discussed the drainage situation for this application. Mr. DeNave felt generally the drainage from this property will run towards the street. On site stormwater controls, such as drywells, will be installed on the property.

Mr. Haeringer asked Mr. DeNave if he saw anything negative about this steep slope application. Mr. DeNave answered that he did not see any negative impacts to the neighbors or in an aesthetic sense.

Chrmn. Cifelli noted that the proposed two-car garage will be constructed below grade; therefore, not contributing to the FAR calculations. Mr. Mihalik stated that of the 16 homes in

the applicant's neighborhood, eleven of them have garages under grade. The applicant's proposed garage is therefore consistent with the entire neighborhood.

Michael Conlon, 57 Highland Ave., was sworn in to testify. Mr. Conlon's home is directly next to the applicant. He testified that he supported Mr. Kelley's application. Mr. Conlon stated that his property had the same type of home and grading that Mr. Kelley is dealing with in his application.

The applicant's testimony was finished. Chrmn. Cifelli thanked Mr. DeNave for giving the Board his input on this application.

Board discussion on the application began. Chrmn. Cifelli felt that the proposals for this particular slope will not produce the negative impacts that the ordinance had contemplated. He will support the application. Mrs. Kecskemety pointed out all of the steep slope construction that has been happening in Chatham Township. She will support Mr. Kelley's application. Mr. Montague, Mrs. Kass, Mr. Haeringer and Mr. Infante stated that they will take into consideration Mr. DeNave's engineering testimony concerning the steep slope disturbance, and will support the application.

Mrs. Kass made a motion to approve Application ZB #17-07: Kelley – 61 Highland Avenue. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mr. Haeringer	-	yes
Mr. Montague	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes
Mrs. Kass	-	yes
Chrmn. Cifelli	-	yes

Chrmn. Cifelli announced that Application ZB #17-06: Phyllis Klein – 33 Jackson Avenue – will continue to the May 24, 2017 Zoning Board of Adjustment meeting.

At 10:30 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, May 24, 2017, 7:30 p.m., Council Chambers, Chatham Borough Hall

Respectfully submitted:

Elizabeth Holler  
Recording Secretary

