

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
September 25, 2019

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 Municipal Building. He stated that adequate notice for this Zoning Board of Adjustment meeting was given as required by the Open Public Meetings Act.

Names	Present	Absent
Michael A. Cifelli, Chrmn.	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert		X
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia		X
Alida Kass	X	
William DeRosa, Jr.	X	
Patrick Dwyer, Esq.	X	

Also present:

Kendra Lelie, PP, AICP, ASLA, Professional Planner for the Board

Robert C. Brightly, PE, Professional Engineer for the Board

Public Comment

There was none.

Resolution #ZB 2019-12

The meeting minutes of the August 28, 2019 Zoning Board of Adjustment meeting were approved as submitted.

Resolutions

Application ZB #19-09

Andrew Kimm & Katie Welling

32 Tallmadge Avenue

Block 127, Lot 34

Side Yard

Attorney Dwyer summarized that this application proposed an addition to a single-family home. Two side yard setback variances were needed. The applicant amended one of the side yard variances to break up the wall-like appearance on the side of the home. The Board then granted the variances. A roll call vote was taken to adopt this resolution confirming the Board's approval of the application:

Mr. Haeringer	-	yes
Mr. Montague	-	yes
Mr. Infante	-	yes

Chrmn. Cifelli - yes

Returning and New Applications

Application ZB #17-13

First Student, Inc.

29 River Road

Block 140, Lots 7.01, 8, 9 & 10

Amendments to Approved Site Plan/

Associated Variances to Park Buses

This is continued from the May 22, 2019 hearing.

Michael J. Oliveira, Esq., attorney for First Student, Inc., came forward. Attorney Oliveira stated that the applicant, First Student, is now presenting an alternative proposal to the Board.

Attorney Oliveira noted that the applicant is aware that the Borough is looking to redevelop the area (River Road) in a different manner, which will, in turn transform the area in question from its current use into a situation that may address some of the Borough's affordable housing requirements.

Attorney Oliveira stated that the applicant has come to realize that the approval of this particular use will hinder the proposed redevelopment of the area.

Attorney Oliveira explained that the applicant is currently in a precarious position. Attorney Oliveira asked the Board if it would consider granting an approval of the use for this site for one year. This approval would allow the applicant to honor its contracts. During this one-year period, the applicant will actively market this property for sale and will accept any suggestions for a proposed redevelopment from the Borough itself.

Attorney Oliveira stated that First Student is proposing to be permitted to operate in the manner that they currently operate at this site until the end of August 2020, at which time they will abandon the current use. Hopefully, a buyer for the site will be found. The site could then be developed more in keeping with the Borough's Master Plan.

Chrmn. Cifelli answered that the Board probably has some legal questions on this situation which they would like to consult with their Legal Counsel about.

Mr. DeRosa pointed out that right now is the time of year when the Chatham School District approves the new school bus plan. He noted that the matter of school bus contracts had been discussed at an earlier hearing. Mr. DeRosa asked Attorney Oliveira when these bus contracts had been signed?

Chrmn. Cifelli felt that was a little bit of a moot point. The applicant has now submitted a new request to the Board. Chrmn. Cifelli suggested that the applicant should now clearly submit what First Student is now requesting.

Keith Peloso, Area General Manager in Northern NJ for First Student, was sworn in to testify.

Mr. Peloso testified that he is familiar with the site in question.

Chrmn. Cifelli confirmed with Mr. Peloso that First Student uses a property in the middle of their site, on Lot 9, for parking vehicles. First Student has a license for this activity on Lot 9.

Chrmn. Cifelli asked what is the number of vehicles in the applicant's request for Lot 10.

Mr. Peloso indicated that he did not have that particular information with him tonight.

Attorney Dwyer recommended that the applicant should provide the Board with the details of the amended site plan that they are now submitting.

Attorney Oliveira clarified that the applicant is not seeking to amend the site plan. The applicant is respectfully asking to continue the bus operations on the site, as it currently exists.

Some Board members indicated that they were still interested in hearing how many vehicles operated on each of the three lots.

Ms. Lelie, the Board Planner, brought up the zoning violation from 2014 where Mr. DeNave had noted that there are 89 buses on the site. This was the reason for the violation, conflicting with the number that First Student had been approved for.

Mr. Peloso testified that First Student has no where near that number of buses right now. He estimated that First Student is currently operating 52 buses. Chrmn. Cifelli confirmed with Mr. Peloso that those 52 buses were spread among First Student's three lots.

Mr. DeRosa asked how many employee vehicles are on site?

Mr. Peloso answered approximately 35 cars. He confirmed with Ms. Lelie that 8 vans are currently on the First Student site.

Chrmn. Cifelli asked if the two charter buses, as noted in earlier testimony, were still on the site.

Mr. Peloso could not really confirm. Attorney Oliveira suggested adding the two charter buses to the total number of vehicles on the site.

Mr. Infante asked Chrmn. Cifelli if the Board was being asked to approve a temporary variance? Or is the Board being asked to allow the applicant to operate outside of the variance First Student already has?

Chrmn. Cifelli answered those concerns will be covered in tonight's hearing.

Mr. DeRosa asked Mr. Peloso if First Student has an offer for the property.

Mr. Peloso answered no.

Mr. Haeringer pointed out to Mr. Peloso that since 2014 First Student has not been following what their site was originally approved for.

Chrmn. Cifelli noted the concern that some Board members have is that First Student, at the end of the one-year period being proposed, will return to operating within the original variance that had been granted.

Attorney Oliveira stated that the applicant will agree to abandon the property at the end of the proposed one-year period. First Student is not looking to fall back on the older variance. First Student understands that the Borough has other uses for this particular land.

Mr. DeRosa was still concerned about any future activity the applicant may have on the site after August 2020.

Chrmn. Cifelli asked Attorney Dwyer if at the end of August 2020, no sale of the property transpires, and First Student has abandoned the pre-existing variance, is there anything to stop First Student from applying for a new variance?

Attorney Dwyer answered that First Student could apply for a new variance.

Also addressing Mr. DeRosa's concern, Mr. Peloso testified that all of First Student's contracts existing right now, at this location, will expire at the end of June, 2020.

Mr. DeRosa still had concerns about First Student's bidding of contracts without their operation on River Road.

Mr. Peloso stated that First Student won't submit bids if they do not have a business property.

Chrmn. Cifelli brought up the possibility that if no sale or no development takes place at the end of August 2020, First Student would then submit a new application and become locked into the position they are currently dealing with. First Student has then been given another year of what already has been a lengthy process.

Attorney Oliveira asked Chrmn. Cifelli if the Board would be willing to accept, as a condition of approval, that First Student would agree to not file another application for a period of two years after August 2020.

Mrs. Kecskemety asked Chrmn. Cifelli if the Board should consider the impact this abandonment would have on the Chatham schools.

Chrmn. Cifelli answered that issue would be a matter for the Chatham Board of Education.

Mr. DeRosa asked if First Student's new proposal would be in keeping with the goals of the Gateway District and the Borough Master Plan.

Ms. Lelie, the Board planner, felt that the applicant, with the latest proposal, was giving the opportunity for the Master Plan to be realized. The Gateway Redevelopment will also be realized with this new proposal.

Mr. DeRosa asked if, in the interim, could the items, like the proposed lighting or screening of the site would still be followed through. These proposed items might help the district to flourish.

Attorney Oliveira felt it would make no sense to spend money on such improvements to the site, when the bus company will be leaving in less than a year.

Mr. Infante asked if First Student would have to notify the Boards of Education right now of these recent proposals.

Mr. Peloso answered that towards the end of the school year, the school districts reach out to bus companies to see if they are interested in renewing their contracts. First Student will not wait that long to let them know the latest arrangements, if they are approved.

Mr. Infante stated that he would feel more comfortable if there was a 10-year interval before First Student could re-apply, instead of two years.

After further discussion, Attorney Dwyer suggested that the applicant submit to the Board an amended site plan showing what is now being proposed.

Mr. Infante confirmed with Chrmn. Cifelli that the only variance that the applicant is seeking is for a one-year temporary variance.

Attorney Oliveira clarified that First Student is seeking to “wind down and allow the Master Plan to go forward the way the Borough intends it to go forward”. Attorney Oliveira stated that he and the applicant were not looking to come back as a bus parking facility at this site.

Mr. Peloso reminded the Board that this time, next year, First Student will not be on that site (29 River Rd).

Chrmn. Cifelli pointed out that the lot in the middle of the First Student site is not owned by First Student. Attorney Oliveira agreed that this particular lot, Lot 9, will also be abandoned if the temporary variance was granted.

Chrmn. Cifelli agreed with Attorney Dwyer’s recommendation that the new proposal be specifically put in writing by First Student. Chrmn. Cifelli felt that a notification should be made for people who may be interested in the next hearing.

The question arose whether the applicant should re-notice for the next hearing. The matter of notification will soon be decided.

Regarding future submissions from the applicant, Ms. Lelie suggested First Student present the existing site plan, but show what proposed improvements will now be removed. The numbers for the site plan should be updated.

Application ZB #17-13: First Student, Inc. – 29 River Road – will continue to the October 23, 2019 Zoning Bd. of Adjustment meeting.

Old/New Business

Chrmn. Cifelli announced that Mrs. Kecskemety will be retiring from the Board at the end of December. She has served on the Board for over ten years and will be greatly missed.

At 8:25 p.m. the meeting adjourned.

The next Chatham Borough Zoning Board of Adjustment Meeting will be held on Wednesday, October 23, 2019.

Respectfully submitted:

Elizabeth Holler
Recording Secretary