

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
December 18, 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	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague		X
Jean-Eudes Haeringer	X	
Patrick Tobia	X	
Alida Kass	X	
William DeRosa	X	
Patrick Dwyer, Esq,	X	

Public Comment

There was none.

Resolution #ZB 2019-12

The meeting minutes of the November 20, 2019 Zoning Board of Adjustment meeting were approved as amended.

Resolutions

Application ZB #19-012

Karen Maloney

22 North Summit Avenue

Block 54, Lot 24

Floor Area Ratio

Attorney Dwyer summarized this application which proposed a small addition on the second story at the rear of the home. After listening to the testimony, the Board granted the FAR variance. Mrs. Kass made a motion to approve the Resolution memorializing the Board's approval of Application ZB #19-012. Mr. Herbert seconded the motion. A roll call vote was taken:

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

Returning and New Applications

Chrmn. Cifelli announced the following applications will be heard tonight:

Application ZB 19-016: GATE 111, LLC – 34 Essex Road

Application ZB 19-013: Happy Cheese, LLC – 310 Main Street

Chrmn. Cifelli announced that Application ZB 19-014: Simonfey Family Real Estate, LLC has withdrawn.

Chairman Cifelli announced that Application ZB 19-018 – Wilcox 112 North Passaic Avenue, will continue to the Zoning Bd. of Adjustment meeting on January 22, 2020.

Application ZB 19-016

GATE 111, LLC

34 Essex Road

Block: 25, Lot: 6

Maximum Building Coverage

Floor Area Ratio

Side Yard Setback (Right and Left)

This is continued from the November 20, 2019 hearing.

Gary Haydu, Esq., attorney for the applicant, noted that a revised plan has now been submitted.

Christine L. Miseo introduced herself as the architect for Gate 111, LLC. She remained under oath from the previous hearing.

Attorney Haydu explained that a general reduction has been made to the original plans. The proposed building coverage and Floor Area Ratio (FAR) have now been reduced. The proposed FAR is now 127 sq. ft. over the allowable. The proposed building coverage is now 191 sq. ft. over the allowable. Attorney Haydu asked Ms. Miseo to give testimony on these revisions. At Attorney Dwyer's request, Ms. Miseo submitted Exhibit A-2: Revised Plans dated December 4, 2019. She put the plans on the easel.

Ms. Miseo testified that there now diagrams available showing the existing conditions of the home, as the Board had earlier requested. There are also photos showing existing conditions. She also had information on the applicant's neighborhood.

Ms. Miseo testified that the proposed addition has been reduced quite a bit.

Chrmn. Cifelli confirmed with Ms. Miseo that the revised zoning figures are listed on Exhibit A-2.

Ms. Miseo testified that the proposed rear addition does not extend as nearly as far as the original plans had proposed. She explained that the rear addition's inset was reduced in order to lessen the side yard setback by approximately 2 feet.

Referring to Exhibit A-2, Ms. Miseo explained that the first floor will be opened up. A family room will be created at the rear measuring 12 ft. 30 inches by 10 feet.

Ms. Miseo testified that there are other homes in the immediate area which have additions over the garages, as well as an addition to the rear. She felt that the front of the applicant's house will not change that dramatically. Ms. Miseo testified that a covered front porch was added to the plans. The rest of the home, aside from window placements, will keep the same box formula. Ms. Miseo believed that the proposals will fit well in the neighborhood. She felt that there would be no detriments to the neighborhood.

Ms. Miseo submitted the following:

Exhibit A-3: photos of the subject property at different angles & neighboring properties

Exhibit A-4: interior photos of the applicant's home

Exhibit A-5: exterior photos of the applicant's home

Ms. Miseo showed photos of neighboring homes on Essex Road, that have additions constructed at the rear, similar to what the applicant is proposing.

Ms. Miseo testified that she had obtained, from the Borough assessment files, the square footages of these neighboring homes that had lots similar to those of the applicant's. She reviewed these square footages.

Showing the photos of the neighboring homes, Ms. Miseo testified that the proposed addition will not substantially impair the municipal zoning regulations. She felt the proposed plans will follow the goals of the Borough Master Plan. The plans will be well suited for the applicant's neighborhood.

Chrmn. Cifelli asked what would be the distance between the neighboring homes that have additions similar to what is being proposed.

Ms. Miseo answered the distances were all the same, which would be anywhere from 15 to 18 feet apart from the property line.

Chrmn. Cifelli and Ms. Miseo discussed the additions done to the neighboring homes. Ms. Miseo felt that as many homes have their additions over their garages as those that don't.

Ms. Miseo noted that the neighbor to the left of the applicant, asked that no windows be inserted on that side of the applicant's addition, because of an existing bedroom window on that side of the neighboring home.

Chrmn. Cifelli said he would prefer windows being installed on the left side of the addition; otherwise, that side would just resemble a giant wall.

Ms. Miseo answered that the applicant was just trying to be a good neighbor.

Chrmn. Cifelli asked if the applicant's home will be completely gutted.

Ms. Miseo answered yes.

Mrs. Kass expressed concern about the solid wall, with no windows that is being proposed for the left side of the applicant's addition.

Ms. Miseo stated that if the Board wanted to include in the resolution, if the applicant was approved, that windows be inserted on the left side, she will comply.

Chrmn. Cifelli pointed out that personal reasons, like this window placement situation, cannot be taken into consideration when approving applications.

Mr. Haeringer and Ms. Miseo discussed the proposed new chimney and new furnace.

At Mr. Haeringer's suggestion, Ms. Miseo described the existing conditions on the first floor. The entire first floor will be gutted, shifting the stairway over to allow for more width for the new rooms to the left and the rear. Ms. Miseo described the existing bedrooms upstairs, which she felt were incredibly small. The proposed master bedroom will be constructed at the rear, and will measure 15 ft. by 15 ft. A walk-in closet and master bath will be added. Ms. Miseo reviewed the dimensions for the proposed children's rooms.

The Board had no further questions for Ms. Miseo.

Chrmn. Cifelli asked if the public had any questions for Ms. Miseo.

Sue Butler, 36 Essex Rd., noted that she is the neighbor who lives to the left of the applicant. She identified herself as the neighbor that had requested no windows be installed on the left of the applicant's home.

Ms. Butler stated that she has lived for 33 years at 36 Essex Rd. She clarified that she has no addition to her house.

Referring to an exhibit, Ms. Butler clarified that her home had a different roofline than what was shown. Also, a window is shown that doesn't exist on that particular side.

Ms. Butler asked if basement space will be constructed under the proposed addition.

Ms. Miseo answered yes. This new basement space will be comparable to the existing basement. Care was taken not to impact the water table.

Ms. Butler said that she had remediated her basement a number of times and conditions became more acceptable. She had serious concerns about the drainage becoming even worse with what is being proposed.

Chrmn. Cifelli stated that all Zoning Board applications that are approved must agree to comply to any stipulations made by the Borough Engineer with regard to stormwater runoff and how it may affect the neighborhood.

Ms. Butler asked what would be the recourse if those stormwater stipulations were not followed.

Board Attorney Dwyer answered that if the applicant fails to follow the Borough Engineer's recommendations on stormwater, it's a violation, and legal recourse can be taken.

Ms. Butler noted that on the front page of the plans, the terms state that the home "exists as nonconforming". Does that mean the existing home is non-conforming?

Chrmn. Cifelli clarified that it certain aspects the house is non-conforming.

Mr. Haeringer asked Ms. Miseo if there will be a bathroom in the basement.

Ms. Miseo answered most likely.

Mr. Haeringer asked about egress for the basement.

Ms. Miseo answered that she had not included a floor plan for the basement. However, there will be a basement egress window underneath the kitchen area. She described two other proposed windows. With the fireplace planned on the right-hand side, chances are a basement window will not be installed under that space. She explained why an egress window would be best placed at the rear of the basement.

Mr. Haeringer reminded Ms. Miseo that decks are required to be 3 feet recessed from the edge of the house.

Ms. Miseo was not aware of that Borough requirement. She said that the deck will then be reduced to 17 feet versus 20 feet.

Mr. DeRosa questioned why the 3 proposed bedrooms upstairs appeared small, with what he believed was a giant master bedroom suite.

Ms. Miseo did not believe 11 ft. by 12 feet was small for a child's bedroom. She felt that was an average size. Ms. Miseo believed that a master bedroom measuring 15 ft. by 15 ft. would not be a "monster master bedroom". Ms. Miseo felt that the proposed master bathroom may be considered oversized for the rest of the house.

Chrmn. Cifelli asked if the public had any more questions.

Margaret Toohy, 32 Essex Rd., asked if the plans would include building out from the current garage and build up? Or will the current line be maintained?

Ms. Miseo answered that the current line will be maintained for just over the garage. The addition to the rear will set be to the left, in order to create more setback on her (Ms. Toohy's) side.

Ms. Toohy asked if the privacy trees that current exist will remain.

Ms. Miseo answered yes.

Trisha Finley, 35 Woodland Rd., asked for more clarity on the location of the proposed deck.

Ms. Miseo answered that the deck will be directly to the rear of the addition.

Ms. Findlay asked for the height of the deck.

Ms. Miseo answered approximately 3 feet off of the ground.

There were no more questions from the public for Ms. Miseo.

Chrmn. Cifelli asked if the public had any comments on the application.

Sue Butler, 36 Essex Rd., was sworn in to testify. Ms. Butler expressed concerns about her water and basement situation being affected by this addition. She stated that she has struggled 33 years with basement water. Ms. Butler said she understood that the trees on the applicant's property will be removed.

Keith Walters answered that he would not remove any trees that would infringe upon the construction of the house once it's finished. He testified that it was in his best interests to leave those trees alone because they define the property. Those trees also provide privacy. However, some of the branches had to be trimmed because they were invading the space for the addition.

Mr. Infante asked if the trees he was referring to were on his property.

Mr. Walters answered that the survey indicates that those trees are situated right on the property line.

Ms. Butler said, with all due respect, she had received the impression that Mr. Walters intended to remove those trees.

Chrmn. Cifelli felt that Mr. Walters could only trim back what existed on his own property.

Chrmn. Cifelli pointed out that Zoning Board resolutions usually require natural screening be planted in between homes, especially when the side yards are not far apart.

Mr. Haeringer discussed with Mr. Walters how the excavator will access the backyard. Mr. Walters will have the excavator drive right through the garage area. No neighboring properties will be touched.

Ms. Butler submitted Exhibit O-1, photos showing her home's east facing windows at 36 Essex Road. She explained a window she had installed in the back corner of her house that looks out

on the trees in the morning. This window allows light into her home. With the applicant's proposed plans, that window will be blocked.

Chrmn. Cifelli sympathized with Ms. Butler that these type of arrangements may happen when houses are modernized. However, he felt that the applicant's home needs to be re-vamped.

Trisha Finley, 35 Woodland Rd., was sworn in. Ms. Finley stated that her home is adjacent to the applicant's property. Her home, from the kitchen, looks out on the applicant's home. She felt there was no compelling reason why the applicant's addition needed to be built. Ms. Finley believed that the proposed second floor addition will block Ms. Butler's view of the sunrise. Ms. Finley believed building out the first floor would be another alternative for the applicant.

There were no further comments from the public. Attorney Haydu closed his application and submitted it to the Board for a vote.

Chrmn. Cifelli asked for Board discussion. Mr. Herbert felt the applicant's home is clearly in need of updating, both inside and outside. However, he understood the concerns expressed by the neighbors. Mr. Herbert stated that he would listen to the opinions of his fellow Board members before making a final decision. Mrs. Kass believed that the application packs a tremendous amount of modern amenities into a 6,000 sq. ft. lot. The requests for the proposed variances have been modest. Adequate testimony had been given stating that these proposals will not be out of scale with the neighborhood. Mr. Haeringer explained why he felt half and half on this application. Mr. Infante believed it would be an upgrade to the building stock. He will support the application. Mr. Tobia said he was sympathetic with the neighbors' concerns about an intrusion on their light and air; however, if the application was not approved, there is the chance the house could be torn down and a new house will be built, not fitting into the neighborhood. Mr. DeRosa believed that the application had too much ambiguity. Mr. DeRosa informed Attorney Dwyer that he had viewed the recording of the first hearing of this application. Mr. DeRosa was therefore eligible to vote on this application. Chrmn. Cifelli felt that bulk was inevitable when dealing with the size lots like that of that of the applicant's. The plans are proposing a porch of some kind which is favored by the Borough ordinance.

Mrs. Kass made a motion to approve Application ZB 19-016: GATE 111, LLC, 34 Essex Road, with the applicant to follow any recommendations regarding stormwater as stipulated by the Borough Engineer. Mr. Infante seconded the motion. A roll call vote was taken:

Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes
Mr. Herbert	-	no
Mr. Infante	-	yes
Mrs. Kass	-	yes
Mr. Tobia	-	yes
Mr. DeRosa	-	no

Application ZB 19-016 was approved.

At 9:10 p.m. a break was taken in the meeting.

At 9:20 p.m. the meeting resumed.

Application ZB 19-013

Happy Cheese, LLC

310 Main Street

Block 64 Lot 45

Use Variance

Maximum Building Coverage

Gary Haydu, Esq., attorney for Happy Cheese, LLC, gave an introductory statement for the application. He introduced the owner of Happy Cheese, Vern Oakley, who was present tonight.

Attorney Haydu explained that the purpose of the application was to create a partial conversion of the first floor from what is now used for a business use, to a residential use. This would involve only a portion of the first floor.

Attorney Haydu noted that Mr. and Mrs. Oakley run Tribe as a business at that location. Tribe does documentaries. Mr. and Mrs. Oakley will continue running their business at that site.

Chrmn. Cifelli confirmed with Attorney Haydu that some of the building will remain zoned for commercial use. Attorney Haydu clarified that the part of the building that fronts onto Main Street will remain a commercial use. The Coleman Avenue side will become the residential side.

Attorney Haydu introduced Andrew Clarke, the engineer for the applicant. Also Paul Ricci will testify as the applicant's planner.

Vern Oakley, owner of Happy Cheese, LLC, was sworn in to testify.

Mr. Oakley testified that he and his wife purchased 310 Main Street in 2003. Back then a portion of the building was a mother-in-law suite, which Mr. and Mrs. Oakley had upgraded. On the Coleman Ave. side of the building, they installed an extra doorway between the back wall of 310 Main Street, leading into 4 Coleman Ave.

Mr. Oakley stated that 310 Main Street had been the original real estate office for the Borough's Manor Section when its lots were being sold decades ago. By 1940, all of the Manor Section's lots had been sold. The company then constructed a 3-bedroom, two bathroom house on the backside of the 310 Main Street office. These two units have separate heating and separate electric installations. The Oakleys have since joined the two separate plumbing systems together.

Mr. Oakley testified that the way the building is currently designed, the 310 Main Street is actually the office portion. The 4 Coleman Ave. portion of the building, both first and second floor, is the residential area. Happy Cheese, LLC has been using the structure, for the last 13 years, as purely a commercial building. The Borough had granted the Oakleys a variance for this

use. Mr. Oakley recalled that at the time the variance was granted, there was not enough parking for the Tribe employees. Mr. Oakley then purchased Borough parking permits for them.

Mr. Oakley testified that he and his wife would like to now occupy the 4 Coleman Avenue side of the building, both the first and second floors as residential space. The Tribe portion of 310 Main Street will be maintained.

Attorney Dwyer asked Attorney Haydu if he had provided a copy of the resolution from the prior approval.

Attorney Haydu answered no. The resolution is not available right now. However, Attorney Haydu offered to file an OPRA request to obtain these earlier resolutions.

Chrmn. Cifelli confirmed with Attorney Haydu that the application is not proposing to expand the building. Attorney Haydu also clarified that the addition of a shed is being proposed. This shed will be used for garbage. A patio in the backyard will be replaced. Mr. Oakley testified that an existing deck will be eliminated. At that section, the roofline will be raised.

Mr. Oakley's testimony was finished.

The following were sworn in to testify:

Andrew Clarke, the applicant's engineer
Paul Ricci, the applicant's professional planner
Michael Sullivan, the Zoning Board's professional planner

Mr. Clarke put his site plan on the easel. He testified that aside from minor changes, nothing will change on the existing site and zoning. The existing building will not change. However, a garbage enclosure will be installed to better organize the garbage cans. An existing small deck with descending stairs at the back will be removed. It will be replaced by a small landing with a couple of steps leading down to a patio. The patio will be expanded about 4 ½ feet, towards Coleman Avenue into the building's driveway area. Mr. Clarke testified that there will be almost no change to the lot coverage.

Mr. Clarke pointed out the existing screening on the site. He noted that the number of non-conforming conditions on the site that will not be changed by the application. The parking on the site is not meeting the current ordinance requirements. There are available parking spaces in front of the building on the Main Street side for clients. The Coleman Avenue side also has parking spaces. No changes are proposed for the stormwater/drainage on site.

Chrmn. Cifelli asked Mr. Oakley if he was considering putting in some screening between the new patio area and Coleman Avenue. Mr. Oakley answered yes.

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

Lisa Allocco, 15 Coleman Ave., stated that parking in this particular area is a nightmare, because everyone wants to park cheaply to commute on the trains. She asked if the proposed patio space extends into the driveway, will two cars will be able to fit there?

Mr. Clarke answered yes.

Ms. Allocco asked what about the cars for the business. Where would they go?

Mr. Clarke answered where they park now.

Ms. Allocco asked if that parking arrangement would be compliant.

Mr. Clarke answered that it is in compliance with a variance the applicant had obtained earlier. Mr. Oakley added that he would continue to buy Borough parking permits for his employees.

Chrmn. Cifelli felt that it would be helpful for the Board to look at what had been granted in the earlier application. This parking situation would be one of the issues that needed to be clarified. He suggested Mr. Haydu and the applicant obtain that earlier resolution for 310 Main Street.

Ms. Allocco said she would feel better to see that resolution too. Parking is serious issue on Coleman Avenue with the daycare center.

Mr. Oakley recalled the details of the earlier application for 310 Main Street. At that time, the Board refused Tribe's request for additional parking to expand the driveway for employee parking. The Board refused the application because of the lot coverage involved with this proposal. Mr. Oakley then purchased parking spaces in Borough lots for his employee. His employees are required to use these Borough parking lots, not the parking spaces on the side streets.

Paul Ricci, the applicant's planner, came forward. He distributed hand-outs to the Board of two exhibits:

Exhibit A-1: Aerial photo of the subject property, with existing zone lines

Exhibit A-2: Eight photos of the subject property & its surrounding area

Mr. Ricci testified that the applicant's property is in the B-1 Zone, which is the least intensive business zone, with the lowest FAR ratio. The B-1 Zone allows for apartments to exist on the upper floors of businesses.

Mr. Ricci noted that no changes are proposed for the applicant's business sign. He pointed out that the application will reduce the off-street parking situation for this site. Mr. Ricci explained that the residential character is very evident in that area (Coleman Ave. and Main Street). Mr. Ricci stated that the applicant's site is well suited for a live-work type environment. The proposal is a modest change.

Mr. Ricci testified that the variances could be granted without substantial detriment to the public good and the intent of the Master Plan. Mr. Ricci pointed out that the applicant's building that

had been residential; therefore, it is not inappropriate to have some level of residential form in it. Mr. Ricci believed that this is a good application that has no negative impacts and has many positive attributes.

The public had no questions for Mr. Ricci.

Chrmn. Cifelli asked if the Board had any questions for Mr. Ricci.

Mr. Herbert noted that there was an exercise room towards the front of the building on the second floor. He confirmed with Mr. Ricci and Chrmn. Cifelli that this was an acceptable arrangement since it was on the second floor, which is residential.

Chrmn. Cifelli confirmed with Attorney Haydu that the applicant is abandoning the original variance. Chrmn. Cifelli felt that the Board needed more specifics on the original variance. Attorney Haydu stated he would try to obtain the resolution memorializing the original variance.

There were no comments from the public on this application.

The testimony closed.

Application ZB #19-013: Happy Cheese, LLC – 310 Main Street will continue to the January 22, 2020 Zoning Bd. of Adjustment meeting.

Chrmn. Cifelli announced that the next Zoning Board of Adjustment meeting will be the Board's Reorganization Meeting. Mr. Tobia and Mrs. Kass have agreed to serve as the Nominating Committee to organize a slate of Board Officers for 2020.

At 10:15 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, January 22, 2020, 7:30 p.m., Council Chambers, upper level, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler
Recording Secretary

