

CHATHAM BOROUGH PLANNING BOARD  
May 17, 2017 7:30 p.m.

Chairwoman Susan W. Favate called this Regular Meeting of the Chatham Borough Planning Board to order at 7:30 p.m. in the Council Chambers, Chatham Borough Hall. Mrs. Favate announced that all legal notices have been posted for this meeting.

Names	Present	Absent
Mayor Bruce Harris	X	
Council Member Victoria Fife		X
Robert Falzarano		X
Chrmn. Susan Favate	X	
Vice Chrmn. Matthew Wagner	X	
H.H. Montague	X	
John Bitar		X
Joseph Mikulewicz		X
William Heap	X	
Vincent K. Loughlin, Esq.	X	
Dr. Susan Blickstein	X	

Vincent DeNave, the Borough Engineer/Zoning Officer arrived at the Board meeting at 9:05 p.m.

Public Comment

There was none.

Resolution #PB 2017-16

The minutes of the April 19, 2017 Planning Board meeting were approved with Mayor Harris's corrections.

Resolutions

There were none.

New and Returning Applications

Application PB #17-02

Main Street Development Group, LLC

34 Orchard Road

Site Plan, Minor Subdivision

Block 29, Lot 12

This is a continuation from the first hearing held at the April 19, 2017 Planning Bd. meeting.

Steven Azzolino, Esq., attorney for the applicant, came forward. He noted that at the previous hearing the Board had requested that a field investigation be conducted to ascertain the soil conditions for the proposed dry well system. That investigation has since taken place. Attorney

Azzolino noted that the Board had suggested an alternate design for the proposed home for Lot 2.01. That situation will also be testified on at tonight's hearing.

Andrew Clarke, the applicant's engineer, came forward. He remained under oath from the previous hearing. Mr. Clarke testified that he had undertaken the field investigation on the soil conditions. Two test pits were dug on April 25<sup>th</sup> on proposed Lot 2.01. These pits were dug in the proposed location of the two dry wells.

Mr. Clarke testified, from the results of these test pits, he felt confident that the proposed dry wells are a good solution for the stormwater situation on the subject project. He discussed the clay layer which exists on the property. Fine sands and gravel exists farther down which perks very well. Mr. Clarke had then submitted a letter reporting the results of the test pits. He did not feel the idea of running the stormwater system up the road because he believed the stormwater system will function as designed.

Attorney Azzolino asked if Mr. DeNave, the Borough Engineer, was present when the test pits were undertaken.

Mr. Clarke answered that Mr. DeNave was present when the first test pit was taken, in the beginning. He had to depart soon afterwards to attend to other matters. Mr. Clarke had left samples of the soil for Mr. DeNave to review. Mr. Clarke testified that Mr. DeNave had not expressed any particular concerns about the results of the test.

Mr. Clarke testified that the proposed development will have a beneficial impact on the existing drainage on the subject property.

Mayor Harris noted that Mr. DeNave will be in attendance later in tonight's meeting.

Mayor Harris asked Mr. Clarke if there will still be runoff onto neighboring properties.

Mr. Clarke submitted Exhibit B-1: a letter from Vincent DeNave, the Borough Engineer.

Mr. Clarke answered that the way the proposed drainage will be set up, there will be very little run-off coming off the subject property. Less run-off than what occurs today. Full capture should occur on the dwelling and the garage. An inlet on the front of the property should capture most of the runoff from the driveway.

Mayor Harris and Mr. Clarke discussed the maintenance issues with the drywells.

Mayor Harris asked Attorney Azzolino if he would be willing to accept a condition that these drains will be constructed in a manner as recommended by Mr. Clarke. Attorney Azzolino answered yes.

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

Brian Becker, 40 Orchard Rd., asked what percentage of the land will be covered by the proposed driveway and the proposed house, per lot.

Mr. Clarke answered that on Lot 2.01 the proposed lot coverage, with all of the proposed hard surfaces, would be 39 ½ %. The percentage would be roughly the same for the other lot.

Mr. Becker asked if the proposed dry wells could handle this additional lot coverage.

Mr. Clarke answered yes.

Dr. Blickstein asked if a maintenance agreement could be memorialized for the dry wells.

Attorney Azzolino answered that an operations and maintenance manual for the drywells could be attached to the deed going to future owners.

David Becker, 40 Orchard Rd., (son of Brian Becker) discussed the test pits procedure with Mr. Clarke. Mr. Becker stated that he disagreed with the number of minutes that the test took. He timed it as 40 minutes, not the 30 minutes as stated by Mr. Clarke.

Wes LaBua, 33 Orchard Rd., and Mr. Clarke discussed the silt layer and the artesian wells.

At Mayor Harris's request, Mr. Clarke described the field test for percolation more in detail.

Attorney Azzolino asked Mr. Clarke to review the revised plans and the zoning calculations.

Mr. Clarke testified that, from a planning perspective, the difference between the original plans and the revised site plans is the front porch of proposed Lot 2.01. The porch becomes a little bit bigger. Sixty-three square feet becomes added to the porch, which adds to building coverage. Mr. Clarke reviewed the revised site plan data chart that tabulated the changes made. The front setback to the portico becomes 1 ½ feet closer to the street.

Dr. Blickstein asked if the side yard setbacks had been revised to show the chimneys.

Mr. Clarke answered that he hadn't shown the chimneys on the revised site plan data chart.

Attorney Azzolino asked Mr. Clarke, **if** the increase of the building coverage, would impact his testimony regarding the proposed drainage system.

Mr. Clarke answered no. He will have a drainage system built in regardless.

Brian Becker, 40 Orchard Rd., confirmed with Mr. Clarke that the chimneys are included in coverage, in the variance for the side yard, on both properties. Chrmn. Favate pointed out that the proposed porch has been included in the front yard setback.

Wes LaBua, 33 Orchard Rd., asked if there would be any restrictions against future enclosure of the front porch on proposed Lot 2.01.

Attorney Loughlin explained that there will be a standard condition included that the porch cannot be enclosed in the future.

David Becker, 40 Orchard Rd., asked if there was a reason why the alternate design was asking for an additional 1 ½ feet.

Mr. Clarke answered that the Board had discussed the Dutch Colonial look of the home to the left, and the scale of the porch. Vice Chairman Wagner recalled that the Board had suggested adding this porch to improve the aesthetics.

Dr. Blickstein suggested the applicant's architect present the alternative plan.

Jack Alpert, architect for the applicant, was sworn in to testify. Mr. Alpert submitted his professional credentials to the Board. The Board accepted them.

Mr. Alpert testified that there was a re-design made that included a modest porch extending about 4 feet. He described the eyebrow detail on the roof, the width increase of the portico, and the roof line extension.

Vice Chairman Wagner reviewed the agreed upon architectural changes for the home on proposed Lot 2.01.

Attorney Azzolino labeled Exhibit A-7: The plan consisting of Z-1B, Z-2B, and Z-3B on proposed Lot 2.02, including the red markings made on Z-2B by the Borough Planner. Attorney Azzolino confirmed with Mr. Alpert that none of the variances will change if these particular architectural modifications were made.

Wes LaBua, 33 Orchard Rd., expressed concerns that the proposed front porch would appear to "be in his face".

To resolve this concern, Mr. Alpert and Mr. LaBua reviewed, more in detail, the architectural features of this home.

Nancy Conrad, 18 Orchard Rd., reviewed the proposed driveway and an existing neighboring driveway with Mr. Clarke. Mr. Clarke pointed out where 5 feet of landscaping will be planted between the two driveways.

Ms. Conrad asked if there could be a guarantee from the applicant's builder and those responsible for the dry well installation, that run-off will not occur. She would like the applicant to promise, if the run-off goes over a certain amount of inches, being detrimental to the neighboring properties, that he will repair the situation.

Mr. Clarke explained that the proposed drainage will improve the current run-off situation. Since stormwater involves many variables, a guarantee would be very hard to provide. It would be hard to pinpoint where and what is causing the run-off problem.

John Leberfinger, 24 Orchard Rd., asked what impact would the proposed dry wells have on the water flow on the sidewalk running along the rectory of St. Patrick Church.

Mr. Clarke answered that according to what extent the proposed construction is contributing to whatever that condition is (at St. Patrick Church), the installation of the dry wells will improve it.

Mr. Leberfinger felt that whenever trees are taken down, it acerbates the drainage situation. Mr. Alpert agreed that it could. He pointed out where berms will be created.

Dr. Blickstein noted that the applicant has proposed deciduous trees for the property. This situation can be explored further.

Mr. Leberfinger indicated that he and his neighbor would prefer to have one new home at that location, not two.

Wes LaBua, 33 Orchard Rd., pointed out the 6 ft. grading between the high level of the property and the low level. What will happen with that grading? Will it be maintained? Or balanced off?

Mr. Clarke answered that there will not be a significant re-shaping of the land.

Paul Ricci, the applicant's planner, was sworn in to testify. Mr. Ricci submitted his professional credentials to the Board. The Board accepted them.

Mr. Ricci went over the materials he had reviewed for this application. He noted that his presentation consisted of 3 sheets of photos showing the subject property and the surrounding area. Mr. Ricci explained the aerial photos taken of the subject property, which was labeled as Exhibit 1. Exhibit 2 showed the proposed homes in relationship to the existing homes in the area. Exhibit 3 showed the conforming building footprint for the area if no subdivision occurs.

Using his submitted photos, Mr. Ricci described the neighboring homes. He pointed out the accessory garages that were common in the neighborhood.

Mr. Ricci reviewed the number of variances being sought from Section 165:14E for this application. He noted that he didn't have the exact dimension of the encroachments of the chimneys for the two proposed homes.

Mr. Ricci felt, given the location of the existing homes, that the builders of the neighborhood always anticipated a second home being located in this particular area of the street.

Mayor Harris noted the existing house was built in 1919. He asked if there was any evidence that there had been a structure on the other open area of the lot.

Mr. Ricci stated he had made that conclusion, since the existing house was constructed in the corner of the lot, not the middle. He reviewed the average lot sizes and average lot widths of the neighborhood.

Mr. Ricci reviewed in detail the lot sizes of the neighborhood in comparison to the applicant's lot size. He testified that the proposed subdivision represents a better zoning alternative to the neighborhood.

Referring to Mr. Ricci's analysis, Mayor Harris asked Mr. Ricci if a typical person, walking along Orchard Road, would really consider the lots on Oliver Street part of the same streetscape?

Mr. Ricci answered no, not in terms of lot width and appearance; however, he believed on an aerial view it may. Mayor Harris didn't think that Oliver Street should be considered part of the streetscape.

Chrmn. Favate asked Mr. Ricci if his analysis gave the home sizes of the surrounding lots.

Mr. Ricci felt that the aerial photo would be the best analysis without having exact survey and engineering data for the block to show a comparison of scale and sizes of the adjoining homes. The building heights of the proposed homes will conform to Borough code.

Mr. Ricci discussed Exhibit 3, described the proposed garages, and reviewed their dimensions. Mr. Ricci testified that the proposed plans meet the Borough's requirements on impervious coverage. Constructing the accessory garages will not add any additional mass. Mr. Ricci testified that the proposed additional building coverage will not be perceptible to the eye. It will be set back from the street.

Mr. Ricci reviewed the proposed setback calculations. He testified that the homes won't feel close together. Mr. Ricci stated that the topography of the area is relatively flat; therefore, no grade issues arise with regard to building mass. Mr. Ricci testified that this proposed application meets several purposes of the Municipal Land Use Law. Adequate light, air, and open space will be provided. The proposals will contribute toward the well-being of persons, neighborhoods, communities and regions. Improved lay-out and design will be achieved by these plans.

Mr. Ricci testified that the variances being sought can be granted without substantial detriment to the public good or Borough zone plan. He also testified that there will be no negative impacts to nearby property owners associated with the location of the proposed homes. The proposed rooflines will upgrade the neighborhood. Mr. Ricci testified that the benefits of these plans outweigh the detriments.

Mayor Harris believed that the two new properties, from the proposed subdivision, will be two-thirds of what is required by the Borough zone plan.

Mr. Ricci agreed that the Borough zone plan requires larger lot sizes; however, sound land use planning requires evaluation of the existing character of the area. He pointed out that a substantial amount of non-conformity existed in the neighborhood. The applicant is proposing lot sizes that are appropriate and consistent with the lots in the immediate vicinity. A better zoning alternative is being proposed.

Dr. Blickstein asked Mr. Ricci if he knew the ages of the existing homes in his analysis. Mr. Ricci felt the newer homes in the area were not really consistent with the character of the area.

Mr. Ricci felt that architecturally these newer homes did not add to the neighborhood. He believed the proposed two homes will benefit the neighborhood.

At the Board's request, Mr. Ricci identified each lot in his analysis.

Chrmn. Favate asked if the public had any questions for Mr. Ricci.

Brian Becker, 40 Orchard Rd., was sworn in to testify. Mr. Becker recalled that years ago he had an agreement with the Page Family, the owners of the subject property at that time, that he would purchase 25 feet of their lot. That agreement was in place until the Pages sold their property. Mr. Becker clarified that there was no intention from the Pages to build another house on that property.

Mr. Becker asked Mr. Ricci if he had any relationship with anyone else in the Borough.

Mr. Ricci answered that he had no relationship with anyone else in the Borough.

John Leberfinger, 24 Orchard Rd., explained that he had created his home years ago in the spirit of what he believed was Chatham. He believed his home has not "bankrupted the look of Chatham". Mr. Lieberfinger asked Mr. Ricci if other factors in that section of town considered when the data was researched.

Mr. Ricci answered that from an overall planning perspective, substantial changes will not be made to the traffic situation and school children attendance. Mr. Ricci recalled the testimony given by the applicant's landscape architect, and his plans for the trees.

Mr. Leberfinger invited Mr. Ricci to observe the traffic situation any weekday morning on Orchard Road. He felt it was a very different situation than what occurs on Center Street, where another subdivision had recently been approved.

Nancy Conrad, 18 Orchard Rd., felt that on Orchard Road there was 9 to 10 lots that have over 10,000 sq. ft. of them. She believed there was no cookie-cutter pattern on Orchard Road. Ms. Conrad asked Mr. Ricci why couldn't he consider the entire Blocks 93 and 94 in the vision of the future of this street versus just looking at the smaller lots (on Block 93), which she felt was looking at the past.

Mr. Ricci agreed with Ms. Conrad that most of his testimony had focused on the first 500 feet for the subject property. He had felt that the Dutch Colonial influences on the street were the most attractive from the architectural aspect of the street. That Dutch Colonial influence would be reflected in the two proposed homes.

Ms. Conrad asked why were two homes proposed for this particular lot.

Mr. Ricci explained that the character of the immediate area had a cluster of homes that are smaller than the subject property.

David Becker, 40 Orchard Rd., noted that testimony had been given stating the benefits outweighing the detriments on this application.

Regarding the benefits of this application, Mr. Ricci reviewed the proposed setbacks on the subdivided lots. Adequate light, air, and space will still remain with the placement of the proposed structures.

Wes LaBua, 33 Orchard Rd., asked Mr. Ricci if he foresaw these proposals having an impact on any other properties in this particular area as a precedent?

Mr. Ricci answered that any future applications are based on the facts presented. He believed the Board would review each and every application based on the merits of the application. He believed there would be no precedent; however, the Board Attorney could expand on this further.

Chrmn. Favate brought up the concerns that residents had on the drainage, should this application be approved.

Mr. DeNave reported that he was encouraged by the soils taken on the property when the test pits were done. Berms will be installed on the subject property if/when the dry wells overflow. If the application is approved, the grading will be worked on. Mr. DeNave would also like to extend the storm sewer system up the roadway.

Mayor Harris asked if an enforcement could be put in place for the maintenance of the dry wells.

Mr. DeNave answered that in the nine years he has served as Borough Engineer there has not been an occasion regarding dry wells. He has found no substance of any large size in these dry wells.

Chrmn. Favate invited the public to give statements on this application.

John Leberfinger, 24 Orchard Rd., stated that the residents want to keep Orchard Road looking beautiful. He felt the residents of Orchard Road would accept one house on Orchard Road, not two.

Brian Becker, 40 Orchard Rd., discussed the parking problems currently existing on Orchard Road. He believed the proposals, if approved, would add more density to the street. Mr. Becker still had concerns about what drainage problems may result if the application was approved. Mr. Becker questioned the number of variances (12) being sought.

David Becker, 40 Orchard Rd., questioned that two houses were being proposed for this property. He felt these proposals would not serve as a benefit to the neighborhood.

Wes LaBua, 22 Orchard Rd., noted that this application is a tough choice. He pointed out that there is both bad and good with these proposals. He encouraged that serious thought be given to the long term affect this application will have on the people living in this neighborhood and the community in general.



Nancy Conrad, 18 Orchard Rd., stated that on Orchard Road lot size matters. She questioned if the beauty of Orchard Road could be maintained with these proposals. Ms. Conrad had concerns about cookie-cutter lots eventually developing. She would prefer only one new home on the subject property, not two.

Steve Azzolini, attorney for the applicant, asked if the Board could hold a break in the meeting. He needed time to consult with his client.

At 9:45 p.m. a break was taken in the meeting.

At 9:50 p.m. the meeting resumed.

Attorney Azzolini stated that he understood the concerns from the neighbors. He felt that there was enough substantiation from a legal sense to warrant the approval of this application. Attorney Azzolini believed that the applicant has listened to the Board's comments and have incorporated those suggestions into the plans. Attorney stated that these are not McMansions being proposed. He believed the two proposed homes will fit well into the neighborhood. The proposed use will be positive. The proposed storm water drainage plan will be more beneficial than what currently exists on the site. He asked the Board to approve the application.

Board discussion was held. Mayor Harris expressed concerns about the small lot sizes that will result if this minor subdivision was approved. Mr. Heap predicted that if this minor subdivision was not approved, a huge house may result on the property, similar to the huge house at the end of Oliver Street. He felt the Board was facing a difficult choice on this matter. Mr. Montague pointed out that there are fewer houses available in the Borough for older residents. He will vote in favor of the minor subdivision. Vice Chairman Wagner said he understood the affect the two smaller homes would have on the neighborhood. Mayor Harris pointed out that when the 2016 Master Plan Re-examination was being discussed, at no time **was** the option of reducing the minimum lot size for a residential lot was every discussed. Chrmn. Favate felt the sub-divided lots would be a little too small.

Attorney Loughlin reviewed the list of conditions if the application were approved:

- 1) Applicant will comply with Dr. Blickstein's memo dated 2/23/2017 and will also comply with Mr. DeNave Borough Engineer's letter dated 4/19/2017.
- 2) Applicant will revise his landscaping plans with berms
- 3) Applicant will follow Mr. DeNave's suggestions about extending beyond the properties
- 4) Applicant will make the required Affordable Housing Contribution
- 5) The porticos and porches will not be enclosed
- 6) The construction of the dwellings will follow exactly to the submitted plans, the building materials to be used, and the agreed upon architectural changes as depicted in Exhibit A-7
- 7) Applicant will follow tree safe measures
- 8) Applicant will construct the dry wells per Mr. Clarke's testimony to minimize infiltration with the specialized technique as described by Mr. Clarke

- 9) Applicant will indicate on the subdivision deed that it would be applicable to each lot for a storm water management proposal and system to be maintained for the dry wells and the drainage system to be approved by the Borough Engineer
- 10) One deciduous tree will be planted in the front yard of each subdivided lot.
- 11) Applicant will perfect the subdivision within the time permitted by the Municipal Land Use Law.
- 12) Subdivision deed and monuments must be established subject to the approval of the Borough Engineer.

Mr. Montague made a motion to approve Application PB #17-02 for the Site Plan/Minor Subdivision as proposed by Main Street Development Group, LLC for 34 Orchard Road. Vice Chairman Wagner seconded the motion. A roll call vote was taken:

Mayor Harris	-	no
Vice Chairman Wagner	-	yes
Mr. Montague	-	yes
Mr. Heap	-	no
Chrmn. Favate	-	no

The application was denied.

#### Discussion Item

#### Ordinance of Chatham Borough, County of Morris, State of New Jersey, Amending the Code of the Borough of Chatham (The "Code") and Providing Regulations Applicable to Oil and Hazardous Substance Pipelines

Mayor Harris noted that the proposed Pilgrim Pipeline is still an active issue. He and some other mayors formed a multi-town group, the Municipal Pipeline Group (MPG), to fight the pipeline. Legal counsel has been retained to ensure that the municipalities' interests were protected if Pilgrim Pipeline moves forward with their project.

Mayor Harris explained that an attorney has been retained by the MPG. This attorney has crafted a model ordinance that establishes the conditions under which pipelines can be constructed. Mayor Harris had made some tweaks of this ordinance for Chatham Borough.

Mayor Harris would like to have this ordinance introduced and adopted by the Borough Council over the summer.

Chrmn. Favate suggested this ordinance be re-visited at the June 7<sup>th</sup> Planning Board meeting.

Regarding future applications, Mr. DeNave noted that Washington Ave. School will be appearing before the Board soon, for replacement of playground equipment.

Mayor Harris reported that on the Borough Council Agenda will include a resolution to designate Post Office Plaza as an Area in Need of Redevelopment. If the resolution is approved a visioning session will be held on June 15<sup>th</sup>. The location of the session will be announced.

At 10:45 the meeting adjourned.

The next Planning Board meeting will be held on Wednesday, June 7, 2017, 7:30 p.m., Council Chambers, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary