

CHATHAM BOROUGH PLANNING BOARD

April 3, 2019

7:30 p.m.

Chairman Susan Favate called the Chatham Borough Planning Board Meeting of April 3, 2019 to order at 7:30 p.m. in the Council Chambers, Chatham Borough Hall. Chrnm. Favate announced that all legal notices have been posted for this meeting.

Name	Present	Absent
Mayor Bruce Harris	X	
Steve Williams	X	
Council Member Thaddeus Kobylarz	X	
Chrmn. Susan Favate	X	
Vice Chrmn. Matthew Wagner	X	
H. H. Montague	X	
William Heap	X	
Torri Van Wie		X
Kyle Muir		X
Curt Dawson		X
Vincent K. Loughlin, Esq.	X	

Also present:

Vincent DeNave, P.E., Borough Engineer & Zoning Officer

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

Public Comment

There was none.

Resolution #PB 2019-14

Mr. Williams made a motion to approve the minutes of the March 20, 2019 meeting as amended. Vice Chrmn. Wagner seconded the motion. The minutes of March 20, 2019 were approved as amended.

Application PB #19-04

Luis Da Silva, Jr.

11 South Passaic Avenue

Change of Permitted Use with

Request for Waiver of Site Plan

Block 121 Lot 14

Luis Da Silva, Jr., the applicant, was sworn in to testify.

Mr. Da Silva testified that he is proposing to convert the store unit at 11 South Passaic Avenue into a Portuguese-American restaurant.

Mr. Heap asked Mr. Da Silva if he had other restaurants.

Mr. Da Silva answered yes. His family has 15 to 20 years experience in the restaurant business. Mr. Da Silva stated that he grew up in the Iron Bound section of Newark where Portuguese restaurants are popular. He felt a Portuguese restaurant would be advantageous in Chatham Borough. Mr. Da Silva stated that if his application was approved, he will try and have the restaurant open in early summer.

Mr. Montague asked about take-out business. Mr. Da Silva testified that 60% of his business will be fast-dining. There will be no more than 16 seatings inside the restaurant. Thirty-percent of the business will be delivery. Ten percent of the business will probably be take-out. Mr. Da Silva estimated that the restaurant's prime activities will probably be dine-in and delivery.

Chrmn. Favate asked about the parking situation for employees.

Mr. Da Silva answered that behind the building are two allocated, striped parking spaces. These spaces will be for the employees.

Chrmn. Favate confirmed with Mr. Da Silva that a great deal of interior work **is** needed to this building to convert it into a restaurant.

Mr. DeNave confirmed with Mr. Da Silva that he will maintain a dumpster at the rear of the property. Mr. Da Silva stated that he has been communicating with the Mitsuba Restaurant about incorporating a bigger dumpster. More garbage disposal pick-ups could be arranged when this larger dumpster is installed.

Mr. DeNave asked how many employees will work at the restaurant.

Mr. Da Silva answered probably four plus himself. The hours of operation will be Monday through Saturday, 11 a.m. to 10 p.m. or 11 p.m. Sunday hours will probably 12 noon to 8 p.m.

Mr. DeNave asked if there will be four parking spaces dedicated at the rear of the building. He was concerned that the lease allows adequate parking for the restaurant employees.

Mr. Da Silva explained that two of the employees will be traveling together in one vehicle. One space will be used for the restaurant's delivery vehicle.

Mr. DeNave advised Mr. Da Silva that in the event if the restaurant needs additional parking, Mr. Da Silva should be aware that municipal parking lot spaces only allow for 3 hours. Mr. Da Silva may want to consider buying a municipal parking permit for his employees, so they won't have to shift their cars around.

Mr. DeNave also advised Mr. Da Silva if he had any exterior changes planned for the building, he would have to discuss these changes with the Historic Preservation Commission.

Mr. DaSilva stated that he will remain the regulations and codes of the town. He may be painting the frames of the existing bay windows. Mr. DeNave confirmed with Mr. Da Silva that he will review the designs for signs and the awning. Mr. Da Silva understood that the Borough Sign Committee and the Historic Preservation Commission will be reviewing these particular proposals.

Mr. Williams asked about the exhaust system for the restaurant.

Mr. Da Silva explained an existing window could be used for the exhaust system.

Mr. DeNave confirmed with Mr. Da Silva that he will also have to consult with the Health Department on his plans.

Miles Maher, the landlord of 11 South Passaic Ave., was sworn in to testify.

Mr. DeNave and Mr. Maher discussed the existing parking situation behind 11 South Passaic Avenue. Mr. DeNave asked Mr. Maher to have these parking spaces striped. Mr. DeNave pointed out that a larger dumpster will be installed in the rear, and will need an enclosure.

Mayor Harris asked Mr. DeNave if he had discussed outdoor dining permits with Mr. Da Silva.

Mr. DeNave answered that option has to be explored. The size of the sidewalk has to be checked to see if there was enough room for sidewalk dining. Pedestrians still need room to safely negotiate that sidewalk.

Vice Chrmn. Wagner made a motion to approve Application PB #19-04: Luis Da Silva, Jr., 11 South Passaic Avenue for a Change of Permitted Use with a Request for a Waiver of Site Plan.

Attorney Loughlin reviewed the agreed upon conditions to go with the motion to approve:

- 1) The applicant will obtain approval from the Board of Health
- 2) The applicant will obtain a sign permit for any signage on the building & approval must be obtained for any new awning
- 3) The applicant must submit to the required permits to the Madison Building Department
- 4) The applicant will stripe the parking spaces behind the building
- 5) The applicant will present to Mr. DeNave the plans for the new dumpster
- 6) If any further changes are approved for the premises, the applicant will return to the Planning Board for discussion

Mr. Heap seconded the motion. A roll call vote was taken:

Mayor Harris	-	yes
Mr. Williams	-	yes
Council Member Kobylarz	-	yes

Vice Chrmn. Wagner	-	yes
Mr. Montague	-	yes
Mr. Heap	-	yes
Chrmn. Favate	-	yes

Application PB #19-04 was approved.

Chrmn. Favate announced that Application PB #19-03: J.A.K. Equities, LLC: 28 Watchung Avenue, listed third on tonight's agenda, has withdrawn.

Application PB # 18-12  
Estate of Herbert J. Cannon  
18 Garden Avenue  
Minor Subdivision with Variances  
Block 33, Lot 12

Gary Haydu, Esq., attorney for the applicant, gave an introductory statement. Attorney Haydu reviewed the variances being sought in this application. He noted that David Cannon was present tonight, representing the Estate of Herbert J. Cannon. Attorney Haydu reviewed the other witnesses present tonight to testify.

David Cannon, 18 Garden Ave., was sworn in to testify.

Attorney Haydu confirmed with Mr. Cannon that part of the application proposed is to demolish the existing home at 18 Garden Avenue. Mr. Cannon gave background information on the home, which his parents had bought in 1963. His parents raised their 5 children in the house, including David. Mr. Cannon explained that his parents remained in the home until they passed on. A significant number of medical expenses had to be paid.

Mr. Cannon stated that the existing home was built in 1912. The original galvanized pipes still remain in the home. There has only been one electrical update in the house. There is a possibility of a mold and asbestos issue in the home. The home needs significant upgrading with regard to heating, plumbing and electrical. After considering the cost of these major upgrades, Mr. Cannon stated that he and his siblings decided to sell the property with the hope of not maintaining the existing home. They hoped something new and aesthetically pleasing could be created for the Borough and would fit into the neighborhood.

The Board had no questions for Mr. Cannon.

Andrew Clarke, the applicant's engineer, was sworn in. Mr. Clarke submitted his professional credentials to the Board. The Board accepted them.

Mr. Clarke put the site plan on the easel. He described the location of the property and its dimensions. The property gently grades towards the Chatham Middle School property. Mr. Clarke stated the applicant is proposing to grant an easement for the next-door neighbor, on Lot 11, to maintain the encroachment of their 9 ft. driveway.

Mr. Clarke testified that the existing home and garage will be demolished. The existing property will be subdivided, creating two new lots measuring 50 ft. by 150.6 feet each. Two new dwellings are being proposed, one for each lot. Driveways will be created on the left side of these dwellings leading to a modest size detached garages. These proposed homes will be of a modest size that will conform to the Borough's building coverage and FAR requirements.

Mr. Clarke explained the relief being sought for the lot area, lot width, and side yard variances. He reviewed the side yard variances of the neighboring homes, which are not so different to what the applicant is proposing.

Regarding stormwater management, Mr. Clarke testified that drywells are being proposed on each proposed subdivided property, next to their proposed garages. An inlet will be installed along in front of each garage to catch any water running down the driveway.

Ms. Lelei pointed out that there are two rectangular structures sitting to the east of the proposed structures. Are these mechanical units for each of the proposed dwellings?

Mr. Clarke answered those items were the proposed chimneys.

Ms. Lelie asked if there will be air conditioning units situated on the proposed properties.

Mr. Clarke answered yes, those units will probably be in the vicinity of the chimneys.

Ms. Lelie reminded him that for A.C. units, there must be a 4 ft. minimum setback from the property line and 10 ft. maintained from any adjacent structure.

Mr. Clarke answered that the plans will be able to comply with that setback regulation.

Ms. Lelie noted that two trees in the front will be removed. Will any trees in the rear be removed?

Mr. Clarke answered that at this time none of the trees in the rear would be removed, unless it looked like one of them was failing.

Ms. Lelie confirmed with Mr. Clarke that he will be complying with the tree replacement ordinance for the removal of the designated tree.

Ms. Lelie noted that some 8-inch trees seem to be existing at the back of Lot 12.01. She felt some of the grading goes into those trees. She was afraid those trees won't survive the proposed grading. Ms. Lelie suggested these 8-inch trees be removed, or have the grading adjusted to avoid the drip-line.

Mr. DeNave brought up the driveway on proposed Lot 12.02. He was concerned that the trees on the boundary line may have to be removed, since the paving will be getting close to them. Mr. DeNave recommended a provision be included concerning these trees, if the application is approved. He will help work out this tree situation with the owner of the lot.

Mr. DeNave asked Mr. Clarke if he would consider installing Belgian block on the left side of driveway for Lot 12.02 to help capture the stormwater and direct it into the proposed inlet. Mr. Clarke agreed with this suggestion. Mr. Clarke also agreed to move the inlet to the left-hand side.

Mr. DeNave confirmed with Mr. Clarke that no Borough trees will remain. Mr. Clarke noted that there is one tree that is on the border-line of being a Borough tree. That tree will remain. Mr. DeNave asked to do everything possible to maintain that tree. Mr. Clarke understood that if something had to be done to the tree, he would have to appear before the Shade Tree Commission.

Mr. DeNave pointed out that the proposed deck for Lot 12.01 does not comply with the Borough's requirement specifying a 3-foot setback must exist from the edge of the dwelling. Mr. Clarke answered that some adjustments could be made to the deck lay-out.

Mayor Harris asked where the two replacement trees for Lot 12.01 will be planted.

Mr. Clarke indicated that the applicant's landscape expert could better answer that.

Mr. DeNave brought up the easement existing on Lot 11. He suggested to Mr. Clarke, that before he files construction permits for that lot, if the application is approved, that this easement is filed with the County. Mr. Clarke agreed with that condition.

The public had no questions for Mr. Clarke.

Timothy Klesse, the architect for the applicant, was sworn in. He submitted his credentials to the Board. The Board accepted them.

Mr. Klesse stated that he grew up in Chatham and was in school with David Cannon. Mr. Klesse stated that he is not a professional planner, however he is very familiar with the applicant's neighborhood. Mr. Klesse testified that he designed the two proposed houses to blend in well with the upper end of the applicant's street.

Mr. Klesse referred the Board to the first architectural drawing in their packets. He noted that both proposed homes conform to the Borough's bulk requirements. However, he explained the problems that came up concerning the side yards. Mr. Klesse noted that he placed the detached garages way in the proposed back yards. He also explained that the architectural details for the homes will have a 1910 look. The proposed house on the right will be more Colonial Revival.

Mr. Klesse referred the Board to Sheet DB21. This sheet shows what a large Colonial home would look like instead of the two homes being proposed. Mr. Klesse pointed out that a large house like this, even if it conforms with the zoning regulations, would be out of character with the applicant's neighborhood. He felt that the proposed two homes would be a better solution for the neighborhood.

Chrmmn. Favate brought up the 9 ft. side yard of Lot 12.01 and the encroachment of the neighbor's driveway. She asked how far back would the chimney extend into the 9-ft. setback?

Mr. Klesse answered that the chimney would project in two feet.

Mr. Klesse referred the Board to the 18 Garden Ave. site. He described the first floor of the proposed home, consisting of a kitchen, family room, eating area, and a small deck at the rear. He felt the chimney should be brick-clad. Mr. Klesse described the second floor – two bedrooms in the front and one bedroom at the rear. A hall bathroom will serve these bedrooms. He pointed out a small laundry area, a master bedroom, closet, and a master bathroom.

Mr. Klesse described the proposed home for 16 Garden Avenue. It will be a center hall colonial home. Mr. Klesse stated that the front portico will be set at the front yard setback point. He described the rooms for the first floor. Mr. Klesse believed that the proposed deck is drawn too large for the house. He suggested that it should be relocated at the 16 ft. dimension line at the side of the house. Regarding the proposed second floor, Mr. Klesse described the bedrooms, laundry room, the hall bathroom, master bedroom and master bath. He reviewed the architectural details and elevations of the proposed home.

Mr. Klesse believed that both of the proposed homes were nicely scaled and will fit well into the neighborhood.

Mr. DeNave asked what exterior materials would be used.

Mr. Klesse answered that wood, cedar or hardy plank, are being proposed. He will not use siding.

Mr. Wagner suggested using two different exterior materials to break up the façade of at least one of the homes. Mr. Klesse agreed that would be a good idea. He reviewed the proposed ridge measurements for Mayor Harris.

Andy McCullough, 21 Garden Ave., asked for the square footage of the proposed homes.

Mr. Klesse testified that the FAR for the home on Lot 12.01 is 2,200 sq. ft. The FAR for the home on Lot 12.02 is 2,081 sq. ft.

Nancy O'Brien, 21 Garden Ave., expressed concern that the two proposed homes may have the potential of adding ten more cars in the neighborhood. Ms. O'Brien asked Mr. Klesse about the parking situation for these two homes.

Mr. Klesse answered that both homes will have long driveways. He estimated five cars could probably fit in each driveway.

Andrew Clarke, the applicant's engineer, pointed out that one of the cars could park in the garage. Four cars could probably park in each driveway. If they weren't large cars, they could be park bumper to bumper in the driveway.

There were no further questions for Mr. Klesse.

Jerry A. Sinagra, Jr., the applicant's landscape architect, was sworn in to testify. Mr. Sinagra submitted his professional credentials to the Board. The Board accepted them.

Mr. Sinagra referred the Board to his landscape plans on the easel. He pointed out the existing trees on the subject property. All the existing trees in the back are remaining. Mr. Sinagra noted that the trees marked with a circle and an X will be removed. Mr. Sinagra testified there will be 7 proposed street trees. Evergreen trees will be planted in the back to fill in the gaps between the existing trees. On the plans, Mr. Sinagra pointed out where a Norway spruce will be planted. He reviewed the proposed tree plantings along the driveway. Simple foundation plantings will be done for the front facades of the homes. Evergreens will be planted near the chimney and wherever the air conditioning unit is installed.

Mr. Sinagra reviewed where the flowering trees will be planted.

Regarding the street trees, Mr. Sinagra testified that the existing maple tree on the property is in poor condition and will probably not heal correctly. This tree will be further impacted by any construction that goes on. Mr. Sinagra is proposing to plant some Zelkova trees across the front of the property, after removing the maple tree. He pointed out a cluster of pin oaks that will be planted to block the view of the garages from the street. He pointed out the future lawn spaces.

Mr. DeNave asked what the height of the Zelkova trees would be when fully grown.

Mr. Sinatra answered about 50 to 60 feet high.

Mr. DeNave noted that when these trees grow to 20 feet, the power company will begin to trim the branches, so they won't interfere with the wires. Often this trimming gives the trees an unattractive appearance. Is there any way these trees could be set back? Could another species of trees be planted? The power lines run on that side of the street.

Mr. Sinagra answered that these future trees could be pushed back.

Ms. Lelie suggested that an upright species, like a sweet gum be planted, or the trees could be pushed back when they are planted. She left it up to the applicant to decide what to do with this tree situation. Any revised landscaping plans could be submitted to the Board.

There were no questions from the public for Mr. Sinagra on his landscaping plans.

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

Attorney Haydu asked Mr. Ricci if he could review his planning analysis for this application.

Mr. Ricci submitted a handout of three pages consisting of an overlay of aerial photography with tax map information and zoning information. This handout was labeled as Exhibit A-1. Mr. Ricci described the neighboring lots in the R-2 District where the subject property is located. Mr. Ricci pointed out that three out of the six neighboring lots have the same dimensions as the two proposed lots that will be created from the subdivision. Those lots are on either side of the subject property.

Mr. Ricci testified that the proposed properties will be conforming and consistent with the character of the neighborhood. He also testified that the proposed plans will be a better zoning alternative for the applicant's tract. Mr. Ricci stated that the proposed side yard setbacks are greater in totality by what exists currently in the applicant's neighborhood.

Mr. Ricci testified that this application advances the several purposes of the Municipal Land Use Law. Mr. Ricci reviewed each purpose. He noted that the applicant is seeking variance relief under the C-2 criteria. Mr. Ricci felt that the variances could be granted without a substantial detriment to the public good, namely the surrounding property owners. The benefits of the deviations outweigh the detriments. The proposed setbacks will be in character with the neighborhood.

Mr. Ricci testified that the architectural styles being proposed for these homes will be a benefit to the immediate area. He stated that the proposed application represents a better zoning alternative for the area. The benefits of the application outweigh the detriments.

Ms. Lelie, the Board's planner, alerted Mr. Ricci to the fact in the **2016** Master Plan Reexamination Report there are two sections that support this type of development. One section has to do with the preservation of the neighborhood character. Also, any new infill development considers and respects the context of the surrounding homes. The architect of the two homes being proposed in this application are clearly achieving these objectives.

The public had no questions on Mr. Ricci's testimony.

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

Diane Conlan, 22 Garden Ave., thanked the Cannon family for applying for this subdivision, thus preventing a developer coming in and constructing a "monster house" in the neighbor. She complimented Mr. Klesse on the renderings he did for the proposed homes.

Mario Mirabelli, 17 Garden Ave., stated that he lives across the street from the applicant's property. He believed that the proposed plans made sense, as opposed to "some monstrosity" being constructed.

Jenee Moore, 14 Garden Ave., noted that her driveway is the one that encroaches on the Cannons' property. Mrs. Moore was happy that she still could have a driveway to reach her garage. Regarding the setback issues, Mrs. Moore had no problems with the driveway being close to the chimney.

Attorney Haydu waived his closing argument. He referred the hearing back to the Board.

Attorney Loughlin asked Mr. DeNave if he was recommending monuments and/or bonding for this application.

Mr. DeNave felt that there should be monuments. He did not feel there should be and bonding on the site.

Mayor Harris and Mr. DeNave discussed the siding for the proposed homes. Mr. DeNave said he wanted to make sure that vinyl siding wouldn't be used. He had recommended regular wood, cedar or impressed hardy-plank be used.

Mr. Heap noted it was interesting that the Garden Ave. residents have expressed an interest in two smaller sized homes being proposed on the subdivided lot. A few years ago, residents on Orchard Road had indicated to the Board that they preferred one large home to be constructed on a demolished site, instead of two smaller homes. Mr. Heap felt it was important for the Board to always consider neighborhood input.

Mr. Williams made a motion to approve Application PB #18-12: Estate of Herbert J. Cannon, approving a Minor Subdivision with Variances for 18 Garden Avenue, with the agreed upon conditions:

- 1) Applicant must submit a plan for conforming locations for the HVAC units
- 2) Applicant is required to pay all fees, charges, and escrows including the Affordable Housing contribution required by Borough ordinance.
- 3) Applicant must submit a revised landscaping plan, a tree replacement plan and a tree preservation plan
- 4) Applicant must comply with the tree replacement ordinance of the Borough
- 5) Applicant must submit additional details regarding stormwater maintenance, retention, detention as required by the Borough Engineer
- 6) Applicant must prepare an easement agreement for the shared driveway encroachment in favor of the adjoining Lot 11 as per Mr. DeNave's suggestion. Such easement agreement has to be approved by the Board's professional and filed with the County before the subdivision plat is recorded
- 7) Applicant is to present a revised engineering plan for Belgian curbing for the driveways for each subdivided lot
- 8) Applicant must revise the plans to show conforming locations of the decks.
- 9) Applicant must construct the houses in accordance to the architectural plans, evidence, and testimony with the requirement that the homes be constructed with wood or hardy-plank with wood style and no vinyl.
- 10) Applicant must submit a staging plan for all construction work at the property.

11) Monuments will be required in the recording of a plat, as approved by the Borough Engineer.

Vice Chrnm. Wagner seconded the motion with the agreed upon conditions. A roll call vote was taken:

Mayor Harris	-	yes
Mr. Williams	-	yes
Council Member Kobylarz	-	yes
Vice Chrnm. Wagner	-	yes
Mr. Montague	-	yes
Mr. Heap	-	yes
Chrnm. Favate	-	yes

Application PB #18-12 was approved.

Regarding future applications, Mr. DeNave reported that there is nothing pending. However, at the next Board meeting, April 17<sup>th</sup>, the Board will be looking at the Post Office Redevelopment Plan for Master Plan Consistency.

Mayor Harris reported that Council Member Kobylarz will be taking Matthew Engel's place on the River Road Redevelopment Steering Committee. Mr. Engel is moving out of town.

Mayor Harris reported that a Joint Meeting between the Borough Council and the Planning Board to discuss the draft of the River Road Redevelopment Plan will be held at the May 1<sup>st</sup> Planning Board meeting.

At 9:40 p.m. the meeting adjourned.

The next Planning Board meeting will be held on Wednesday, April 17, 2019, 7:30 p.m., in the Council Chambers, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary