

CHATHAM BOROUGH PLANNING BOARD  
August 19, 2020 7:30 p.m.

Chairman Susan W. Favate called the Chatham Borough Planning Board Regular Meeting of August 19, 2020 to order by Zoom at 7:30 p.m. Chrnm. Favate announced that all legal notices have been posted for this meeting. This was a virtual meeting. Board members were present by way of Zoom.

Name	Present	Absent
Mayor Thaddeus Kobylarz	X	
Steve Williams	X	
H.H. Montague	X	
Vice Chrnm. Matthew Wagner	X	
Chrnm. Susan Favate	X	
Curt Dawson	X	
Joseph Mikulewicz	X	
Gregory Xikes	X	
William Heap		X
Torri Van Wie		X
Council Member Irene Treloar	X	
Vincent K. Loughlin, Esq.	X	

Public Comment

There was none.

Resolution #PB 2020-01

The minutes of the August 5, 2020 meeting will be reviewed and voted on at a future meeting.

Application Resolutions

Application # PB 20-001

400 Main Street

Block 80, Lot 1

Change of Use/Site Plan Waiver

Mr. Williams made a motion to approve the Resolution memorializing the Board's approval of Application # PB 20-001. Mr. Montague seconded the motion. A roll call vote was taken:

Mayor Kobylarz	-	yes
Mr. Williams	-	yes
Council Member Treloar	-	yes
Mr. Montague	-	yes
Mr. Wagner	-	yes
Mr. Dawson	-	yes
Mr. Mikulewicz	-	yes

Mr. Xikes	-	yes
Chrmn. Favate	-	yes

The resolution was approved.

#### New and Returned Applications

There were none.

#### Discussion Items

##### Zoning Fee Ordinance Review

Mr. DeNave noted that Board members have been given sample ordinances for tonight's discussion. The Borough has been working on their Zoning fees for quite some time now. Mr. DeNave explained that there are several tasks he undertakes as Zoning Official that currently do not charge fees. Other communities charge a fee for these particular activities. As an example, Madison Borough charges a zoning fee for applicants submitting papers for a building project. The fee would pay for the Zoning Officer's review of the building project. Currently, Chatham Borough does not have such a fee. Mr. DeNave pointed out that most communities have a zoning fee.

Mr. DeNave explained that a zoning fee for reviewing an application would off-set his time and his salary associated with the time he spends on those particular items. Borough Attorney Lott has been working on this matter. Attorney Lott believes this zoning fee for application review belongs in the Land Use ordinance in order that these fees could be authorized.

Mr. DeNave noted that many of the documents that Ms. Politi, his assistant, had sent the Board members are sample ordinances. Attorney Lott is working on a clean-up version to send Board members in another week or so. Mr. DeNave explained that currently he does not charge a fee when he reviews plans for a proposed addition. He would like to charge \$100 for such a review. Review for a new residential structure should be \$150.

Mr. DeNave reported that after a serious storm, like the one last week, 20 to 30 applications are submitted for generator installations. Most communities would charge \$25 for an official review of such an application to make sure the installation complies with the Borough's setback regulations, and other regulations.

Mr. DeNave pointed out that the only review fees currently charged by Chatham Borough are for shed and fence installations.

Mr. DeNave reminded Board members that he has to review drainage plans and grading plans for new construction. There is currently no fee for these reviews.

Mr. DeNave stated that he would like Chatham Borough to model their review fees like Madison Borough's fees. A permit form similar to Madison's will be created. Since the permit form will be going into the Land Use ordinance, the Planning Bd. has to review and approve it.

Mr. Williams noted that up until March 23<sup>rd</sup> (when Borough Hall closed because of COVID-19) he observed lines of people outside of Mr. DeNave's office to consult with him on all of the matters that he has brought up tonight.

Mr. Mikulewicz asked what the difference between a zoning analysis for an actual addition to a building would be, as opposed to just a hypothetical plan.

Mr. DeNave explained that he has done informal zoning analysis for people who are interested in purchasing home, however, they want to see how much they would be allowed to add on. Unfortunately, this function has become abused. Some realtors contact him about the allowable size of an addition to a house for sale. The sale is contingent upon what could be added to the home. Mr. DeNave would rather talk with the prospective buyers himself, so no misinformation is given. Accurate information must be given to Mr. DeNave to give an honest answer to these type of requests.

Mayor Kobylarz asked if there is currently a charge for this type of zoning analysis.

Mr. DeNave answered no, not currently. However, he is looking into charging a fee for this type of analysis. The fee for this review will probably be \$75 to \$100.

Mr. DeNave noted that the Borough Council may not approve of all these fees that he is proposing; however, the Planning Board has to officially recommend them to the Borough Council.

Mr. Dawson asked if there would be liability issues if someone returned after their plans were not approved, challenging Mr. DeNave's analysis.

Mr. DeNave felt there was liability with everything. Mr. DeNave stated that the information he gives is not always perfect.

Mayor Kobylarz felt Mr. DeNave should be able to give this basic guidance to residents. This level of service should be made available.

Mr. Dawson felt that once the Borough receives this review fee, a legal document is created, thereby starting a "liability trail".

Mr. DeNave said he will check with the Borough Attorney about this concern. Mr. DeNave noted that his assistant will create a spreadsheet showing how other communities handle zoning analyses and how much they charge. He asked Board Attorney Loughlin his thoughts on the liability concerns that Mr. Dawson brought up.

Attorney Loughlin answered that he will defer to the Borough Attorney's decision, however he had concerns about the analysis of someone's property without obtaining proper authorization by the owner. He also agreed with Mr. Dawson's comment that once a document is produced in writing on behalf of the Borough, as a result of a fee, there would be liability issues that would have to be resolved.

Council Member Treloar, referring to the sample ordinance from Florham Park, noted that there is a section addressing underground wiring. She reported that she and Chrmn. Favate have discussed the possibility of requiring any new construction to have underground wiring installed. They had discussed forming a subcommittee to look into this possibility. Chrmn. Favate agreed, that the Board should move on the idea of such a subcommittee.

Chrmn. Favate asked if there were any more comments regarding the fee schedules. She felt the spreadsheet would be a good idea.

Mr. DeNave reported that Borough Attorney Lott will be providing him with the ordinance with the actual code sections that are needed. Some of the older provisions will be cleaned up and included. With the spreadsheet, Mr. DeNave will highlight the fees. Mr. DeNave will also discuss liability issues with Mr. Lott.

Regarding the fees, Mr. Dawson suggested putting in a mechanism that will automatically adjust the fees, on an annual basis, for inflation.

Mr. Williams noted that the Borough ordinances are now written with a fee schedule that is revisited every fall and acted on at every Borough Reorganization meeting. Therefore, the fees get changed on an annual basis.

Mr. Mikulewicz asked Mr. DeNave, if the new fee process went into play, what process would a resident follow, especially paying the fee.

Mr. DeNave explained that a new method is being looked at, where an applicant can fill out their zoning permits and pay online, instead of the current lengthy method.

Chrmn. Favate said the Board will be looking forward to receiving Mr. DeNave's spreadsheet and any additional information. A decision on the fees could probably be made at the next meeting.

Chrmn. Favate discussed the Underground Wiring Subcommittee and the Planning Bd.'s involvement with this subcommittee. She noted that both Mr. Xikes and Council Member Treloar are already involved in this subcommittee.

Mayor Kobylarz suggested that the Shade Tree Commission be represented on this subcommittee.

After further discussion, Mayor Kobylarz agreed with Chrmn. Favate's suggestion that an Ad-Hoc Committee be formed for Underground Wiring. Members of the public could then give input, as well as Borough Commissioners and Board members.

Chrmn. Favate asked if any members would be interested on serving on this Ad-Hoc Committee.

Council Member Treloar agreed to serve on the Committee.

Mayor Kobylarz asked Chrmn. Favate to join the Committee. Her feedback as Planning Board Chairman would be valuable. Chrmn. Favate agreed to join.

Related to this matter, Chrmn. Favate asked if the Shade Tree Commission still had the program of giving out trees to Borough residents. She pointed out that a number of trees have been lost due to recent bad weather.

Mr. DeNave answered that the program is an on-going program. Over the years, not everyone wants trees. He noted that the Shade Tree is budgeted to plant 50 to 75 trees per year. Mr. DeNave pointed out that people are now afraid of trees, after seeing many trees crash down on homes during recent storms. An effort also has to be made to keep the trees away from sidewalks, because the tree roots eventually push up the sidewalks. The overhead powerlines also have to be taken into consideration. So there are not many public places remaining to plant trees. On private property, permission is needed to plant trees.

Chrmn. Favate reviewed her own experiences with having tree plantings on her residential property. The trees had been planted by the Shade Tree Commission.

Mr. DeNave noted that the Shade Tree Commission usually undertakes their tree plantings in the fall. If someone wants a tree, they could email Mr. DeNave and he will forward it on to the Shade Tree Commission. He would like the Borough to better publicize this program.

Ms. Holler, the Recording Secretary, who also works for the Shade Tree Commission, reported that there is currently a long list of residents waiting for tree plantings. There had to be a cut-off this year. Some residents will have to wait for 2021 for their tree plantings. The Tree Request Form is on Borough website.

Mayor Kobylarz recommended that this tree planting program could still be better publicized for residents.

#### Bulk Requirement Review

Mr. DeNave noted that he has provided a spreadsheet in preliminary format. He believed that the last revision made to the Borough's Floor Area Ratio (FAR) was in 2016. The allowable FAR had been increased. The number of residents coming in with FAR applications since that revision should be researched. Mr. DeNave noted that during the last three years or so, the issues coming before the Zoning Bd. are for building coverage, not FAR.

Mr. DeNave explained his spreadsheet showing the dates and locations of these recent applications and which variances they were seeking and had approved. The figure that is still needed on the spreadsheet is the percentage that had been granted by the Board over what is allowable. Mr. DeNave reminded the Board that the larger the lot, the smaller the percentage of what is allowed. Mr. DeNave also wanted the Board to be aware how much, in feet, side yard setbacks are being approved.

Chrmn. Favate asked how many height variances does the Zoning Board grant.

Mr. DeNave answered several years ago the Borough changed the definition of how height is measured on a building. Now the height is measured by the existing grade to the peak of the roof, averaged around all of the corners. If height is a concern, Mr. DeNave recommended that the Board take another look at the definition and how the height is being calculated. Mr. DeNave didn't believe the Board was granting a great many height variances. He supposed it was because many of the newer homes have been built to the maximum height of 35 feet. Unfortunately, these newer homes with this maximum height do not always fit into the neighborhood with older homes. These houses may fit in years later when the other homes undergo updates. However, in the meantime, Mr. DeNave receives many complaints on the heights of new homes being constructed in the Borough.

Board members discussed ceiling heights.

Mr. DeNave stated that he will make copies of the definition of half-story, which is a 5 ft. average height which can't be exceeded. He pointed out that the Borough currently does not allow three stories, therefore, unfortunately architects "become creative" with the Borough's definitions. Mr. DeNave will also find the definition of height.

The Board and Mr. DeNave discussed the side yard variance situation. Mr. DeNave felt that most of the side yard variances being sought occur in the older neighborhoods of town. 50 to 75-foot-wide lots existing in these neighborhoods. Care has to be taken that light, air, and open space between homes be maintained.

Mr. DeNave asked the Board if there was anything other elements they would like to see in his spreadsheet to help them evaluate the bulk issue.

Chrmn. Favate said she would like to see the volume of FAR applications a year or two before the FAR was revised.

The Board and Mr. DeNave discussed front yard setbacks and porches being added to homes. Chrmn. Favate felt that porches help reduce the "boxiness" of homes. Mr. DeNave explained the unfortunate trend of applicants who have maxed out the allowable calculations of their newly constructed homes, and then want to add a front porch, triggering a front yard variance. The applicants and their architects always stress to the Zoning Board that the Borough Master Plan encourages front porches.

Mr. Dawson asked Mr. DeNave if he could add photographs to the spreadsheet. The visual effect may help with the definitions. Mr. DeNave said he will see what he could do.

Chrmn. Favate asked Mr. DeNave if the Planning Bd. had any applications on the horizon.

Mr. DeNave asked no, not currently.

Chrmn. Favate noted that the Planning Board has to give the Borough Council some official directives on a matter.

Regarding this matter, Attorney Loughlin stated that he had received from the Borough Clerk, a copy of a request from the Mayor and Borough Council directing the Planning Board to initiate a preliminary and investigative study to determine whether certain real properties (Attorney Loughlin reviewed all the designated Lots and Blocks) qualify as a non-condemnation area in need of Redevelopment, under the Redevelopment Law. Attorney Loughlin pointed out that the area under discussion is shown on the screen tonight. It consists of a section of Watchung Ave. and River Road. The Board, if so desired, can take action on this matter tonight.

Mr. DeNave explained to the Board that they will soon see a redevelopment plan for B & E, which consists of the corner property of Watchung Ave. and River Rd. along with the National Manufacturing building, the Crown Oil building, and the Burling Instruments building. These are already included as a redevelopment site. However, it has become clear to the Borough Council that a hodge-podge of development should be avoided for River Road. An entire planning for River Road is really needed now. Currently there is no one cohesive plan in place to establish a good rhythm of development on Watchung Ave. and River Road. Such a plan or study should be in place for when the developers approach the Borough with proposals. There should be a good mixture of residential, retail, open space by the river, etc.

Mayor Kobylarz added that at last Monday's Council Meeting, the Borough Council approved a rehabilitation study for this entire area. The Borough Council has retained the services of Francis Reiner of DMR Architects. One option is to keep the existing buildings in this area and just refurbish them.

Mr. Montague and Mr. DeNave discussed the traffic studies that have been undertaken in this area. Mr. DeNave believed when the redevelopment plans come before the Planning Board, there will probably be a proposal to widen the roadways, open up the intersections, readjust the timing of the traffic lights and enhance the flow of the traffic. Those proposals will have to be presented to the Planning Board.

Mayor Kobylarz brought up the idea of preserving some of the historic character of that section of town. Perhaps the industry could be upgraded over time.

Attorney Loughlin advised the Board to not get too far along tonight discussing the future of this section of town. He asked them respectfully to just focus tonight on authorizing this preliminary study and retaining the services of Mr. Reiner.

Vice Chrmn. Wagner made a motion to undertake a preliminary investigation report, to engage the services of the planning consultant, Francis Reiner, to undertake the preliminary investigation and report, requested by the Mayor and Borough Council in Resolution 20-214. Mayor Kobylarz seconded the motion. A roll call vote was taken:

Mayor Kobylarz	-	yes
Mr. Williams	-	yes

Council Member Treloar	-	yes
Mr. Montague	-	yes
Vice Chrmn. Wagner	-	yes
Mr. Dawson	-	yes
Mr. Mikulewicz	-	yes
Mr. Xikes	-	yes
Chrmn. Favate	-	yes

Attorney Loughlin noted that he had the resolution memorializing this action taken tonight by the Board. The Board is very welcome to vote on the resolution tonight.

Mr. Williams made a motion to approve the Resolution for the Planning Board to conduct this preliminary investigation and the hiring of Mr. Francis Reiner as the professional planner for this project. Vice Chrmn. Wagner seconded the motion. A voice vote was taken. The motion was unanimously approved.

The September 2, 2020 Planning Board meeting was tentatively scheduled; however, was cancelled late in August.

The next Chatham Borough Planning Board meeting will be held on Wednesday, September 16, 2020, 7:30 p.m. This will be a virtual meeting held by Zoom.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary