

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
August 24, 2016 7:30 p.m.

Chairman Michael 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 notices for this Zoning Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Chrmn. Michael Cifelli	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert		X
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia – 1 st Alternate		X
John Richardson – 2 nd Alternate		X
Alida Kass	X	
Patrick Dwyer, Esq.	X	

Also present at this meeting:

Vincent DeNave, Borough Zoning Officer & Borough Engineer

Robert Brightly, P.E., Engineering Consultant for the Zoning Board of Adjustment.

Public Comment

No one came forward.

Resolution #ZB 16-13

The minutes of the July 27, 2016 Zoning Bd. of Adjustment meeting were approved as amended. Mrs. Kass abstained from voting because she was absent from this meeting.

Old/New Business

Mr. Montague reported on the minor subdivision application voted on by the Planning Board at their August 17, 2016 meeting.

Resolutions

Application ZB #16-014

Chris & Tara Stepanian

35 Minton Ave.

Side Yard/Building Coverage

Block 127, Lot 12

Attorney Dwyer summarized this application which was seeking improvements to a single family existing home. A small building coverage variance was being sought. The Board

decided to grant both the building coverage and the side yard variance. A roll call vote was taken, confirming the Board's approval of these variances:

Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes

Application ZB #16-015

Julie Carles

76 Hillside Avenue

Building Coverage

Block 116, Lot 7

Attorney Dwyer summarized this application which was seeking a rear addition. After listening to the testimony, the Board granted the building coverage variance. A roll call vote was taken, confirming the Board's approval of this variance:

Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes
Mr. Infante	-	yes
Mrs. Kecskemety	-	yes
Mr. Montague	-	yes

New and Returned Applications

Chrmn. Cifelli reviewed the status of the applications listed on tonight's agenda.

Application ZB 15-17: Minisink Club, Inc. – 1 Princeton St.: This application will be carried to a future meeting. Chrmn. Cifelli had sent a list of possible dates when an extra Zoning Bd. meeting could be held to finish this application. Chrmn. Cifelli asked Atty. Dwyer to advise Minisink to bring all their professionals when this final hearing is scheduled.

Application ZB #14-29: 4 Watchung Avenue, LLC – 4 Watchung Ave.

Application ZB #16-012: Hess – 210 Washington Ave.

Chrmn. Cifelli explained why Application ZB #14-29: 4 Watchung Ave. will be heard tonight before the Hess application. Mr. Hess consented to this latest arrangement.

Application ZB #14-29

4 Watchung Avenue, LLC

4 Watchung Avenue

Appeal of Zoning Official's Decision/Site Plan Approval

Block 134, Lot 1

Expires August 31, 2016

A court stenographer was present and recorded what transpired on this application.

Robert Podvey, Esq., attorney for the applicant, came forward.

Attorney Podvey stated that he had conferred with Attorney Dwyer after he had received a resolution, concerning the property, which he (Attorney Podvey) had previously been told did not exist.

Attorney Podvey assumed that the application that had been submitted on November 10, 2014 and is already on the record. It doesn't need to be marked as an exhibit. On August 23, 2016 a letter had been submitted to the Board and its consultants.

Attorney Podvey submitted Exhibit A-1: the 2014 resolution that Atty. Podvey received this morning. Copies of the resolution were distributed to Board members.

Attorney Podvey noted that an associate from his law firm had been sent to Borough Hall after submitting an OPRA request, trying to find information on this particular piece of property at 4 Watchung Ave. An application was found from a prior owner of this property to have outdoor storage of cars, provided that a fence would be erected.

Attorney Podvey stated that he and the applicant had been under the impression, despite the OPRA request, up until this morning when Attorney Dwyer left Attorney Podvey a voice mail message, that the applicant would be appealing a determination made by the Borough Zoning Official that the applicant was in violation of the ordinance.

Attorney Podvey submitted the following:

Exhibit A-2: The zoning violation notice dated Sept.19, 2014

Exhibit A-3: The zoning violation notice dated April 2, 2014, issued by the Borough Zoning official, informing the owner of 4 Watchung Ave. that his property is not zoned for outside parking of vehicles.

Attorney Podvey quoted from the zoning violation of Exhibit A-3 that the Zoning Official stated that a previous owner of 4 Watchung Ave. had attempted to gain approval for vehicle parking and was denied by the Zoning Bd. of Adjustment.

Attorney Podvey stated that he and the applicant have been preparing their case for almost two years now on the basis that there had been a denial for this proposed parking. He reported that this morning he had found out that there *had been* an approval.

Chrmn. Cifelli noted that the 1971 resolution was not signed or dated. How could this document be considered an approval?

Attorney Podvey answered that he wasn't sure what it was. However, he was upset when he found out about this document. Attorney Podvey wasn't sure which direction to take from here.

He just wanted to have on the record what has transpired on this matter. Attorney Podvey stated that he will continue to work on this application with his colleagues. He will eventually return to the Board.

Chrmn. Cifelli felt that even if a signed and memorialized resolution on this matter was found, only part one of a two-step would be met. Looking at the 1971 resolution, it looked as though, back then, the Zoning Board didn't have the authority to actually grant variances, but made recommendations to the Borough Council.

Chrmn. Cifelli noted that Attorney Podvey had every right to pursue the matter further.

Mr. Haeringer referred Attorney Podvey to the Zoning Officer's letter dated September 19, 2014 requesting the property owner to remove the cars in three days. Were the cars removed?

Attorney Podvey answered no. Her client has been trying to have their case heard by the Board however the Board has been tied up with many other applications. He and his client have even asked to be heard at a special meeting held for their case, but to no avail.

Chrmn. Cifelli said it wasn't fair to blame the Board for the two year delay.

Attorney Podvey answered that he wasn't blaming the Board. He just wanted to show that he and his client were trying to be diligent about having this matter heard and settled.

Chrmn. Cifelli reiterated a point raised earlier by Mr. Montague, that a position has to be made whether there was a genuine resolution, and therefore no violation was committed because the permitted use was allowed by variance, *or* a genuine resolution isn't found and relief is being sought under the statue as cited in Attorney Podvey's papers. Chrmn. Cifelli noted that Attorney Podvey will need time to work on this situation, since Attorney Podvey just received this resolution only this morning.

Chrmn. Cifelli said he had no problem granting Attorney Podvey and his client's request for another adjournment. He asked Attorney Podvey if he would be ready by the next Zoning Board meeting?

Attorney Podvey answered that he didn't know. He'll know by the middle of next week.

Mr. DeNave, the Zoning Official, informed Attorney Podvey that he was the one who sent him the Notice of Violation back in 2014. Mr. DeNave stated that the last-minute resolution situation was because Borough Hall had interns all summer who were attempting to organize all of the Borough's old Block and Lot files. The summer interns came across many old resolutions. Mr. DeNave said the files will continue to be searched: however, so far, a Borough Council resolution has not found. Also, the 1971 meeting minutes concerning this property have not been found. The box with the resolution had been mislabeled. However, Mr. DeNave and other employees will keep searching for the missing documents.

Chrmn. Cifelli announced that Application ZB #14-29: 4 Watchung Avenue, LLC, will continue to the September 28, 2016 Zoning Bd. of Adjustment meeting.

Attorney Podvey agreed to provide the Board with a copy of the transcript typed tonight by the applicant's court stenographer.

Attorney Podvey thanked the Board for their time and departed. Mr. DeNave and Mr. Brightly also departed the meeting.

At Attorney Dwyer's request, Attorney Podvey will be providing to the Board a copy of tonight's transcript done by the applicant's court stenographer.

Application ZB #16-012
Stephen & Meghan Hess
210 Washington Avenue
Building Coverage/Lot Coverage
Block 5, Lot 15

This is continued from the July 27, 2016 Zoning Board of Adjustment meeting.

The following came forward and remained under oath from the previous hearing:

Stephen Hess, the applicant

Timothy Klesse, the architect for the applicant

Chrmn. Cifelli noted, from the last hearing, that two modifications to the plans were to be submitted:

- 1) The reduction of the existing patio by 200 square feet, which result in the reduction of the lot coverage by 265 sq. ft. in the application
- 2) The driveway wall will be put back in its existing location, removing another 65 sq. ft. of lot coverage
- 3) The left side of the patio will be removed

Mr. Klesse and Mr. Hess confirmed with Chrmn. Cifelli that these were the agreed upon modifications.

Attorney Dwyer confirmed with Mr. Klesse that he had submitted a cover letter, dated July 28, 2016, summarizing the modifications. Mr. Klesse also confirmed that the lot coverage has been reduced by 265 sq. ft. He noted the revised denial sheet was attached to his letter.

Chrmn. Cifelli noted that the proposed building coverage variance remains the same, proposing 279 sq. ft. over what is allowed. Also, the lot coverage variance is now reduced to 598 sq. ft. above what is permitted.

Mr. Klesse pointed out the existing driveway, which is very long, is pushing up the lot coverage calculation. He testified that the actual net increase for lot coverage being sought is 249 sq. ft. Mr. Klesse noted that it's 76 feet from the back of the applicant's driveway to the property line.

An additional distance, of almost 80 feet, measures from the property line to the neighbor's house at the rear. A good visual buffer will exist.

Chrmn. Cifelli recalled that there had been a concern whether the applicant had enough room to exit his car out of driveway nose first, instead of backing around.

Mr. Klesse answered that 30 feet exists off the property line. The minimum for that car negotiation would be 23 feet.

Chrmn. Cifelli confirmed with Mr. Klesse that the proposed garage will also be adding to the lot coverage. The garage will be sunk partially into the ground, giving a minimum impact, and will have a flat roof.

Mr. Haeringer and Mr. Klesse reviewed the portion of the patio to be removed and also discussed the drainage for the proposed garage.

Mr. Montague asked that a realistic plot plan be submitted. Chrmn. Cifelli said if the application was approved, this submission could be a condition of the approval. Mr. Klesse agreed to supply the plot plan if the application was approved.

There were no questions from the public. No members of the public were present at this point.

There was no further testimony.

Chrmn. Cifelli asked for comments from the Board. Mr. Infante felt that the proposals would significantly upgrade the applicant's property. The safety concern regarding the car fumes entering the kitchen, will be now be resolved. Mr. Haeringer and Mrs. Kass supported the application. Mrs. Kecskemety noted that the proposals will be improving the difficult negotiation for vehicles driving in and out of the driveway. Mr. Montague felt that the proposed lot coverage was high; however, the existing woods at the rear of the property will help mitigate this situation. Chrmn. Cifelli also felt the lot coverage was a large amount; however, the length of the driveway is a contributing factor. The drainage issue will be minimized by the particular design being proposed. The proposed garage will be semi-underground thus minimizing the bulk/building coverage.

A motion was made/seconded to approve this revised application as submitted with the following agreed upon conditions:

- 1) An updated plot plan will be submitted by Mr. Klesse
- 2) The applicant will follow any requirements on drainage as specified by the Borough Engineer.

A roll call vote was taken:

Mrs. Kass	-	yes
Mrs. Kecskemety	-	yes
Mr. Infante	-	yes

Mr. Montague - yes
Mr. Haeringer - yes
Chrmn. Cifelli - yes

Chrmn. Cifelli announced that Application ZB #14-29: 4 Watchung Avenue, LLC, will be carried to the September 28, 2016 Zoning Board of Adjustment meeting. Chrmn. Cifelli said additional efforts will be made to schedule a Special Meeting to finish the Minisink application.

At 8:30 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, September 28, 2016, 7:30 p.m., Council Chambers, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler
Recording Secretary