

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
 January 24, 2018 7:30 p.m.

Board Member Michael A. Cifelli called this Reorganization and 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
Michael A. Cifelli	X	
Helen Kecskemety	X	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia	X – arrived 8:04 p.m.	
Alida Kass	X	
Patrick Dwyer, Esq.	X	

Administration of the Oaths of Office

Board Attorney Dwyer administered the oaths of office to Helen Kecskemety and H.H. Montague, who will be serving another term. Mr. Tobia was not yet present at the meeting.

Resolution #ZB 2018-01

A roll call was taken to approve the December 13, 2017 meeting minutes, as amended, of the Zoning Board of the Borough of Chatham:

- Mr. Montague - yes
- Mr. Herbert - yes
- Mr. Infante - yes
- Mrs. Kecskemety - yes
- Mrs. Kass - yes
- Mr. Haeringer - yes
- Mr. Cifelli - yes

The minutes of the December 13, 2017 Zoning Bd. of Adjustment meeting were approved as amended.

Annual Reorganization Resolutions

Election of Chairperson

Mr. Cifelli turned the meeting over to the Board’s Nominating Committee: Helen Kecskemety and H.H. Montague.

Mrs. Kecskemety reported that Mr. Cifelli has agreed to serve as Chairman of the Zoning Board of Adjustment for 2018.

Mr. Infante nominated Mr. Cifelli to serve as Chairman of the Zoning Board of Adjustment for 2018. Mrs. Kass seconded the motion. A voice vote was taken. The motion was unanimously approved.

Election of Vice Chairperson

Mr. Montague reported that Mr. Herbert has agreed to serve as Vice Chairman of the Zoning Board of Adjustment for 2018. Mr. Haeringer nominated Mr. Herbert to serve as Vice Chairman of the Zoning Board for 2018. Mrs. Kass seconded the motion. A voice vote was taken. The motion was unanimously approved.

Election of Board Secretary

Chrmn. Cifelli nominated Helen Kecskemety to serve as Secretary of the Zoning Board of Adjustment for 2018. Mrs. Kass seconded the motion. A voice vote was taken. The motion was unanimously approved.

Resolution #ZB 2018-03 – Resolution Setting the Meeting Dates for the Borough of Chatham Zoning Bd. of Adjustment for the Calendar Year 2018 was unanimously approved by a voice vote, with the final meeting date changed from December 26, 2018 to December 12, 2018.

Resolution #ZB 2018-04 – Resolution Designating the Official Newspapers, Publication, Fees, and Minutes was unanimously approved by a voice vote.

Resolution #ZB 2018-05 – Resolution Appointing Patrick J. Dwyer, Esq., as Board Attorney and Approving the Contract for Legal Services for 2018 was unanimously approved by a voice vote.

Resolution #ZB 2018-06 – Resolution Appointing Robert C. Brightly, P.E., as the Board’s Consulting Engineer and Approving the Contract for Engineering Services for 2018 was unanimously approved by a voice vote.

Resolutions

Application ZB #17-26

Sullivan/Grant

53 Garden Avenue

Block 21, Lot 12.06

Side Yard/Building Coverage/Floor Area Ratio

Attorney Dwyer noted that this application proposed improvements to an existing home. A non-conforming left side yard variance was needed for the second story. The Board felt that the property could accommodate the proposed bulk and proposed building coverage and that the variances were justified. A roll call vote was taken to approve this resolution confirming the Board’s approval of these variances for Application ZB #17-26:

Mr. Haeringer	-	yes
Mr. Herbert	-	yes
Mrs. Kass	-	yes
Mr. Infante	-	yes
Mr. Montague	-	yes

Chrmn. Cifelli - yes

Returning and New Applications

Chrmn. Cifelli announced the following applications were scheduled to be heard tonight, time-permitting:

Application ZB #16-020: REO Development – 94 Washington Avenue

Application ZB #17-31: Greenrose Reso, LLC – 253 Hillside Avenue

Application ZB #16-006: 8 Watchung Avenue, LLC – 8 Watchung Avenue

Application ZB #17-32: Tao Zhang – 2 Martin Place

Application ZB #16-020

REO Development

94 Washington Avenue

Block 18, Lot 15

Front Yard/Rear Yard/Building Coverage/Floor Area Ratio

This is continued from the December 13, 2017 hearing.

Peter Rosen, Esq., attorney for the applicant, came forward. Attorney Rosen stated that the applicant has made substantial changes to his application after listening to the Board's comments made at the December 13th meeting. The Floor Area Ratio (FAR) variance has now been eliminated. The size of the proposed house has been reduced. The proposed garage will no longer be in front of the house. A porch is being proposed. An expansion of two non-conforming variances are being sought.

Hayk Ekhfian, the applicant's architect, was called forward. He remained under oath from the previous hearing.

Attorney Rosen asked Mr. Ekhfian the square footage of the house.

Mr. Ekhfian testified that the footprint of the existing house is 998 sq. ft. The first-floor measures 995 sq. ft. The basement measures 987 sq. ft.

Mr. Ekhfian submitted Exhibit A-5: Revised floor plans of the house, dated 1/12/2018.

Referring to Exhibit A-5, Mr. Ekhfian testified that the proposed house has five bedrooms. Four bedrooms will be on the second floor. One bedroom will be on the basement level.

Mr. Herbert asked Mr. Ekhfian to review the new changes made to the plans.

Mr. Ekhfian testified that the proposed garage has been removed from the first floor. The existing foundation will remain. An addition will be constructed in the back. The first floor will consist of living space: a living room, a dining room, a family room, a kitchen with a powder room. The second floor will consist of four bedrooms and two bathrooms. At the basement level, the grade

drops down enough to allow people to walk out to the backyard. The basement will consist of a recreation room, a bedroom, a bathroom, mechanical space and storage space. A deck will be constructed at the back, on the first-floor level.

Mr. Herbert recalled that the Board had expressed concerns about the large wall that will appear on the side of the house. Will that change at all?

Mr. Ekhian answered that the square footage of the house has now been reduced. The previous plans proposed an FAR that was about 100 sq. ft. over the allowable calculation. The new FAR calculation is below the allowable limit of FAR.

Mr. Montague wanted confirmation on the latest list of variances being sought for these revised plans.

Attorney Rosen called up Edward S. Dec, the applicant's engineer, to review the variances. Mr. Dec remained under oath from the previous hearing.

Mr. Dec submitted Exhibit A-6: the proposed plans last revised on January 11, 2018.

Chrmn. Cifelli confirmed with Mr. Dec that the front yard is the same as had been originally proposed. However, the proposed porch now extends the entire width of the building.

Mr. Montague asked if the proposed house would be lined up with the existing homes in the neighborhood.

Mr. Dec answered yes, as close as it can be lined up.

Chrmn. Cifelli confirmed with Mr. Dec that what is being proposed now will be more in conformity with the neighboring properties.

Mr. Montague asked for more clarity on the proposed rear yard.

Mr. Dec answered that the proposed rear yard still requires a variance; however, it's an improvement over what was originally proposed.

Mr. DeNave, the Zoning Officer, informed the Board that a mistake had been made on his zoning chart for this application. He pointed out that the applicant's proposed rear yard setback is 44.12 feet. The variance is for two feet.

The Board had no further questions for Mr. Dec.

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

Eric Merse, 92 Washington Ave., confirmed that the side yards will remain as they are now.

Chrmn. Cifelli confirmed with Mr. Dec that the intensification was the proposed construction going up to the second floor. Chrmn. Cifelli asked if there were elevations to show this intensification.

Robert Michaels, the applicant's planner, came forward. He remained under oath from the previous hearing. Mr. Michaels submitted the elevations. He testified that the front and side foundation walls will remain. The foundation's back wall will be pushed out to accommodate the proposed design. Mr. Michaels testified that the intensification of the side yard setbacks is a minor issue, in order to improve the subject property and neighborhood.

Mr. Michaels pointed out that the FAR variance has now been eliminated. He noted that the proposed detached garage will now be included in the building coverage variance. The proposed lot coverage meets the Borough requirements. Mr. Michaels testified that this proposed plan will be a good investment for the neighborhood.

Chrmn. Cifelli asked Mr. Michaels whether the proposed room sizes will be consistent with what is considered a standard size.

Mr. Michaels confirmed, in his opinion that the proposed room sizes were standard sized. He pointed out that the applicant has to work with an undersized lot. Regarding the rear yard, Mr. Michaels testified that there are no residences existing at the rear. A school exists.

Mr. Infante asked if Mr. Michaels could estimate the distance of the school from the applicant's rear yard.

Mr. Michaels stated that he didn't have those measurements; however, he had submitted an aerial photo. Chrmn. Cifelli confirmed with Mr. Michaels that a small parking lot exists between the applicant's rear yard and the school. The school is set back a little bit.

The Board had no further questions for Mr. Michaels. The public had no questions for Mr. Michaels.

Attorney Rosen stated that there were no further witnesses for this application.

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

Eric Merse, 92 Washington Ave., was sworn in to testify. He stated that he was more pleased with this amended plan, than with the original plans. Mr. Merse noted that he hadn't seen a landscaping plan. The proposed house will be "rising", giving a better view into Mr. Merse's backyard. Mr. Merse asked if the applicant could plant landscaping to give the Merse family some privacy.

Chrmn. Cifelli noted that the Board usually requests such screening to be planted between two properties in applications like this.

Mr. Haeringer asked Mr. Merse if he had a rear deck.

Mr. Merse answered yes. He testified that his deck is 21 feet off his rear property line. His house is 37 feet off his rear property line.

Chrmn. Cifelli asked Attorney Rosen if the applicant would have any objections to providing landscaping screening between his home and Mr. Merse's home.

Andre Andrutchuk, the applicant's builder, came forward. Mr. Andrutchuk remained under oath from the previous hearing.

Mr. Andrutchuk noted that on the existing house there is a small screened-in porch. From that screen porch is another 12 feet of Mr. Merse's house plus his deck. Mr. Andrutchuk felt that essentially the applicant's deck will be covered by Mr. Merse's house. He asked if Mr. Merse wanted privacy for his first floor, or privacy for his ground floor.

Mr. Merse answered probably for the first floor.

Mr. Andrutchuk agreed to plant some type of landscaping for screening.

Board Attorney Dwyer asked Mr. Michaels if he could recommend some type of arborvitae for screening.

Mr. Michaels suggested the planting of a solid hedge from the end of the deck to the back property line, running some 34 feet, subject to the approval of the Borough Engineer.

Chrmn. Cifelli asked for Board comments. Mr. Infante felt that the rear yard variance is de minimus. The proposed intensification on the left side does not appear to be bothersome to the neighbor. He commended the builder for his cooperative efforts, working with the Board. Mr. Haeringer noted that these amended plans are an improvement over the original plans. Mr. Herbert believed the new plans would be manageable. The volume has been brought down. Mrs. Kecskemety commended the applicant, architect, and builder for listening to the Board's feedback at the last hearing. They did a nice job. Mr. Montague supported the application. Mrs. Kass felt that with the school at the rear of the property, the proposals will produce no real adverse effect. Chrmn. Cifelli commended the applicant and architect for responding to the Board's comments and what the Borough prefers, particularly with the proposed detached garage and the front porch.

Mrs. Kass made a motion to approve Application ZB #16-020 – REO Development, Block 18, Lot 15 for Front Yard/RearYard/Building Coverage and FAR variances with the applicant to follow any recommendations made by the Borough Engineer on stormwater and landscape screening.

Mrs. Kecskemety seconded the motion. A roll call vote was taken:

Mr. Haeringer	-	yes
Mr. Montague	-	yes
Mr. Infante	-	yes
Mr. Herbert	-	yes
Mrs. Kecskemety	-	yes
Mrs. Kass	-	yes

Mr. Tobia - abstained
Chrmn. Cifelli - yes

The application was approved.

Application ZB #17-31
Greenrose Reso, LLC
243 Hillside Avenue
Block 99, Lot 2.01
Lot Frontage/Lot Width/Lot Coverage/Deck Height
This is continued from the December 13, 2017 meeting.

Vincent DeNave, the Borough Zoning Officer and Borough Engineer, was present at this hearing.

Gary Haydu, Esq., attorney for the applicant, came forward. He introduced Daniel D'Agostino, the architect for the proposed project.

Chrmn. Cifelli noted that Mr. DeNave, the Borough Engineer and Zoning Officer, had researched this property and how it arrived in its present state. He asked Mr. DeNave to summarize his findings tonight to the Board.

Vincent DeNave was sworn in to testify.

Mr. DeNave testified that Ms. Becraft, the former owner of this property, Lot 2.01, had approached the Borough. There was no inter-connection of this property to Hillside Avenue. Lot 2.01 resembles a flag, with the flag's "staff" reaching up to Hillside Ave. This "staff" was owned by the Borough for many years. There was always a discussion on who was to maintain this "staff". Ms. Becraft's driveway ran over Borough property. Some utilities ran through that section.

Mr. DeNave stated that the Borough ended up paving Ms. Becraft's driveway. When Ms. Becraft was ready to sell her property, she indicated that she wanted to obtain the "staff" section of the flag lot. After researching deeds, Mr. DeNave and the Borough Attorney had believed the staff was a right-of-way for roadway purposes at some point. Eventually they found out that the 50-ft. stretch of land, coming in off of Hillside Ave., had originally been obtained from Lot 2.01 for roadway purposes in the future. However, there was a reverter clause, stating that in the event that the Borough had no need for that piece of property, it reverts back to Lot 2.01.

Mr. DeNave stated that the Borough then decided that it had no need for this piece of property (the staff) anymore. Last year the Borough was able to join the two properties. The deeds were changed. Ultimately, the property was sold to the builder. The builder came to Mr. DeNave, at that point. Mr. DeNave informed the builder that he could not find any Board approvals on this property in the Borough records. There were no building records for when the house was constructed.

Mr. DeNave testified that when reviewing the proposed plans for this application, he found nothing objectionable. However, Mr. DeNave felt that there would not be enough road frontage. Even

now that it has that frontage, the property does not comply with the Borough's road frontage requirement in this particular zone. Mr. DeNave recommended a variance should be sought for this frontage situation.

Mr. DeNave noted that the issue came up on how the house should be oriented. A determination had to be made on what is this property's front yard, side yard, and rear yard, for any future applications proposed for this property. The builder proposed that the front yard will be where the front door is located. The rear yard will face the steep slope. The remaining two sections will be side yards. Mr. DeNave would like the Board to certify these decisions.

Mr. DeNave discussed the deck situation. He noted that there is a beautiful view at the rear. The applicant is proposing two decks at the rear. There is a Borough requirement that a deck cannot be more than 8 feet high. The proposed upper deck is more than 8 feet high. Mr. DeNave testified that the subject property is very large. The proposed addition will be constructed over an existing driveway. From a footprint standpoint, Mr. DeNave believed everything still complies. He felt that the Board will be looking at the over-all lot and trying to assign the correct setbacks. Since this lot hadn't received previous approvals, the Board will decide on whether it approves of it being a flag lot. Mr. DeNave pointed out that the house has been standing for many years. It's pre-existing. The house is currently in disrepair because of a fire several years ago.

Chrmn. Cifelli confirmed with Mr. DeNave that he is considering the applicant's property in its original state – as a flag property. He also confirmed with Mr. DeNave if the driveway section had not gone to the Borough, it would be a pre-existing nonconformity. Mr. DeNave pointed out that the lot coverage variance is driven mainly by the driveway. However, the driveway is not changing, except for some pieces being removed for the proposed addition.

Mr. Herbert asked Mr. DeNave for his views on the proposed front yard and side yards.

Mr. DeNave testified that he is fine with this proposed yard(s) situation. If the house was fronting on the street, these particular yards would be recognized as such.

The Board, Attorney Haydu, and Mr. DeNave discussed the proposed decks. Attorney Haydu pointed out that this property has no backyard. The second story deck will be the backyard. It will not be looking into the neighbors' homes, because there are no neighbors close by. Mr. DeNave didn't believe any additional homes will be built in the vicinity of these decks. There is no way to subdivide these steep slope properties.

Attorney Haydu asked Daniel D'Agostino, the architect for the applicant, to come forward. Mr. D'Agostino submitted his professional credentials to the Board. The Board accepted them.

Mr. D'Agostino submitted Exhibit A-1: renderings of the proposed first floor deck and the proposed second floor deck, including the heights above grade.

Mr. D'Agostino testified that the proposed first floor deck is in compliance with the Borough's 8 foot height requirement for decks.

Regarding the second story deck, Mr. D'Agostino believed that there was a 100 ft. elevation between the two decks.

Chrmn. Cifelli confirmed with Mr. D'Agostino, that in terms of elevation, the applicant's property is lower than the neighbors' properties going towards Hillside Avenue. He also confirmed with Mr. D'Agostino that there is no way that a higher deck at the rear of the applicant's property can even see the properties going towards Hillside Avenue. Mr. D'Agostino testified that the proposed decks will have no detrimental impact on the neighbors.

At Attorney Dwyer's request, Mr. D'Agostino marked the colored renderings he had submitted as Exhibit A-2.

Attorney Haydu called up Kenneth Malian, one of the partners in this application. Mr. Malian remained under oath from the previous hearing.

Mr. Malian explained the photos he had taken of different neighboring views of the applicant's property. These photos were submitted as Exhibit A-4.

Mr. Herbert asked Mr. Malian if he could talk about the new construction taking place on Hillside Avenue.

Mr. Malian described two recently built homes on that section of Hillside Avenue. On the blackboard Mr. DeNave drew the locations of the new homes/renovations that have been made on the curve of Hillside Ave. close to the cemetery and beyond. He also showed how the grade changed from Hillside Avenue down to Woods Lane.

In answer to questions from the Board, Mr. DeNave and Mr. Malian reviewed the lot coverage variance. Mr. DeNave stated that the current lot coverage is 10,302 sq. ft. The applicant is proposing 9,861 sq. ft. He pointed out that currently the applicant has an existing patio. It is crumbling away; however, it is adding to the lot coverage. The proposed decks, because they are open, count 50% towards impervious coverage.

At Attorney Dwyer's suggestion, Mr. Malian marked the colorized version of the plan set of the application as Exhibit A-5.

The Board had no further questions for Mr. Malian. The public had no questions for him.

The public had no comments on the application.

Attorney Haydu submitted this application to the Board.

Chrmn. Cifelli asked for comments from the Board. Mr. Tobia noted that the applicant's home and lot are very unique. He felt the proposals will not impinge on any of the neighbors. Mr. Herbert believed the proposals will be a good upgrade to the house. Mrs. Kecskemety approved of the plans. Mr. Montague stated that he would have preferred less lot coverage being proposed; however, he will approve of the application. Mrs. Kass brought up the rationale behind the

variances, and she supported the application. Mr. Infante believed there was adequate justification for granting the height variance needed for the deck. Mr. Haeringer felt that the house with the proposals will be a great addition in Chatham. Chrnm. Cifelli agreed with Mr. Tobia's point that the uniqueness of the applicant's property eliminates offending the Borough ordinance.

Mr. Haeringer made a motion to approve Application ZB #17-31: Greenrose Reso – 243 Hillside Avenue with the applicant to follow any stipulations made by the Borough Engineer. Mrs. Kass seconded the motion. A roll call vote was taken:

Mrs. Kass	-	yes
Mrs. Kecskemety	-	yes
Mr. Herbert	-	yes
Mr. Infante	-	yes
Mr. Montague	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Chrnm. Cifelli	-	yes

The application was approved.

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

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

Chrnm. Cifelli announced the following applications will carry to the February 28, 2018 Zoning Bd. of Adjustment meeting:

Application ZB #16-006: 8 Watchung Avenue, LLC – 8 Watchung Avenue
Application ZB #17-32: Tao Zhang – 2 Martin Place

Chrnm. Cifelli and Mr. DeNave noted that an application is coming up soon for a parking lot being proposed on western Main Street. A use variance is being sought. Chrnm. Cifelli felt that this application will require its own Board of Adjustment meeting. It is hoped the new planner for the Board will be in place for this meeting.

The Board decided that this extra meeting will be held on Wednesday, March 14, 2018, 7:30 p.m. in the Council Chambers. The Regular Meeting of March 28, 2018 still stands.

Mr. Montague gave an update on the Planning Board activities. The Board has three new members. He also reported that the Planning Board, at their January 17th meeting, approved a resolution approving the Redevelopment Study Area's Determination of Need for post office plaza. Some buildings had been recommended for demolition. The Planning Board had listened to a presentation by Mr. Abramson, a planner, with Topology, Inc., who had researched and organized this study.

Mr. DeNave stressed that eminent domain will not take place in this area of town. It's a non-condemnation redevelopment study that is being looked at by the Borough. Eventually there will be a plan that will be discussed and brought to the public. Mr. DeNave felt it would be a mixed-use plan. Any developers interested in this site would have to address the traffic circulation. He noted that unfortunately there are many rumors circulating about the future of post office plaza.

Before the meeting was adjourned, Patrick Tobia was sworn in as a First Alternate Member of the Chatham Borough Zoning Board of Adjustment.

Chrmn. Cifelli thanked Mr. Tobia, Mr. Montague, and Mrs. Kecskemety for agreeing to serve another term on the Board of Adjustment.

At 10:40 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, February 28, 2018, 7:30 p.m., in the Council Chambers, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler
Recording Secretary