

## CHATHAM BOROUGH PLANNING BOARD

October 7, 2020 7:30 p.m.

Chairman Susan W. Favate called the Chatham Borough Planning Board Regular Meeting of October 7, 2020 to order by Zoom at 7:30 p.m. Chrmn. 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 Chrmn. Matthew Wagner	X	
Chrmn. 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	

Also present:

Vincent DeNave, Borough Engineer & Zoning Officer

### Public Comment

There was none.

### Resolution #PB 2020-01

Mr. Montague made a motion to approve the August 19, 2020 Planning Board meeting minutes as submitted. Mr. Williams seconded the motion. A voice vote was taken. The minutes of August 20, 2020 were unanimously approved.

### Discussion Items

#### Zoning Fee Ordinance Review

Mr. DeNave noted that this topic had been discussed at the last meeting. Some of the actions discussed should not be done without authorization. Also, fees should be collected for work that has been done. The fees should be mentioned in the Land Use ordinance as advised by Borough Attorney Lott.

Mr. DeNave noted that the proposed fee ordinance that is in front of the Board tonight is not in final form. Another revised ordinance draft can be reviewed at the next Board meeting, before it is forwarded on to the Borough Council.

Chrmn. Favate put the ordinance up on the screen for everyone to see.

Mr. DeNave explained the process that a homeowner or the homeowner's realtor must follow to obtain a Certificate of Continued Occupancy (CCO) when a Borough home is put on the market and must be followed through before the legal closing of the home takes place. Any construction permits that the homeowners has taken out over the years must have passed final inspections. If there are open permits, the homeowner calls the Madison Building Dept. to set up a final inspection. Also, all Borough utilities and Borough taxes for the home must be paid up to speed before the CCO Certificate is issued.

Mr. DeNave explained the CCO process has been included in the LDO. The fee for a CCO process and inspection is currently \$100 and is paid by the seller. This fee could be increased over the years by the Borough Council. He explained that the CCO inspection is really a life-safety inspection of the home. He reviewed some of the life-safety items on the CCO inspection sheet.

Mr. Xikes brought up the problem of unpermitted projects done to a home. Mr. DeNave stated that the purchaser's attorney, when reviewing the permit summary report for the home, will sometimes find construction projects that were not listed in the summary. The seller will then have to contact the Madison Building Department about this matter and go through a permit process.

Mr. Mikulewicz confirmed with Mr. DeNave that the Borough is now responsible for the sidewalks. It used to be the homeowner's responsibility. Mr. DeNave noted that the Borough interns, every other year, will photograph the sidewalks, finding any irregularities or unsafe conditions. Unfortunately, this sidewalk program wasn't undertaken this year because of the Coronavirus. He also noted that sometimes people request that gaps between sidewalks be filled in.

Mrs. Van Wie asked if the \$100 fee for the CCO inspection had a cap. Mr. DeNave answered no. That figure for CCO inspections may continue to increase in future years. A fee resolution ordinance would handle any of these increases.

Mrs. Van Wie asked if there were any way to hand out information to new residents about energy efficient appliances. Could it be included in the CCO process? There is also useful information on how to upgrade items, like windows, in a home.

Mr. DeNave felt that the sellers, the ones who are submitting CCO applications, would not be the right audience for this type of information. The future owners of homes should be the focus. Also, the architects in town could be given energy efficient information.

Mr. Williams suggested that the Environmental Commission send out this energy-saving information to all realtors in town.

Mr. DeNave agreed, and added that once a year he meets with the local realtors to review the CCO process.

Mrs. Van Wie and Board members discussed how to effectively get information on energy saving installments to homeowners who are going through renovations. Having a table at the Farmer's Market doesn't always reach the right audience.

Mr. Williams informed Mrs. Van Wie about Chatham Borough's constant contact newsletter goes out every week online. She's welcome to submit information like this to Mr. Williams to be published online.

Chrmn. Favate asked Mr. DeNave about the new section he is proposing for Zoning permits.

Mr. DeNave explained that he would like a new section requiring a zoning permit for any work that goes on. For instance, a homeowner proposing an addition would need such a permit. Also, a new business proposing to move into Chatham should be reviewed by Mr. DeNave to make sure it is permissible. Mr. DeNave would like fees to be established for when he reviews these different types of applications.

Mr. DeNave clarified to the Board that the zoning permit and Zoning Officer's review take place before a homeowner or business owner goes before the Planning Board or Zoning Board. Sometimes the Zoning Officer determines that no variance is needed. He will then sign off on the application.

Chrmn. Favate questioned whether the term "zoning permit" should be used in this instance. She felt it was more of a zoning review.

Mr. DeNave agreed with Chrmn. Favate's point that this is not really a permit that's involved. He will look into what other towns would call this particular process.

Mr. DeNave explained the reviews he must make on land disturbance projects. He felt a fee should be established for this type of review, as well as possible bonding.

Mrs. Van Wie asked Mr. DeNave what the percentage of residents have realized that they would need a land disturbance permit and a land disturbance review from the Borough.

Mr. DeNave answered possibly less than 50%; however, the number is increasing. He has certain entities on the lookout for such projects taking place in town. The Department of Public Works watches what projects the landscapers are doing in town and see if the necessary project had been obtained. If the landscaping businesses do not follow Borough regulations, they get a fine. Mr. DeNave noted that in the wintertime, some homeowners have their sump pumps shoot water out into the street, causing serious ice conditions. The DPW gets calls in the middle of the night to sand or salt those icy situations on the road.

Chrmn. Favate suggested a public education campaign be undertaken if these proposed Borough fees are adopted by the Borough Council. Residents could be warned, in a nice way, that any violations will be noticed by the Borough.

Mrs. Van Wie suggested that the police flash board be used to flash a reminder to residents that it is winter and do not drain your sump pump into the street.

Mayor Kobylarz stated that this subject could be put on the Borough Council Meeting Agenda as a discussion item in the near future.

Mr. DeNave discussed another revision to be made to the ordinance. Regarding Fees & Escrow Deposits, Mr. DeNave recommended eliminating the requirement that the Borough CFO must fund 10% to a developer for a development application that had been approved. Mr. DeNave questioned why the Borough would be picking up 10% for a developer. He strongly recommended that this provision be eliminated.

Mr. DeNave asked Board members to send him any comments on these changes. He will ask Attorney Lott to come up with a final draft. The Board, at a future meeting, can request the Borough Council take a final action on this Zoning fee ordinance.

Mr. Dawson asked Mr. DeNave how long does it take him to do a CCO inspection.

Mr. DeNave answered 15 to 20 minutes. He explained there are some CCO applications where the homeowner has open construction permits that need final inspections, or there is a balance due on the homeowner's Borough utilities. In which case, this application process can become prolonged and more complicated.

Mr. Dawson then felt \$100 isn't enough, if Mr. DeNave is spending over an hour on an application.

Mr. DeNave felt the inspection fee may increase in the years ahead.

Mr. DeNave explained that a new tracking process is being done in the Borough Clerk's Office to make sure the CCO process is strictly followed.

Chrmn. Favate asked Mr. DeNave for a copy of this Zoning Fee Draft Ordinance to study for the next meeting.

Mr. Williams sent it out immediately to Board members from his desk.

#### Bulk Requirement Review

Mr. DeNave noted that at the end of 2015, the Borough ordinance made a major change as it applied to the Floor Area Ratio (FAR) regulations; however, the building coverage regulations remained the same. Changes were also made to the lot coverage requirements. All these changes were reflected in the calculations of submitted applications.

To help illustrate this, Mr. Xikes put a graph up on the screen which plotted the percentages of the different variances from the years of 2014 to 2019. He showed the big increase of variances in the year 2017 and then the numbers go down. Out of all the variances, the side yard variances seem to be the most sought after.

Mr. DeNave agreed with Mr. Xikes that there has been a definite decrease overall in applications. However, Mr. DeNave felt that construction activity has increased over the years, except for 2020, because of COVID. There is a good chance that homeowners are maximizing what they are allowed to do under the ordinance; therefore, not having to go before the Zoning Board.

Mrs. Van Wie asked if the Planning Board should take a look at these parameters.

Mr. DeNave felt that the regulations for detached garages and porches need to be looked at very carefully. The Zoning Board is unhappy with recent applications in which a homeowner has maxed out all of the construction requirements in a renovation, and then decides to come before the Zoning Board, proposing a porch as an after-thought, which goes beyond the allowable building coverage. In reality, the porch which give the homeowner a larger house.

Mr. DeNave explained that this porch situation applies to some of the new homes being constructed in the Borough. He warns the builder or the homeowner that the Zoning Board is not happy with a new home being built out to the maximum requirements, and then a porch is then proposed, requiring a variance. The house plans could have been tweaked in the very beginning, so the building coverage would be more acceptable. The same situation is happening with detached garages being proposed. Unfortunately, many times the Zoning Board goes ahead and approves these variances. Often, the detached garage will just become a glorified storage shed for the family.

Mr. DeNave explained the side yard variances that have also increased lately. Many of these side yard variances involve homes on corner lots.

Mrs. Van Wie asked if these issues were a matter of enforcement or of policy? She has heard complaints about certain houses being out of character with a neighborhood, but wasn't sure of the volume of the complaints.

Mr. DeNave explained that he only enforces the zoning regulations. He tries to give the architects guidance when they come to him. Mr. DeNave stated that he tries to discourage them from outrageous designs and to avoid certain variances, and, in some cases, scale back a design to an acceptable amount. Mr. DeNave noted that he has heard some complaints about the heights of some of the newer homes.

Mr. Montague had concerns about the newer, taller homes blocking the light and air. He cited an example in his own neighborhood. Mr. Montague had no desire to extend the allowable building coverage amounts as stated in the ordinance even further.

Mrs. Van Wie asked if any towns ever take into consideration what goes on around them, building-wise?

Mr. DeNave explained what had transpired with a recent home built at 37 Lincoln Avenue. The builder constructed the home to the absolute maximum amount allowed by the ordinance.

Unfortunately, it sticks out as being out of character with the neighborhood. The neighbors disliked the design of the house and the height. The height complied with the ordinance. The builder then came before the Zoning Board and asked for a porch, which added more bulk.

Mr. DeNave reminded Board members that when builders come before them with subdivision plans, the Board can take into consideration the height of the proposed homes in relationship with the rest of the neighboring homes. Height problems may arise when a builder does not need to go before any Boards.

Chrmn. Favate asked Mr. Wagner, as an architect, would there be any way to create a good design for a home, but not have it be so tall.

Mr. Wagner answered that maybe a more attractive roofline could be proposed for a home, rather than a flat roofline. He pointed out that roofs can be very difficult to design.

After further discussion, Chrmn. Favate suggested that the Board's professional planner could review this maxi-out situation. Hopefully, Ms. Lelie could come up with some options. Other towns are dealing with it too.

Mr. Dawson brought up the possibility of having limitations established on the volume of a home. Perhaps a sliding-scale component could be used when it comes to porches.

Mr. DeNave pointed out that porches can often soften the look of a home that's been maximized. A maximized house today, built under the Borough ordinance, can result in a box-like house appearance, which is very unattractive.

Chrmn. Favate confirmed with Mr. DeNave that he has written down the topics that the Board would like Ms. Lelie to review for them.

#### B-5 District Review

Mr. DeNave noted that there are currently vacancies in the office spaces in the B-5 District. Some of the property owners in that district have approached the Borough and have pointed out that currently there are a limited number of uses allowed in their district. Mr. DeNave agreed with the property owners that the real estate market is now changing. The Borough could make some changes to the B-5 District to keep those office spaces filled. Mr. DeNave stated that Ms. Lelie, the Board Planner, could give some guidance on this matter.

Mr. DeNave reviewed two of the larger office buildings on the eastern end of Main St., in the B-5 District, that could have new potential uses, if the Borough approved. Mr. DeNave pointed out these buildings are the biggest tax-appeal buildings when they are vacant.

Mr. DeNave recommended that the Planning Board and the Planner keep an eye on the market and keep aware of the changes of the businesses. A large number of vacancies in the B-5 District is not desirable. Mr. DeNave also pointed out that Main Street is definitely changing these days.

Mr. DeNave informed the Board of a future application for 5 South Passaic Avenue (the TM Ward Coffee Shop). The application is proposing to demolish the existing structure. A 3-story building will be constructed in its place. It will have a mixed use on the first floor with apartments up above. This is a permitted use. The Planning Board will be the entity to hear this application.

Mr. DeNave noted that the 5 South Passaic Ave. application is still under review. The parking issue still has to be resolved.

Mr. DeNave gave an update on the River Road development. The Planning Board will probably listen to the development plans in the beginning of the new year.

Board members and Mr. DeNave discussed the number of variances heard over the year so far. Mr. DeNave noted that the number of Zoning Bd. of Adjustment applications have slowed down. Some of their meetings, earlier this year, have been cancelled because of the Coronavirus.

On other matters, Chrmn. Favate reported that she and Mr. DeNave have discussed the current outdoor dining situation. Colder weather is moving in now and outdoor dining will become more challenging. Chrmn. Favate suggested the permits for outdoor dining could have their parameters reviewed to see if heaters are allowed. She had recently been involved with outdoor dining's zoning requirements for Parsippany NJ. Chrmn. Favate will send the details to Mr. DeNave to look over.

Mayor Kobylarz reported to Chrmn. Favate and the Board that the Borough's Economic Advisory Committee has been extremely active in exploring options for this outdoor dining situation. Contingency plans are being worked on.

At 9:05 p.m. the meeting adjourned.

The next Planning Board meeting will be on Wednesday, October 21, 2020, 7:30 p.m. It will be a virtual meeting.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary

