

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
February 22, 2017 7:30 p.m.

Chairman Michael A. 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
Chrmm. 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	
Alida Kass		X
Patrick Dwyer, Esq.	X	

Also present at this meeting:

Dr. Susan Blickstein, professional planner for the Board

Robert Brightly, P.E., Engineering Consultant for the Board

Resolution #ZB 2017-07

The minutes of the January 25, 2017 Zoning Bd. of Adjustment meeting were approved as amended.

Old/New Business

Mr. Montague reported that the Planning Board has hired a planner to look at post office plaza to see if the plaza and nearby buildings meet the redevelopment criteria under the redevelopment housing law. Dr. Blickstein stressed that this will only be a criteria study. Mr. Montague, in the future, will give updates to the Zoning Board on this undertaking.

Public Comment

No one came forward.

ResolutionsApplication ZB #16-021

John Jaroker

37 Lincoln Avenue

Building/Lot Coverage

Attorney Dwyer summarized this application which was seeking to add a front porch to a home under construction. The front porch triggered variance relief. The Board had noted that the Master Plan encourages front porches and granted the C-2 variance. A roll call vote was taken, confirming the Board's approval of these variances:

Chrmn. Cifelli - yes
Mr. Infante - yes

Attorney Dwyer reported that correspondence to the Board from residents arrived after the vote was taken on this application. He pointed that correspondence to the Board is typically not distributed because it cannot be cross-examined. Chrmn. Cifelli and Atty. Dwyer noted that the Board still wanted to see the correspondence after tonight's memorialization. Copies of the letters will be distributed after the meeting.

Application ZB #16-022

Richard & Hope Stewart

22 Summit Avenue

Building/Lot Coverage

Attorney Dwyer summarized this application which was seeking to construct an addition at the rear of a recently renovated house. The Board granted the variances which were very minor. A roll call vote was taken, confirming the Board's approval of these variances, with a correction on the date on the first page of the resolution:

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

New and Returned Applications

Chrmn. Cifelli announced the following applications will be heard tonight:

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

Application ZB #16-023: Hilgendorff – 113 Lafayette Avenue

Application ZB #14-29

4 Watchung Avenue, LLC

4 Watchung Avenue

Appeal of Zoning Official's Decision/Site Plan approval

Block 134, Lot 1

This is carried from the January 25, 2017 Zoning Board of Adjustment meeting.

A court stenographer was present to record this hearing.

Attorney Podvey noted that two witnesses will be testifying tonight. Chrmn. Cifelli recalled that at last month's hearing the applicant had presented an expert witness to testify on the environmental impact of the subject property. Chrmn. Cifelli confirmed with Attorney Podvey that tonight the factual/planning testimony will be given.

Peter Liebman, was sworn in to testify. Mr. Liebman testified that he is the managing member of 4 Watchung Avenue, LLC. He is also the owner of Douglas Motors.

Mr. Liebman testified that he had bought Douglas Motors in 1965. At that time, it was only a Volkswagen dealership. The business has since grown with various franchises. Douglas Motors is in both sales and service, and also has a large body shop. Mr. Liebman gave the sales and service numbers for the past year. Douglas Motors currently has 127 employees. Mr. Liebman testified that the size of Douglas Motors' inventory is determined by their manufacturer. Douglas Motors does not store cars from other dealers.

Chrmn. Cifelli asked if Douglas Motors had any other lots to store vehicles.

Mr. Liebman answered no, however some vehicles are stored on Douglas Motors' actual premises.

Chrmn. Cifelli asked where would Douglas Motors store vehicles by their manufacturers if there was no room at 4 Watchung Ave.

Mr. Liebman answered that he didn't know. He would have a problem.

Mr. Infante confirmed with Mr. Liebman that all of the customers accounted for last year were retail.

Mr. Montague asked Mr. Liebman if he had ever investigated other properties to store cars.

Mr. Liebman answered that over the years he's looked into other properties. Storage of vehicles is a major problem in this area.

Dr. Blickstein asked what is currently the ratio of used cars to new cars being store on the lot at 4 Watchung Ave.

Mr. Liebman answered that it's approximately two to one, new to used. Only new cars are stored on the lot.

Attorney Podvey asked how long has Douglas Motors been using the property at 4 Watchung Avenue.

Mr. Liebman testified that Douglas Motors started renting the property in 1992. Five year leases existed then. After the second five years, Mr. Liebman had received a letter from Mr. Schmit informing him that he had sold the property and had a legitimate buyer lined up. Mr. Liebman was then forced to buy the property if he wanted to continue to use it. In 2002 Mr. Liebman purchased the property for storage of new cars.

Attorney Podvey confirmed with Mr. Liebman that he was not the responsible party for the environmental clean-up on the property. The gas station did not exist on the property during Mr.

Liebman's ownership. Mr. Liebman said he had understood that the gas station caused some contamination. Attorney Podvey confirmed with Mr. Liebman that the successor entity of the gas station is responsible for the clean-up process.

Mr. Liebman testified that there are monitoring wells on the property; however, he has no control over them.

Mr. Liebman testified that car carriers are accepted on the subject lot. After making a delivery, that car carrier drives in a circle and exits the lot. As the cars are sold, they are taken out one at a time

Chrmn. Cifelli asked how often are cars delivered on the lot to replenish the supply.

Mr. Liebman noted that the car carriers can handle up to eight cars. He calculated an average of one and a half deliveries are made a day. However, some days there are no deliveries, and other times up to five deliveries are made.

Chrmn. Cifelli asked if Mr. Liebman had regular set times for car deliveries on the lot.

Mr. Liebman answered that Douglas Motors is at the whim of the car carriers when it comes to delivery times during daytime hours. The carriers have access to the lot on Saturdays as well.

Dr. Blickstein asked how many cars were currently on the lot.

Mr. Liebman answered that there is an inventory of 416 new cars.

Mr. Liebman testified that to the best of his knowledge, there has never been an accident on the lot.

Attorney Podvey confirmed with Mr. Liebman that he understood that the Borough had a right to enforce the number of cars (282) if the application was approved. Mr. Liebman understood that a penalty would be imposed if he has more than the allowable number of cars in the lot.

Attorney Podvey asked Mr. Liebman what will happen to his business if the application is denied.

Mr. Liebman answered that he would have to go out of business.

Chrmn. Cifelli asked Mr. Liebman, when he bought the property in 2002, did he make an effort to determine whether Mr. Schmitt's certification (Exhibit A-13) was accurate.

Mr. Liebman answered that no, he relied on Mr. Schmitt.

Dr. Blickstein asked where Douglas Motors stored their cars prior to 1992.

Mr. Liebman answered that prior to 1992, Douglas Motors didn't have a used car operation anywhere near the number of cars that it has now.

Mr. Montague asked if Douglas Motors did any washing of the cars on the lot, changing the oil, etc.

Mr. Liebman answered no. Only storage takes place on the lot.

Mr. Montague and Mr. Liebman discussed the security of the lot. The lot is fenced in except for the back side running along the river. Mr. Liebman testified that the keys to the cars are kept off premises. Very little fuel is in the cars. Customers are never left alone on the lot. A Douglas Motors employee is always with them.

Chrmn. Cifelli asked what are the sale hours of operation for the lot.

Mr. Liebman answered basically 9 a.m. to 9 p.m. However, on Friday, the lot closes at 7 p.m. On Saturdays, the hours are 9 a.m. to whenever the last customer departs, hopefully by 6 p.m. The lot is closed all of Sunday. Mr. Liebman testifies that test drives do not take place directly from the lot. The cars are brought over to the agency's premises on Morris Avenue. Customers take test drives from these premises.

Chrmn. Cifelli and Mr. Liebman discussed the daily traffic flow from the lot. Mr. Liebman believed that there are 10 to 15 traffic movements a day on the lot.

Mr. Tobia asked Mr. Liebman how did he come up with this specific number (282) of cars for this application. What criteria was used?

Mr. Liebman answered Mr. Lanzafama, the applicant's planner, could answer that question.

Dr. Blickstein noted that Mr. Liebman had stated that he had very little control over the inventory. And yet, the application is proposing 282 cars. She felt, therefore, that Mr. Liebman had some control over that number.

Mr. Liebman answered unfortunately some of the Douglas Motors employees will have to move their own cars off the dealership's lot on Morris Avenue to make room for the new cars needing spaces.

Dr. Blickstein asked Mr. Liebman if he had evaluated any other opportunities for either employee parking or short term parking, either on other properties in Summit or close to his dealership?

Mr. Liebman agreed that research would have to be done. He noted that employee parking involves 50 cars.

Mr. Infante and Mr. Liebman discussed the other car dealerships in the Summit area and how they handled employee parking.

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

Michael Lanzafama, the applicant's engineer and planner, came forward. He remained under oath from the previous hearing.

Mr. Lanzafama noted at the last hearing, he had testified on the site plan, the property's configuration, storm water management, the proposed buffering, the re-vegetation along the Passaic River and how the calculation of 282 cars was reached. Mr. Lanzafama stated testimony should now be given as to why the applicant is before the Board, seeking these variances.

Mr. Lanzafama testified that the applicant's property is in the M-1 District. This district does not permit the storage of vehicles without a principal use. Mr. Lanzafama felt that the use of this particular facility as proposed, and how it has existed over the 40 plus years, is not totally out of the realm of the types of uses that had been contemplated by the Master Plan or the zoning ordinances.

Mr. Lanzafama brought up the question of whether this site was suited for this particular use (car storage). He felt that the Zoning Board in 1971 had addressed this issue, and felt that the site was suited for this use. The site in question is less than one mile from Douglas Motors' major facility. The site, being situated in a commercial zone, is a good distance from residential uses. The property is bounded by high tension wires and the Passaic River. Mr. Lanzafama pointed out that the contamination on the site makes it difficult to develop any residential components.

Mr. Lanzafama testified that the topography of this site lends itself to this type of use (car storage). He felt that the 75-foot frontage would not give an adequate street presence for any proposed structures/storefronts, etc.

Dr. Blickstein disagreed with this point, stating that a street presence can be created on a narrow lot.

Chrmn. Cifelli pointed out that this property is situated on a gateway existing from Summit entering into Chatham. This property gives a first impression of traveling over the bridge into Chatham Borough. He questioned why this piece of property was, in a sense, being removed from the streetscape.

Mr. Lanzafama argued that this particular property has been used for over 45 years for this particular use (car storage). His client has owned the property outright for 25 years. To take away his client's livelihood to make this grand entranceway doesn't seem fair.

Dr. Blickstein asked if he was trying to argue that there was an economic hardship involved here.

Mr. Lanzafama answered no, he was just trying to put forth some reality and facts. If this lot is taken from Mr. Liebman and Douglas Motors, Mr. Liebman is out of business. What the applicant is proposing is not out of possibilities for this particular district.

Chrmn. Cifelli pointed out that just because the applicant has been conducting his car storage business on this lot for so many years, doesn't give him the right to do it.

Referring to the frontage situation, Mr. Infante reminded Mr. Lanzafama that the angle and the topography of the subject property reveals the entire property. Mr. Lanzafama agreed that was a fair statement.

Mr. Lanzafama stated that the site is particularly suited for this type of use (car storage) because of its location within the community, and because it's not surrounded by residential properties. He reviewed the positive criteria of this application. The lot's close proximity to Douglas Motors will reduce the number of trips and the length of trips with regard to traffic.

Chrmn. Cifelli asked if employees would be able to legally exit the lot by making a left turn. Mr. Lanzafama believed so.

Chrmn. Cifelli reminded Mr. Lanzafama that an apartment building, with 47 units, will soon be constructed on River Road. He felt that the steady stream of traffic on Watchung Ave. will be dealing with these tractor trailers.

Mr. Lanzafama answered that factor wouldn't change his opinion. The site has been used for car storage for over 25 years. The site has never caused a motor vehicle accident on the street, as far as he and the applicant knew. None of the car carriers has hit a pedestrian or another vehicle. This application proposes a reduction will of over 22,000 sq. ft. of impervious space. A re-vegetation will be planted along the stream corridor, providing a buffer.

Mr. Lanzafama reviewed the negative criteria of the application. An existing hedge will be retained. The applicant will supplement this hedge, should the Board desire it. Mr. Lanzafama noted that the RSLP expert at the last hearing had testified that if the property were to be developed residentially, significant measures would have to be taken to prevent the infiltration of pollutants into the buildings.

Mr. Lanzafama believed that this particular use (car storage) was not so contrary to the zoning in that area. Dr. Blickstein disagreed, stating that it was a use without the principal use. Mr. Lanzafama agreed that it was an accessory use without a principal use. However, the fact that there are environmental issues associated with the property, have to weigh in. Mr. Lanzafama pointed out that the proposed plan will be "reigning in" the long-time use of this property. Impervious coverage will be reduced.

Mr. Lanzafama pointed out that other car dealerships in the area facing the dilemma of the lack of space for car storage.

Dr. Blickstein reminded Mr. Lanzafama that since this is not a site plan, a number of improvements, particularly on landscaping, are not being proposed. Certain design standards are required for parking lots in the Borough.

Attorney Dwyer confirmed with Dr. Blickstein that outdoor storage of automobiles is not permitted as a principal use in any district.

Dr. Blickstein felt that this is an accessory use, without a principal use, which presents a challenge, given the Master Plan vision for this particular section of town. Chrmn. Cifelli questioned how these proposals would further the goals of the Master Plan for that particular area of Chatham.

Dr. Blickstein pointed out, aside from adjusting employee parking arrangements, that the applicant hasn't done a comprehensive analysis of what the other opportunities may be for additional parking.

To address this issue, Attorney Podvey said he would ask Peter Liebman to come before the Board again.

Chrmn. Cifelli asked if the Board had any further questions for Mr. Lanza fama. There were none. The public had no questions for him.

Chrmn. Cifelli asked Dr. Blickstein to give her thoughts on the planning aspect of this application thus far.

Dr. Blickstein noted that improvements have been made to the application; however, the riparian buffer is only half restored, parking still exists in it, no trees are being proposed, no streetscape improvements are being proposed. She felt that if the applicant tries to compare it with other uses, the comparison would not hold up all that well. Dr. Blickstein believed that proof should be given that this application will benefit the general welfare, not just benefitting the applicant.

Dr. Blickstein noted that the ordinance omission of the use, from those uses permitted in this zone district, is hard to reconcile.

Attorney Podvey called Peter Liebman to come forward again. He asked Mr. Liebman if Mr. Lanza fama had offered to supplement the streetscape buffering.

Mr. Liebman stated that he is offering to help create a nice entrance to Chatham by landscaping both sides of the street. The Borough can design it and he will build it.

Attorney Podvey asked Mr. Liebman if he had ever looked at other sites to store his cars.

Mr. Liebman answered he hasn't looked recently for another site. He reminded the Board that it would be an economic hardship to him if he was not allowed storage on this subject property. Mr. Liebman testified that he had a million dollars invested in this land. He can't afford to invest a million dollars in another piece of land. His business is gone if the Borough takes this property away from him.

Attorney Podvey said he had no further questions. The Board had no further questions for Mr. Liebman. The public had no questions for him.

Attorney Podvey had no further witnesses for tonight's hearing.

Application #14-29: 4 Watchung Avenue, LLC will continue to the March 22, 2017 Zoning Board of Adjustment meeting. Attorney Podvey, Mr. Lanzafama, and Mr. Liebman departed. Also, Dr. Blickstein, Mr. Brightly, and the court stenographer departed.

At 9:00 p.m. a break was taken in the meeting.

At 9:07 the meeting resumed.

Application ZB #16-023

Hugo & Carolyn Hilgendorff

113 Lafayette Avenue

Building/Lot Coverage

Block 17, Lot 4

The following were sworn in to testify:

Hugo & Carolyn Hilgendorff, the applicants

Steve Hockstein, the architect for the applicants

Mr. Hockstein submitted his professional credentials to the Board. The Board accepted them.

Mr. Hilgendorff gave an introductory statement. He testified that he and his wife have lived at 113 Lafayette Avenue since 2003. The house is a small, 3-bedroom Colonial home that he and his wife are looking to improve. The house was built circa 1932. Mr. Hilgendorff believed the home is in its original state, aside from a built-on shed at the back of the existing attached garage.

Chrmn. Cifelli asked how many bathrooms currently existed in the home. Mr. Hilgendorff answered 1 ½ baths. Two of the three children, the sons, bunk together in one bedroom, which is starting to have cramped conditions.

Mr. Hilgendorff testified that the house currently does not have an eat-in kitchen. The family either eats formally in the dining room or in front of the TV. He and his wife are proposing an eat-in area in the kitchen.

Chrmn. Cifelli confirmed with Mr. Hilgendorff that he was proposing to increase his living space, however his building coverage is increasing, thus triggering a variance. Mr. Hilgendorff testified, with this application, he would like his home to have 4 bedrooms and 2 ½ bathrooms.

Mr. Hockstein submitted Exhibit A-1: A photo board of the existing home and its conditions.

Using the existing floor plan, Mr. Hockstein described the current conditions of the house. The existing garage measures 16 feet deep. Mr. Hockstein testified that on the first floor a large powder room is being proposed, as well as a breakfast area in the kitchen, and additional family

room space. The garage will be expanded to provide room for a car. Construction of a mudroom at the back of the garage is being proposed.

Chrmn. Cifelli confirmed with Mr. Hockstein that the existing garage measures 8 ft. 8 inches wide.

Mr. Hockstein testified that a portico is being proposed for the front of the home, providing safer conditions at the entrance. The portico, which measures approximately 30 sq. ft., is included in the building coverage calculations. However, no setback variances are needed for the portico.

Mr. Hockstein reviewed the proposals for the second floor. An existing smaller bedroom will be turned into the proposed master bathroom. At the back of the house, on the second floor, a third bedroom and a master bedroom are being proposed. A walk-in closet and a master bathroom are being proposed. Mr. Hockstein testified that doors will be installed at the back of the home. A larger, two-stage bathroom is being proposed.

Mr. Hockstein described the minor vertical intensification of the side yard, because there is a proposal to raise the shed at the back of the garage and make it align with the garage. Mr. Hockstein testified that the proposed mudroom for the back of the garage will comply with the side yard setback regulations.

Mr. Hockstein testified that the applicant is seeking only a 1.5% overage on building coverage. He felt that none of the proposed rooms are out of scale in regard to the house and the neighborhood. The addition will not be seen from the street. No trees will be removed. Mr. Hockstein pointed out the flat appearance of the front of the house. The proposed portico will add both safety and attractiveness to the home and the neighborhood in general. Mr. Hockstein believed that the proposed addition will not be a detriment to the Borough.

Chrmn. Cifelli confirmed with Mr. Hockstein that what is being proposed for the garage, the 22 ft. depth, is not out of the standard for today's single car garages. Mr. Hilgendorff explained the much needed space the mudroom would provide for his children's equipment.

Mr. Infante asked for the distance between the applicant's garage to the closest neighboring structure. Mr. Hockstein answered between 8 feet and 12 feet.

Chrmn. Cifelli confirmed with Mr. Hockstein that the existing roofline will not change with the proposed addition. Chrmn. Cifelli noted that the way the house has been placed on the property is also problematic.

The testimony was finished. The Board had no further questions for Mr. Hockstein or the applicant.

There were no questions or comments from the public.

Chrmn. Cifelli asked for comments from the Board. Chrmn. Cifelli felt that the existing home needed upgrading. The proposed expansion is definitely needed to make the house more livable.

The mudroom is necessary for the house. The proposals will not affect the light and air between homes. Mr. Infante believed that the kitchen update and the portico will provide safer conditions in the home. He felt the benefits outweighed the detriments. Mrs. Kecskemety agreed with Chrmn. Cifelli's comment about the building coverage requirements being revised in the future. Mr. Montague expressed concerns about the smaller sized homes in the Borough disappearing with expansions taking place. Mr. Tobia was in favor of the application, but pointed out that the existing kitchen was already large. He acknowledged Mr. Montague's point about the smaller homes in town.

A motion was made/seconded to approve Application ZB #16-023: Hilgendorff – 113 Lafayette Avenue, as submitted. A roll call vote was taken:

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

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

The next Zoning Board of Adjustment meeting will be held on Wednesday, March 22, 2017, 7:30 p.m., Council Chambers, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler

Elizabeth Holler
Recording Secretary