

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT  
June 26, 2019 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 notice 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 – arrived 7:40 p.m. |        |
| H.H. Montague        | X                     |        |
| Jean-Eudes Haeringer | X                     |        |
| Patrick Tobia        |                       | X      |
| Alida Kass           |                       | X      |
| William DeRosa, Jr.  | X                     |        |
| Patrick Dwyer, Esq.  | X                     |        |

Public Comment

There was none.

Resolution #ZB 2019-11

The minutes for the April 29, 2019 and May 22, 2019 Zoning Board of Adjustment meetings were approved. The minutes of the April 24, 2019 meeting will be reviewed at a future meeting.

Resolutions

Application ZB #19-06

Jill & Mike Lane

53 Minton Avenue

Block 127, Lot 3

Building Coverage/Lot Coverage/Garage Side Yard

Attorney Dwyer summarized this application which proposed replacing a one car garage with a two-car garage. The applicant had made revisions to the original plans to eliminate the side yard setback. The Board felt the light and air would not be impacted by the garage. Sufficient stormwater drainage would be installed.

The Board approved the variances. A roll call vote was taken to approve this resolution confirming the Board’s approval of this application.

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

Application ZB #19-07  
Scott & Brenda Beebe  
135 Weston Avenue  
Block 74, Lot 5  
Side Yard

Attorney Dwyer summarized this application which proposed adding a small covered porch area which would encroach slightly into the side yard setback. The Board felt the benefits of the porch, outweighed the detriments. The porch would provide safe conditions and an easier access to the home. A roll call vote was taken to approve this resolution confirming the Board’s approval of this application.

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

Returning and New Applications

Chrmn. Cifelli announced the status of the following applications:

Application ZB #17-13: First Student, Inc. 29 River Road – will carry to a July meeting

Application ZB #19-08: Kilm – 20 Ellers Drive – will be heard tonight

Application ZB #19-09: Welling – 32 Tallmadge Avenue – will be heard at a July meeting due to incorrect noticing.

Application ZB #19-10: Garlewicz – 86 Center Avenue – will be heard tonight

Application ZB #19-08  
Toomas & Ly Kilm  
20 Ellers Drive  
Block 32, Lot 23  
Side Yard/Building Coverage/Lot Coverage

Toomas & Ly Kilm, the applicants, were sworn in to testify.

Mr. Kilm testified that he and his wife have been living at 20 Ellers Drive since 1986. He believed his house, as well as neighboring homes, were built in the 1950s.

Mr. Kilm testified that the major reason for the proposed expansion is to increase the usable space on the second floor. He noted that his mother-in-law resides on the first floor. She uses the main bedroom and a room that is used as a home office.

Mr. Kilm described the existing sloped ceilings in his cape cod house. He is proposing the upward construction to make better use of the second-floor footprint. A small gabled dormer will be constructed in the existing master bedroom, thereby creating a second bedroom.

Mr. Kilm stated that he and his wife have not really done anything to their house for about 30 years. The home's interior, the existing bathrooms, windows, etc. need maintenance repair. He reviewed the maintenance repair work that needed to be done on the exterior. A portico porch is being proposed to make conditions safer for his mother-in-law.

Mr. Kilm testified that quite a number of older homes have been demolished in his neighborhood in the last couple of years. These proposals will be bringing his house up to date.

Chrmn. Cifelli asked Mr. Kilm if he had any information showing whether these neighboring properties had to obtain variances, and how these properties compared to 20 Ellers Drive.

Mr. Kilm answered that he had some comparisons. Unfortunately, he did not research any variances that these neighboring properties may have been sought. Mr. Kilm stated that he had taken photos of the side yards belonging to the neighboring properties. He felt these photos would show how tighter these houses are next to each other, in comparison to what he is proposing.

Chrmn. Cifelli and Mr. Kilm reviewed the variance calculations in the Zoning Officer's denial letter. Mr. Kilm believed the proposed over-hang and portico is driving some of these variances.

Chrmn. Cifelli reminded Mr. Kilm that the Board could not approve an application based on the personal needs of a family. Chrmn. Cifelli pointed out the need for a neighborhood analysis to justify that what Mr. Kilm is proposing is similar to what neighboring properties have. Mr. Kilm indicated that he understood Chrmn. Cifelli's point.

Mr. Kilm referred the Board to his property survey. He indicated where the proposed height of his home would extend on the left side. Mr. Kilm stated that there would be no additional encroachment to the neighborhood. He noted that currently a 17 ft. 11-inch side yard exists between his home and his next door neighbor. Chrmn. Cifelli confirmed with Mr. Kilm that his next-door neighbor to the left is similarly situated in terms of the height of the roof and also having a solid wall going up.

Chrmn. Cifelli asked for more information on the proposed intensification, with regard to height and length.

Mr. Kilm testified that the original ridge is at 20 ft. 4 inches. The height will be 8 feet up. 34 feet front to back will exist.

Chrmn. Cifelli confirmed with Mr. Kilm that the first floor of his home will remain the same.

Mr. Herbert asked if there were any variances with regard to the home as it now exists. He noted that the existing home is larger than it should be.

Mr. Kilm answered no. He and his wife moved to the home in 1986. He realizes the Borough regulations have probably changed since they moved in.

Mr. Herbert asked who would be doing the construction work if the application was approved.

Mr. Kilm answered a life-long friend of his, who is a builder. His friend has contacts with other members of the construction trades.

Mr. Herbert asked if any re-facing will be done on the exterior.

Mr. Kilm clarified that only the front of the house will remain as brick. The whole house will become one blue color.

Mr. Montague asked for the lay-out of the plans. He questioned why the side yard setbacks, first floor and second floor, were violating the regulations. Mr. Montague asked why couldn't the proposed second floor stay within the Borough requirements.

Mr. Kilm explained that there were economical reasons for these plans.

Mr. DeRosa confirmed with Mr. Kilm that the first-floor wall will not be altered. He also confirmed with Mr. Kilm that the left side yard of the home will not be intensifying. It will just go straight up.

Mr. Montague still wanted to hear why the side yard variance was really necessary.

Chrmn. Cifelli said he understood that the shape and the size of the existing home is not really manageable. The applicant has an old style cape cod home. He understood that the applicant is trying to bring his house up to modern living standards. However, Chrmn. Cifelli pointed out that the applicant's neighbors could also ask for side yard setbacks, similar to the applicant's, if the application was approved. He also had a concern about two-story walls being only 5 feet apart. The desired look for the neighborhood, as regulated by the Borough ordinances, has to be taken into consideration.

Mr. Kilm stated that regarding the roof height, his roof height is just a couple of feet below the next-door neighbor's home. The next-door neighbor has been notified of these plans, as well as all the residents living within the 200 ft. radius. No one seemed to be in tonight's audience who would be against the application.

Mr. Kilm showed the survey that he and his wife had organized, color-coded, of their neighborhood, known as the Ellers Development constructed in the 1950s. Mr. Kilm testified that his home did not really have a basement, only a crawl space. He reviewed his findings on these neighboring homes. Mr. Kilm testified that the profile of his neighborhood is totally changing with the demolitions taking place. Mr. Kilm reviewed the photos he had taken of the side yards of neighboring properties.

Chrmn. Cifelli suggested information should be researched on the neighboring homes, particularly the newer ones, with regard to their building coverages. It appears, so far, that these newer homes stayed within the Borough regulations for building coverage.

Mr. Infante suggested that Mr. Kilm consider having a professional, like an architect, help present their application and address some of the Board's concerns. Attorney Dwyer explained that a professional architect or planner is very familiar with the testimony needed to present both the positive and negative criteria of an application.

Related to this, Mr. Haeringer asked for more testimony on the second floor. Why this lay-out was being proposed for the second floor, as opposed to a second floor that would stay within Borough regulations.

Mr. Haeringer pointed out that the applicant's house already had one extension constructed, at the back. There is space above the kitchen. Perhaps the addition could be shifted in a way to avoid a variance.

Mrs. Kecskemety and Mr. Kilm discussed the amount of space being proposed for the master bedroom, bathroom, and walk-in closet space. Chrmn. Cifelli suggested there may be reasons for the proposed space on the second floor, because of the set-up of the first floor.

Mr. Kilm described the existing floor. He testified that the closet space is limited. There is no basement. His home has limited storage. He and Mrs. Kilm are tired of the crooked ceilings.

Mr. DeRosa noted that if the 3-foot over-hang were to be stepped back, variances would not be needed for building coverage and lot coverage. Mr. Kilm agreed. Mr. Herbert pointed out that the existing house needs a variance as it currently stands. The house is 420 sq. ft. over on building coverage.

Mr. DeRosa noted that the plans conform with the FAR regulations. He pointed out that a huge addition isn't being proposed. It concerns of where the proposed mass will be constructed. Mr. Haeringer commented that the extension put on the back of the house, years ago, had not been a good move. He felt that the applicant's proposals would force the house to extend even further beyond what is allowable by the Borough.

Chrmn. Cifelli pointed out that when the applicant's house was built, it probably conformed with the Borough's regulations at that time. He noted that conditions can be tight in Cape Cod houses. Chrmn. Cifelli advised Mr. Kilm that it helped to have an architect on hand to answer certain technical questions the Board may have. Also, an architect or other professional can testify as to how the proposed construction would relate to the neighborhood.

Mr. Kilm submitted a photo of the home's front stoop and explained the reasons for the proposed portico.

Mr. Herbert noted with Mr. Kilm that the Board has shown some ambiguity on his application tonight, mainly because testimony from a professional is needed. He reminded Mr. Kilm that at least four affirmative votes would be needed from the Board to approve this application.

Chrmn. Cifelli asked Mr. and Mrs. Kilm when they had calculated the building coverage and lot coverage, had they included any of the portico's measurements which are exempt under the Borough ordinances.

Attorney Dwyer clarified what square footage would be exempt from the building coverage.

Mr. Kilm asked that his application be carried.

Application ZB #19-08: Kilm – 20 Ellers Drive, will continue to the July 24, 2019 Zoning Board of Adjustment meeting.

At 8:50 p.m. a break was taken in the meeting.

At 9:00 p.m. the meeting resumed.

Application ZB #19-10  
Jeffrey & Lauren Garlewicz  
86 Center Avenue  
Block 58, Lot 12  
Side Yard/Rear Yard/Building Coverage  
The following were sworn in to testify:

Jeffrey & Lauren Garlewicz, the applicants

Therese Ziyad, the architect for the applicants

Mrs. Garlewicz testified that her family's home is a small cape cod home. Currently there is bedroom on the first floor. The existing kitchen is just large enough for the family to eat in. A full bathroom and living room also exist on the first floor. Mrs. Garlewicz described the existing second floor. She testified the house currently has a deck. She felt that the deck is much larger than was necessary. Mrs. Garlewicz, to the best of her knowledge, did not believe an addition was ever constructed on her home.

Chrmn. Cifelli reviewed the basement situation with Mr. and Mrs. Garlewicz. He confirmed with the applicants that the home's front door is on the side. Mr. Garlewicz testified that the house was constructed in 1949. Chrmn. Cifelli noted that the design of the existing house is unusual. Mrs. Garlewicz, agreed, stating that there was probably no other house in Chatham that matched her home.

Answering Chrmn. Cifelli's questions, Mrs. Garlewicz testified that three bedrooms currently existed in the home. Two bedrooms are located on the second floor, and there is one bedroom downstairs. There is a bathroom upstairs. There are no dormers on the second floor. A straight roof-line exists. Chrmn. Cifelli confirmed with Mrs. Garlewicz that the upstairs living space is very tight and narrow due to the absence of dormers.

Ms. Ziyad, the applicants' architect, submitted her professional credentials to the Board. The Board accepted them.

Ms. Ziyad put the existing and proposed site plans on the easel. She testified that an existing bay may have been added to the existing home at one time. There is a proposal to re-build the bay roof in order to create a full roof. Ms. Ziyad testified that the existing home is 1 ½ stories. Towards the back of the current first floor is the bathroom, bedroom, and kitchen. A wrap-around deck exists which encroaches on the side yard setback. Unfortunately, the deck limits the family's activities in the back yard. Ms. Ziyad testified that this deck will be removed. A patio, conforming to lot coverage regulations, will be created in the back.

Referring to the proposed site plan, Ms. Ziyad pointed out the footprint of the proposed second floor addition. She testified that some area on the left-hand side of the home will be sacrificed to bring the home more in conformity regarding the side yard setback. This left side proposal will also prevent the home from appearing box-like, thereby not fitting in with the neighborhood.

Ms. Ziyad testified that the rear yard setback variance is triggered by the proposed building height.

Chrmn. Cifelli and Ms. Ziyad discussed the location of the intensification.

Mr. Montague confirmed with Ms. Ziyad that the proposed foyer would only be one story. Unlike the current entrance to the house, the proposed foyer will clearly indicate the front entrance to the home.

Ms. Ziyad testified that covered porch on the right side yard will be 3 inches over the allowable.

Ms. Ziyad testified that the entirety of the proposed building coverage variance is within the footprint of the front porch. This variance, if approved, would create a better entrance to the home and improve the curb appeal of the street. Ms. Ziyad testified that the proposed porch will measure 214 sq. ft.

Regarding the home's interior, Ms. Ziyad stated a larger eat-in kitchen is being planned. A powder room and mudroom are also being proposed. Ms. Ziyad testified that no dining room exists. A platform and stairs will be going down to an on-grade patio. This would allow for more space in the rear yard for the children to play. Ms. Ziyad discussed the attic space. The roof ridge will be raised just under 10 feet.

Ms. Ziyad reviewed the proposed second floor which will have two children's bedrooms, a master bedroom with a master bath, a walk-in closet. There will be a hallway bathroom for the children. Chrmn. Cifelli confirmed with Ms. Ziyad that the proposed space in the attic has nothing to do with the intensifications on the left and right sides. Chrmn. Cifelli confirmed with Ms. Ziyad that the proposed plans are within the FAR regulations. Ms. Ziyad testified that the proposed height will be 31 feet 33 inches to the peak.

Ms. Ziyad submitted a photo-board which showed the surrounding homes which had front porches. Included was a snippet of the pertinent tax map showing this section of Center Avenue. This photo-board was marked as Exhibit A-1.

Chrmn. Cifelli noted that the Borough ordinance favors front porches.

Ms. Ziyad reviewed and discussed the photos of Exhibit A-1 with the Board.

Chrmn. Cifelli felt that the proposed building coverage was de minimis. He and Ms. Ziyad discussed the intensification on the left side yard setback, on the second floor.

Chrmn. Cifelli asked Ms. Ziyad if she had any photos or other data to show that the proposals are in conformity with the neighborhood.

Using Exhibit A-1, Ms. Ziyad noted that a number of neighborhood properties are under sized in width. She felt that many of these properties are dealing with side yard setback issues.

Referring to Exhibit A-1, Chrmn. Cifelli observed that most of the homes in the immediate neighborhood have second floors flush with their first floors. Ms. Ziyad agreed, pointed out that most of these homes were center hall colonials.

Chrmn. Cifelli brought up the proposed intensification on the right-hand side of the property. Ms. Ziyad explained that intensification is due to the fact that the existing first floor is at 8.9 feet, where the first floor is required to be 9 feet.

Chrmn. Cifelli asked where the intensification existed on the first floor was. Ms. Ziyad pointed out in the area of the proposed foyer and the porch. It measures about two inches. Chrmn. Cifelli confirmed with Ms. Ziyad that the porch will be open air. Therefore, the porch will not produce a block affect.

Chrmn. Cifelli brought up the intensification of the second story. Ms. Ziyad testified that this intensification was due to the existing side-facing gable.

Chrmn. Cifelli and the applicants discussed the neighboring homes at the rear. He confirmed with Mr. Garlewicz that the proposed rear portion of his house will not extend further than his neighbors' homes, with regard to the line of sight. Ms. Ziyad reviewed the tree situation on the property. There is a pine tree on the applicant's property that does not look in good condition and will probably be taken down. The street trees will remain.

There were no questions from the public for Ms. Ziyad and the applicants. The public had no comments on the application.

Mr. and Mrs. Garlewicz closed their application and submitted it to the Board for a vote.

Chrmn. Cifelli asked for Board comments. Mrs. Kecskemety felt it was a good design. Mr. Montague said he had no problems with the application, given the small lot size. Mr. Herbert believed the proposals will make the applicant's home more livable. He appreciated that the architect and the applicants had kept the proposals at a minimum. Mr. Herbert approved the application. Mr. Haeringer believed the proposals will be a benefit to the street. Mr. Infante felt that the proposed side yard setbacks will be de minimis. There would be no significant impact to the light, air, and open space. Mr. DeRosa felt the proposals would be a wise solution, solving the problems of this house. Chrmn. Cifelli believed that the positives outweighed the negatives with this application. A porch is being added, which is encouraged by the Borough's Master Plan.

Chrmn. Cifelli made a motion to approve Application ZB #19-10: Garlewicz – 86 Center Avenue. Mrs. Kecskemety seconded the motion. A roll call vote was taken:

|                 |   |     |
|-----------------|---|-----|
| Mr. DeRosa      | - | yes |
| Mr. Haeringer   | - | yes |
| Mr. Montague    | - | yes |
| Mr. Infante     | - | yes |
| Mr. Herbert     | - | yes |
| Mrs. Kecskemety | - | yes |
| Chrmn. Cifelli  | - | yes |

Chrmn. Cifelli announced that Cathy Baldwin, the Administrative Assistant for the Zoning Board of Adjustment will be retiring as of July 1<sup>st</sup>. Chrmn. Cifelli asked Attorney Dwyer to draft a resolution thanking Mrs. Baldwin for her many years of service.

On other matters, Chrmn. Cifelli asked Board members to respond to his emails as an extra meeting date will be decided on for the First Student application. Chrmn. Cifelli asked Attorney Dwyer to do a survey on case law for school bus properties, on whether or not these bus company properties are an inherently beneficial use, especially when an expansion is involved.

Chrmn. Cifelli announced that the applications that were not heard tonight will be carried to the July 24, 2019 Zoning Board of Adjustment meeting.

At 9:50 p.m. the meeting adjourned.

The next Zoning Board of Adjustment meeting will be held on Wednesday, July 24, 2019, 7:30 p.m., in the Council Chambers, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary