

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT  
March 24, 20217:30 p.m.

Chairman Michael A. Cifelli called this Regular Meeting of the Zoning Board of Adjustment to order at 7:30 p.m. This was a virtual meeting. Board members, Attorney Dwyer, and the applicants were present by way of Zoom. Mr. Cifelli stated that adequate notices for this Board of Adjustment meeting were given as required by the Open Public Meetings Act.

Name	Present	Absent
Michael A. Cifelli, Chrmn.	X	
Frederick Infante	X	
Douglas Herbert	X	
H.H. Montague	X	
Jean-Eudes Haeringer	X	
Patrick Tobia	X	
Joseph Treloar	X	
David DeGidio	X	
Peter Hoffman	X	
Patrick Dwyer, Esq.	X	

Public Comment

There was none.

Resolution #ZB 2021-01

The minutes of the February 24, 2021 Zoning Bd. of Adjustment meeting were approved as amended.

Resolutions

Application # ZB 20-019

Cronin & Smith

23 Broadview Terrace

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Block: 97 Lot: 15

Side Yard Setback – Left

Maximum Principal Building Coverage

Attorney Dwyer summarized this application which proposed improvements to an existing home that was 70 years old. The proposed building coverage was a small amount and will be buffered by evergreens. The Board felt the benefits outweighed the detriments and approved the application. A roll call vote was taken to approve the resolution confirming the Board's approval of Application # ZB 20-019:

Vice Chrmn. Herbert	-	yes
Mr. Infante	-	yes
Mr. Haeringer	-	yes
Chrmn. Cifelli	-	yes

Mr. Tobia	-	yes
Mr. Hoffman	-	yes
Mr. DiGidio	-	yes

Application # ZB 20-021

Don & Patricia Murnane

12 Elm Place

Block: 62 Lot 4

Maximum Principal Building Coverage

Attorney Dwyer summarized this application which proposed improvements to a single-family home. A two-family garage was being proposed on a side of the property where additional land had been purchased from the town. The other proposals would allow the applicants to age in place, making their dwelling a single floor home. The Board felt the benefits outweighed the detriments and approved the application. A roll call vote was taken to approve the resolution confirming the Board's approval of Application # ZB 20-021:

Chrmn. Cifelli	-	yes
Mr. Herbert	-	yes
Mr. Hoffman	-	yes
Mr. Infante	-	yes
Mr. Tobia	-	yes

Application # ZB 20-017

Michael Rodino

24 Kings Road

Block: 29 Lot: 11

Rear Yard Setback

Maximum Principal Building Coverage

Attorney Dwyer summarized this application which involved a home, dating back to the 1700s. and proposing to reduce some of the home's overages – lot coverage and rear yard setback, in an attempt to improve the home's living conditions. The Board granted the building coverage variance. A roll call vote was taken to approve the resolution confirming the Board's approval of Application # ZB 29-017:

Mr. Herbert	-	yes
Mr. Infante	-	yes
Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes
Mr. Tobia	-	yes
Mr. Hoffman	-	yes
Mr. DiGidio	-	yes

The resolution for Application # ZB 20-018: Verizon Wireless, Brooklake Road, will be done at a future meeting. It is being worked on by Attorney Oller.

Application #ZB 21-001  
John & Catherine Hindelong  
57 Elmwood Avenue  
Block 64 Lot 14

John & Catherine Hindelong, the applicants, were present.

Chrmn. Cifelli noted that he was advised late in the day, that there is an issue with the notice of this application. He understood that there was one resident within the 200 foot radius that had missing information on his notice. The notice had the resident's name, the resident's street, but was missing the city name and state.

Chrmn. Cifelli stated that it may sound picky, but attorneys in these applications, are very strict about notice requirements. So sufficient notice is missing for one that one neighbor – Ted Williams of 52 Coleman Avenue.

Chrmn. Cifelli asked Steve Williams, who was hosting tonight's Zoom meeting, if he could ask Ted and/or Gina Williams of 52 Coleman Avenue were present tonight by Zoom.

Steve Williams asked Ted and Gina Williams to raise their hand if they were present at tonight's Zoom meeting.

Mr. S. Williams investigated who the one caller is in attendance. While he was doing this, Mr. Hindelong stated that based on the tracking number sent to that address, 52 Coleman Ave., he had confirmation of where it was delivered.

Chrmn. Cifelli answered that he had seen the confirmation; however, the confirmation does not state where the mailperson had delivered it. The receipt from the post office just said that it was delivered, but neglects to say what address it was delivered to.

Chrmn. Cifelli said that he and the Borough had tried hard to have this application proceed and stay within the legal boundaries of legal notice requirements. Unfortunately, things did not work out. He pointed out the mail receipts of the notifications were delivered to Borough Hall on a Monday. The Administrative Secretary for the Board only works on Wednesday evenings.

Chrmn. Cifelli said if Ted and/or Gina Williams had appeared at this Zoom meeting tonight, that would solve this notification problem.

There was one phone caller observing tonight's meeting; however, this person would not unmute themselves. It was not known who they were.

Chrmn. Cifelli explained to Mr. and Mrs. Hindelong if the Board went ahead and heard their application tonight, and Mr. and Mrs. Williams had complained that they had not been noticed,

the application would have to be heard all over again. Chrmn. Cifelli also explained that the Zoning Bd. is a quasi-judicial body whose decisions can be challenged by the Superior Court.

Mr. Hindelong pointed out the tracking number that he had for the notification/address in question. The tracking number had stated when the notice had been delivered at the address in question, giving the date and exact time.

Chrmn. Cifelli noted that unfortunately it was not an attachment.

Tom Salacki, the applicant's architect, put the Certified Mail Receipts up on the Zoom screen. He pointed out that the town and state had been written in at the top of the Certified Mail receipt for the address in question.

Chrmn. Cifelli noted that Mr. and Mrs. Williams' address had the town, zip code and state omitted in the sending section.

Attorney Dwyer said that he did not know the reason why the town and state had been included at the top of the receipt. He reminded Mr. and Mrs. Hindelong that Mr. and Mrs. Williams would not be the only ones to claim the notification was defective, it could be any resident could come forward.

Mr. Treloar asked Attorney Dwyer what would happen if the variances were granted, Mr. and Mrs. Hindelong had completed their project, and someone complains that they were never noticed and felt the application was faulty.

Attorney Dwyer answered that he has never seen that happen. Typically, someone could appeal the Board's decision within 45 days after the application's resolution gets published.

Mr. Tobia asked that if this were jurisdictional, and the Board decides to proceed with the application, would that indicate that the Board has accepted notice if it was jurisdictional.

Attorney Dwyer answered no, the Board would have to accept that the notice was defective.

Chrmn. Cifelli agreed with Attorney Dwyer's point, saying the application could not be done on a contingency basis. He explained the risks of the Board if it acts beyond its authority.

Mr. Infante confirmed with Chrmn. Cifelli that the Zoning Bd. had the authority to grant variances from the zoning requirements; however, the Board did not have the power to amend the rules with respect to notice.

Chrmn. Cifelli noted that the notification process that the applicants must go through is sometimes a race with time. Mistakes can happen. He pointed out that Attorney Dwyer had stated that this particular omission was not intentional by the applicant.

Mr. Hoffman asked if the Board should vote on whether to proceed with this application.

Attorney Dwyer answered that generally a board would depend on their legal counsel to make the final decision.

Referring to Mr. Haeringer's question about bar codes on the notice, Mr. Herbert pointed out that someone from the post office could give testimony on what each box represented on the notice slip.

Chrmn. Cifelli asked Attorney Dwyer what would be sufficient time for the applicant to get a notice to Mr. and Mrs. William. Would two weeks suffice? Chrmn. Cifelli suggested a special Board meeting could be held in two weeks, if the Board members were willing.

Attorney Dwyer stated that the Zoning Board could announce a new meeting date tonight in order to allow the applicant to notice the resident in question and to provide proof to the Board, an extra Board meeting could be held before the next Regular Board meeting.

After Mr. Haeringer took a survey of Board members, all Board members present indicated they would be available for an extra Board meeting to be held on Tuesday, April 6<sup>th</sup>.

Attorney Dwyer stated that Mr. and Mrs. Hindelong will not need to re-notice everyone in the 200 ft. radius again. They should just notify Mr. and Mrs. Williams, 52 Coleman Ave. and notify proof of that notice. The signed green card receipt would be a good idea to obtain and submit to the Board's administrative secretary.

Chrmn. Cifelli made the official announcement that Application #ZB 21-001: Hindelong, 57 Elmwood Avenue will be carried from this evening's meeting to the Special Zoning Board of Adjustment Meeting to be held Tuesday, April 6, 2021, 7:30 p.m.

Mr. Hindelong thanked the Board for all their time.

#### Discussion Items

Chrmn. Cifelli noted that during the recent Verizon application, it was pointed out that the Borough ordinance currently has an ordinance that requires mechanical units for cell towers be installed within the legs of the existing energy provide pole. Chmn. Cifelli pointed out that the PSE & G towers are now monolithic without legs. He suggested the Board ask Attorney Dwyer to draft a letter to the Borough Council informing them that cellular towers are now changing in appearance. The Borough Council may want to consider changing that particular ordinance. If the ordinance could be revised as such, that would be one less variance that the Board would have to consider in future applications similar to Verizon Wireless.

Attorney Dwyer agreed to write the letter to the Borough Council.

At 8:35 p.m. the meeting adjourned.

The next Zoning Board of Adjustment Meeting will be a Special Meeting to be held on Tuesday, April 6, 2021, 7:30 p.m. It will be a virtual meeting.

A Regular Zoning Board of Adjustment Meeting will be held on Wednesday, April 28, 2021, 7:30 p.m. It will be a virtual meeting.

Respectfully submitted:

Elizabeth Holler  
Recording Secretary