

CHATHAM BOROUGH ZONING BOARD OF ADJUSTMENT
 August 24, 2022 7:30 p.m.

Chairman Michael Cifelli called this Regular Meeting of the Chatham Borough Zoning Board of Adjustment to order at 7:30 p.m. This was an in person meeting. Chrnm. Cifelli stated that adequate notices for this regular meeting were given as required by the Open Public Meetings Act.

Names	Present	Absent
Michael Cifelli, Chrnm.	X	
Frederick Infante	X – present by Zoom	
Jean-Eudes Haeringer	X	
Joseph Treloar	X	
David Degidio	X	
Peter Hoffman	X	
Curt Dawson		X
Patrick Dawson, Esq.	X	

Our thanks to Borough Administrator Steve Williams for serving as Zoom host for tonight’s meeting.

Also present:
 Kendra Lelie, P.P., AICP, ASLA, Professional Planner for the Board

Public Comment
 There was none.

Resolution #ZB 2021-01
 Chrnm. Cifelli made a motion to approve the meeting minutes of the July 21, 2022 and July 27, 2022 meetings as submitted. Mr. Haeringer seconded the motion. A voice vote was taken. The two sets of minutes were approved as submitted.

Resolutions
Application ZB 22-005
Padhi
7 Harding Street
Block: 51 Lot: 2

Attorney Dwyer summarized this application which proposed converting a Cape Cod to a Colonial style home. After listening to testimony, the Board granted the C-2 variance. A roll call vote was taken to approve the memorialization of the Board’s approval for Application ZB 22-005:

Chrnm. Cifelli - yes
 Mr. Haeringer - yes
 Mr. Infante - yes
 Mr. Treloar

The resolution for Application ZB 22-005 was approved.

Application ZB 22-007

Kelleher

143 Washington Avenue

Block: 95 Lot: 18

Attorney Dwyer summarized this application which proposed an addition to a single family home which required a lot coverage variance and a building coverage variance. The Board granted these variances. A roll call vote was taken confirming the Board's approval of this application:

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

The resolution for Application ZB 22-007 was approved.

Application ZB 18-022

246 Main Street, LLC

246 Main Street

Block 57, Lots: 17 & 19

Attorney Dwyer summarized that the applicant was seeking a one year extension of an approval the Board had given them back in 2018. This extension will run to July 2022. The Board approved the extension. A roll call vote was taken confirming the Board's approval for this extension:

Mr. Haeringer	-	yes
Mr. Hoffman	-	yes
Mr. Treloar	-	yes
Mr. Degidio	-	yes

The resolution for this extension for Application ZB 18-022 was approved.

Application ZB 22-011

Nassif

128 Chatham Street

Block: 19 Lot: 36

Attorney Dwyer summarized this application which was seeking a variance to increase the building coverage; however, the lot coverage will be reduced. The Board granted the C-2 variance. A roll call vote was taken confirming the Board's approval of Application ZB 22-011:

Chrmn. Cifelli	-	yes
Mr. Haeringer	-	yes

Mr. Infante - yes
Mr. Treloar - yes

The resolution for Application ZB 22-011 was approved.

Returning and New Applications

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

Application ZB 21-018 – Symbios Animal Health, L.L.C.

Application ZB 22-009 – Joseph & Gina Chiarello

Application ZB 22-008 – Robert Hume

Application ZB 22-010 – Kobylarz

Application ZB 22-012 – Atlantic Lavalette, LLC

Application ZB 21-018

Symbios Animal Health, LLC

588 Main Street

Block: 30 Lot: 2

Preliminary & Final Site Plan with Variances

Michael Lipari, Esq., the applicant’s attorney, came forward. He stated that the applicant is seeking an expansion of 161 sq. ft. to his veterinarian facility. In addition to this slight expansion, is a proposal for the parking arrangement at the rear of the property.

Attorney Lipari stated that unfortunately there is a split lot zone situation with the rear parking arrangement which complicates this application. The front of the applicant’s property is located in the business district that fronts on Main Street. Half way towards the back of the property is a cut-off, making the property into an R-3 zone, a residential district. Attorney Lipari noted that the C-variance being sought is for the front yard setback, where 25 feet is permitted. The applicant is seeking a 24.4 feet setback.

Chrmn. Cifelli confirmed with Attorney Lipari that technically a use variance is being sought. Chrmn. Cifelli pointed out that six Board members are present tonight. Normally there are 7 Board members. This application would need 5 affirmative votes to be approved for a “D” variance. Chrmn. Cifelli just wanted to remind Attorney Lipari and his client of this situation, should they want to carry their application to the next meeting when hopefully the entire Board was present.

Attorney Lipari indicated that he and his client would rather proceed with their application tonight. He reviewed the list of witnesses who will testify for the witness tonight.

Nicholas Pope, the CEO and for Symbios Animal Health, was sworn in to testify. He testified that his veterinarian facility would be a consigliere veterinarian business. There will be a limited number of patients for a doctor. This “cap” on patients will produce better availability and access for patients.

Dr. Pope testified that there will be maximum of two doctors at the Symbios Animal Health facility. There will be 5 certified technicians on site. These numbers will be below industry standards. The number of pets in the facility will be limited. The appointment times will be extended. These factors will allow the doctors to have more time with their animal patients.

Dr. Pope testified that his hours of operation would be Monday through Friday, 8 a.m. to 6:30 or 7:00 p.m. On Saturday the facility will be open from 8 a.m. until mid-afternoon. There will be no over-night animal stays. Dr. Pope testified that the basement will not be used for anything.

The Board had no questions for Dr. Pope.

The public had no questions for Dr. Pope.

Giovanni Manilio, P.E., engineer for the applicant, was sworn in to testify. Mr. Manilio submitted his professional credentials to the Board. The Board accepted them.

Mr. Manilio submitted Exhibit A-1, an aerial photo of the applicant's property dated July 25, 2022. He pointed out the existing zone line which currently bifurcates the applicant's property. The neighboring properties to the north and east are residential properties. Commercial properties are located south east to the applicant's property. To the west is a PSE & G easement with power lines installed.

Mr. Manilio testified that the current property consists of an existing two-story building. He noted that older photos show that the building's previous use had been a tutoring and academic facility. A shared driveway exists between the applicant's property and the property to the east. Mr. Manilio testified that the current site has some pre-existing non-conformities. A parking lot exists within the residential zone which is not permitted by the Borough. The lot width is 50 feet where 60 feet is required. The current front yard setback is 24.4 feet. For the B-1 Zone, 25 feet is required. 30 feet is required for the R-3 Zone. Mr. Manilio reviewed the measurements of the two side yard setbacks.

Mr. Manilio discussed the side yard buffers. Currently, there is 1.3 feet buffer on the west side of the property. He testified that a shed exists on R-3 zone portion of the subject property. The plans include that an existing shed be removed.

Attorney Lipari confirmed with Mr. Manilio, that aside from the front yard setback, all of the other pre-existing non-conformities will not acerbated.

Mr. Manilio submitted Exhibit A-2: Site Exhibit for Symbios Animal Health – Phase 1 and Phase 2. Mr. Manilio pointed out the proposed addition of 161 sq. ft. A portion of the existing covered porch will be enclosed. The existing front stairs of the porch will be re-located to the east to provide functional access. These new stairs will extend 5 inches more into front yard setback. Mr. Manilio testified that an ADA ramp be installed at the parking lot. An ADA lift will be provided if it is required by the Borough's building code. Mr. Manilio pointed out the proposed garbage enclosure which will contain two cans.

Answering a question from Mr. Haeringer, Mr. Manilio stated that the proposed stairs coming off the front porch are triggering the front yard variance. The last two steps, in particular, are encroaching into the front yard setback.

Mr. Manilio testified that there will be no changes to the rear, with regard to the number of parking spaces. The 8 parking spaces existing now, will remain. A modification will be made to the rear parking lot. If Symbios does well, another one or two parking spaces may be added. Phase 2 shows a rotation of the parking spaces. This rotation would allow the creation of two more parking spaces. The impervious coverage requirement will still be complied with for the B-1 zone. The headlights of the cars will be facing away from the residential zone. Mr. Manilio stated that this parking situation, the splitting of the two zones, require a "D" variance.

Mr. Manilio reviewed other improvements proposed in Phase 2. A light will be installed on the west side of the parking lot. Stormwater improvements will be done at the rear of the property to compensate for any increase of impervious coverage. The buffers will be increased on the residential and PSE & G side.

Regarding the buffers, Mr. Manilio testified that on the residential property to the east, the proposal is to increase 2.3 feet to 4.2 feet. On the PSE & G side, the buffer will be increased from 1.3 feet to 3.6 feet.

Mr. Manilio reviewed the variances being sought:

1. The Use Variance for having the parking area within the Residential portion of the lot
2. The Front Yard Setback variance for extending the front stairs an additional 5 inches
3. A variance for the proposed increase for the buffer
4. A variance for the slight increase of parking spaces

Mr. Manilio stated that a parking management plan has been done for this site. The proposed parking arrangement is generally in compliance with the ITE (Institute of Transit Engineers) rules about required parking for veterinarian facilities. Mr. Manilio reviewed the parking ratio of clients at any given time.

Mr. Manilio testified that the parking for Phase 1 will be sufficient.

Attorney Lipari clarified that Symbios will have no walk-in patients. Symbios will have a more targeted number of clientele. Patients will arrive by appointment only. There will only be one doctor to see one patient at a time. Mr. Haeringer had concerns about the parking of pet owners will overlap each other, arriving for their appointments. Attorney Lipari stated that there could be an arrangement of appointment times to avoid such an over-lapping. Chrnm. Cifelli confirmed with Attorney Lipari that there will be parking available at the large lot across the street.

Also regarding the parking, Dr. Pope pointed out that not all five technicians will be working the same day. That would relieve some of the parking. The two doctors will not be seeing patients at the same time. There will be one doctor in and one doctor out at the facility. Pet owners will

just be dropping off their pets for surgery. The pet owners will not stay at the facility while the surgery goes on.

On other matters, Mr. Manilio brought up the variance needed for maximum lot coverage in the residential zone. He testified that this application is proposing 6,814 sq. ft. with Phase 2.

Attorney Dwyer asked Mr. Manilio if he was planning to bank the additional parking spaces.

Attorney Lipari answered that his client would like to reserve any banking of spaces for a later time. He felt that the need for additional spaces will not happen right away. If Symbios was to grow in the future, the applicant may need additional spaces. He is just proposing these spaces in Phase 2 so he won't have to return to the Board.

Chrmn. Cifelli asked what would be the stormwater plans for Phase 2.

Mr. Manilio answered there would be underground piping for a drywell system. He and the applicant will work with the Board engineer to satisfy any issues.

Mr. Brightly, the Board's engineer, stated that there appeared to be a dry well system already in place. He said that the storage volume is still needed, with the proposed addition. Mr. Manilio agreed. He will make sure the system will comply.

Attorney Dwyer asked what triggers when Phase 2 should come into play.

Attorney Lipari answered that there is no hard-set trigger, because the applicant and his experts believe that there was sufficient capacity as it stands right now.

Chrmn. Cifelli confirmed with Attorney Lipari that there is the hope that Symbios will grow enough that Phase 2 will eventually be needed.

Mr. Brightly advised that if the application was approved, a condition should be included requiring certain stormwater information.

Mr. Infante asked what business operated at 588 Main Street before Dr. Pope bought the building.

Attorney Lipari answered that the facility was used for academic coaching.

Mr. Infante asked if there was any information on the number of staff of this academic coaching facility. How many students used the parking lot?

Attorney Lipari did not believe that information was available. He had tried to obtain the information by filing an OPRA request, but to no avail.

Chrmn. Cifelli confirmed with Attorney Lipari that the use as it currently exists, as a veterinarian business, is a permitted, conditional use.

Regarding the parking, Ms. Lelie asked if there would be any mobile services beyond the usual employee vehicles on site.

Attorney Lipari answered that his client will opt for local services, and maintain that low doctor/patient ratio at the facility. A mobile service will start with an employee's car or SUV.

Ms. Lelie and Mr. Manilio discussed the conditions at the rear of the property. Mr. Manilio put photos up on the easel of the rear section. He described each photo. Vegetation exists on both property lines and will remain, because it provides a buffer.

Mr. Haeringer referred Mr. Manilio to the section where the proposed extension for the parking lot will be created. Are there neighboring homes?

Mr. Manilio stated that the one house will be further north from the proposed extension.

Ms. Lelie asked what will happen to the existing shed.

Mr. Manilio answered that in Phase One the shed will remain. In Phase Two, the shed will be removed.

Regarding pedestrian access, Ms. Lelie asked how someone would walk from the parking lot to the interior of the building.

Mr. Manilio answered that a person would have to walk along the driveway to reach the front door.

Ms. Lelie asked if there would be room to install a separate sidewalk for visitors to the facility.

Mr. Manilio answered that arrangement had been looked at, however, a bump-out on the side of the building prevents it.

Ms. Lelie asked how someone would get to the ADA spaces to reach the proposed lift for the building.

Mr. Manilio answered that there is a proposal for an ADA lift at the back employee stair.

Mr. Manilio clarified for Mr. Haeringer the dimensions of the shared driveway.

Mr. Brightly asked if an easement did not exist for the driveway, would the applicant was willing to provide one.

Attorney Lipari answered he assumed yes.

Chrmn. Cifelli pointed out an existing house close to the subject property. Will natural screening be installed between that house and the applicant's property?

Mr. Manilio noted that this was getting very close to the PSE & G property; however, landscaping buffering could be planted for that home.

After further discussion, Attorney Lipari agreed that the driveway easement could be a condition if the application was approved.

Ms. Lelie asked for more information on the refuse pick-up. Also, what happens to the medical waste when it needs to be disposed of?

Mr. Manilio answered that the regular office waste is deposited in two outside cans. One can will be designated for recycling certain waste items and the other can will be for other trash. A small truck will be picking up the medical waste once or twice a week.

Regarding deliveries to Symbios, Dr. Pope testified that they will be the normal deliveries like Fedex, UPS, and Amazon.

Ms. Lelie asked if any thought had been given in having the entrance of the facility at the rear, instead of the front, to prevent pedestrian traffic conflicting with vehicle traffic.

Dr. Pope explained that the current design was decided on to prevent clients from having to walk through the entire medical facility to reach the examination room.

Ms. Lelie asked Dr. Pope if he would be receptive to striping a sidewalk or taking out the vegetation and the curbing next to the building to create some semblance of a sidewalk for the pet owners.

Attorney Lipari answered that the applicant may be open to idea, however it may trigger a variance for impervious coverage.

Ms. Lelie felt that such a sidewalk may be a good safety measure, especially when a pet owner is trying to get a reluctant pet into the facility.

Chrmn. Cifelli asked Ms. Lelie if this additional paved space for safety reasons would outweigh any detriments resulting from the additional impervious coverage.

Ms. Lelie answered yes.

Thinking of the shared driveway, Mr. Treloar asked what was going in the building to the right of the applicant's facility.

Mr. Manilio answered that the signage indicates that a medical lab operates there. He has noticed only one vehicle parked at that facility.

Attorney Lipari clarified that it was a dental lab.

Mr. Haeringer asked why the Symbios facility wasn't designed to allow for clients to have the examination room towards the front.

Mr. Manilio explained that the location of a waiting room/reception area was decided on because the existing stairwell and walls would have to otherwise be moved.

Mr. Manilio submitted Exhibit A-5: Existing and proposed elevations. He put the exhibit on the easel.

Mr. Degidio asked what is the distance between the applicant's building and the PSE & G's property line.

Mr. Manilio answered that the closest distance is 3 feet, according to the survey.

The Board and the public had no further questions for Mr. Manilio.

Christine Capone, the applicant's planner, was sworn in to testify. Ms. Capone submitted her professional credentials to the Board. The Board accepted them.

Ms. Capone noted that the bulk of the applicant's property is in the "B" zone, the applicant is before the Board tonight for a use variance because his driveway extends into the R-3 Zone. Ms. Capone explained that the applicant has to now prove that his site is suitable for the proposed parking lot. Ms. Capone testified that the applicant's site is not really fracturing the R-3 Zone. This is an existing split zone property, immediately contiguous to other commercial uses. Ms. Capone testified that the site is suitable for the proposed extension of the parking lot.

Ms. Capone testified that there are 3 purposes of the Municipal Land Use Law that will be advanced with this application. She explained how the general welfare will be advanced with this application. Ms. Capone testified that sufficient space exists for Dr. Pope to appropriately operate his business. Regarding sufficient use of the land, she pointed out that this application has an existing business using a shared driveway, in a predominantly business area. It would be advantageous to re-purpose this vacant building with this proposed use. It will be done in a sufficient manner.

Ms. Capone believed this particular R-3 Zone, in the rear of the applicant's property, is a unique R-3 Zone in comparison to other R-3 Zones in Chatham.

Ms. Capone brought up any substantial detriments this application may produce. She testified that there will be no substantial detriment to impact the Borough's Zone Plan or the public good. This application will also be fulfilling one of the Borough Master Plan's goals to support the growth and retention of existing local businesses. Ms. Capone noted that a "C" variance will be sought because of the proposed impervious coverage. She agreed with Ms. Lelie that the impervious coverage represents a better zoning alternative. This impervious coverage will also make conditions safer and efficient for pedestrian circulation.

Chrmn. Cifelli pointed out that a portion of the property is in the R-3 Zone. It looks like it's the only property on that side of Main Street, which extends into a residential zone.

Chrmn. Cifelli pointed out that the subject property, at the rear, appears to be "land-locked". Unlike other properties, there is no access to Garden Avenue. Ms. Capone agreed, noting that there is no way to develop the back of the subject property in any meaningful way. She felt that the proposals will be compatible with the residential character of the nearby properties.

Mr. Infante asked if there would be any concerns regarding air, light, and open space, with these proposals?

Ms. Capone did not see any of those problems in her area of expertise. She pointed out that the addition to the front of the building will be modest in size. The front yard setback variance will be de minimis. It was Ms. Capone's opinion, as a planner, that there will be no impact on the light, open space, and air.

Chrmn. Cifelli noted that the open front porch which no longer existed. Are there any architectural features that would help the building resemble what the Borough Master Plan would like to see?

Listening to suggestions made by Ms. Lelie, Ms. Capone suggested, since the front porch will be eliminated, some foundation plantings could be installed. A masonry block will be added to the bottom of the building. Perhaps a darker contrast could be done for the front windows.

Attorney Lipari suggested that a condition be included, if the application was approved, the applicant and his experts will meet with Ms. Lelie to improve the building's frontage. A smaller porch is being planned.

Mr. Haeringer asked if a second column could be added to the front.

Ms. Capone felt that the applicant would accept a condition that a column or awnings be added to achieve the old world character that the Borough desires for the B-1 Zone.

Attorney Lipari reviewed the proposed foundation plantings to soften the building's appearance some. He reiterated that the applicant and his experts will work with Ms. Lelie to achieve the front look of the building that would be the best for that zone.

Mr. Haeringer had concerns that if the application, with its two phases, was approved – what if the Building Code changes in two years?

Attorney Lipari explained that if the Board approves this application, it comes with a 2 year protection period, and then the applicant would have to return to the Board and ask for an extension of the original approval. This arrangement would protect the Board if the Code were to change.

Ms. Lelie asked for further clarification on the C-2 variance needed for the lot coverage.

Mr. Manilio answered that the only new impervious coverage will be for the new walkway from the back parking lot to the front which will 66.7% where 65% is required.

The Board had no further questions for the witnesses.

The public had no further questions for the witnesses.

Attorney Lipari summed up the application. He believed that the application, if approved, would be a definite benefit to the Borough.

The public had no comments on the application.

Chrmn. Cifelli asked for Board comments. Mr. Hoffman felt the application was very straightforward and noncontroversial. He pointed out that the applicant's business is very low impact; however, the proposed fencing and screening must be put in place. Fortunately, the PSE & G property on the right hand side is a mitigating factor. The front yard setback will be de minimis. Mr. Haeringer and Mr. Treloar agreed with Mr. Hoffman's points. Mr. Treloar felt the property will be improved and will have safer conditions if this application was approved. Mr. Degidio had no comments. Mr. Infante and Chrmn. Cifelli were fine with the application. Chrmn. Cifelli hoped the applicant's architect will work with Ms. Lelie on the suggestions made tonight for the front of the building.

Mr. Haeringer made a motion to approve Application ZB 21-018 – Symbios Animal Health, LLC – 588 Main Street, with the applicant to follow any recommendations made by the Borough Engineer regarding stormwater. Chrmn. Cifelli seconded the motion. A roll call vote was taken:

Chrmn. Cifelli	-	yes
Mr. Hoffman	-	yes
Mr. Haeringer	-	yes
Mr. Infante	-	yes
Mr. Treloar	-	yes
Mr. Degidio	-	no

Application ZB 21-018 was approved.

At 9:15 p.m. a break was taken in the meeting.

At 9:28 p.m. the meeting resumed.

Application ZB 22-009
Joseph & Gina Chiarello
132 Fairmount Avenue
Block 95 Lot 3
Maximum Principal Building Coverage
Maximum Impervious Lot Coverage

Maximum Building Height for Accessory Structure

Location of Pool/Terrace

Maximum Number of Garage Bays

Richard Schkolnick, Esq., attorney for the applicants, briefly described the application. He stated that the applicant's lot is very oversized with an unusual configuration. The only vehicle access for the applicant's property is on Watchung Avenue. Attorney Schkolnick and the applicant believed the proposal is overall reasonable and measured. Attorney Schkolnick reported that revisions have been made to the original plans. A rain garden is now included. 18 new trees will be planted. Seven existing trees will be removed. The lot coverage will have approximately 616 sq. ft. removed. Existing run-off will be handled, as well as the proposed run-off. The proposed building coverage is over the allowable by 200 sq. ft.

Attorney Schkolnick felt that the variances are primarily triggered by the unusual configuration of the property. The applicant's property is 4 times the minimum lot size in the R-1 Zone. Both the existing and proposed FAR are compliant with the FAR regulations. The applicant's neighbor has a pool.

John James, the architect for the applicant, was sworn in. Mr. James submitted his professional credentials to the Board. The Board accepted them.

Attorney Schkolnick noted the three exhibits which have been submitted:

Exhibit A-1: Revised zoning notes

Exhibit A-2: Ten pages of photos

Exhibit A-3: Proposed lot coverage reduction, dated June 22, 2022

Chrmn. Cifelli reminded Attorney Schkolnick, with regard to voting, that a full Board was not present tonight. Attorney Schkolnick acknowledged the number of Board members and the number of approval votes needed.

On the easel, Mr. James described the applicant's property as depicted on a tax map. The house is accessed by a private road off of Watchung Ave. He explained how the back door of the home is actually the entrance. Mr. James pointed out that most of the backyard is taken up with a circular drive that gives access. This existing arrangement then limits the area where a pool, a pool house, and a garage could be located.

Referring to Exhibit A-2, Mr. James reviewed each photo of the existing conditions of the applicant's property. He pointed out the location for the proposed pool. There is already screening in place for the proposed pool area.

Using another photo from Exhibit A-2, Mr. James pointed out where a new drain would run across the driveway. To deal with the lot coverage situation, two drywells will also be installed in this area.

Referring to Photo #4 of Exhibit A-2, Mr. James indicated where the pool house and the garage will be located. The proposed pool house will match the applicant's existing home. Mr. James described the architectural details of the pool house. He testified that the garage will be

constructed at the bottom of the subject site, so that it will connect directly to the driveway. Mr. James stated that the pool will be installed in the side yard adjacent to the house.

Mr. James testified on the topography of the applicant's property. He pointed out the L-shape plan to allow the construction of two buildings that will be combined, instead of one large building. Mr. James described the lay-out of rooms and the architectural details for the pool house. He noted that a variance is needed for the additional 3 inches needed for the height of the pool house. Hip roofs will be constructed all sides of the pool house. The pool house will have the same roof over-hang with brackets identical to the main house. Mr. James reviewed the proposed window arrangements for both the pool house and the garage.

Mr. James testified that the garage will be stepped down the hill, a little lower than the pool house, by a couple of feet. The swimming pool will be sunken. The grade will then step up with retaining walls around the perimeter. This arrangement will provide privacy for people using the pool.

Mr. Haeringer asked if this structure will be seen from the street.

Mr. James answered no. Using Exhibit A-2, he showed where the screening will be installed preventing any street view of the people in the pool.

Mr. James noted that the applicant's engineer will provide more details on the proposed dry wells. He discussed the proposed grading that will be done to accommodate the proposed pool and pool house. Using Exhibit A-2, Mr. James reviewed the photos giving different views of the applicant's property and where the proposals will fit in. He felt these photos would prove how isolated the swimming pool would be.

Mr. James brought up the 4 variances that are being sought. He testified that the building coverage variance is for a total of 171 sq. ft. which is three-tenths of 1%. The Floor Area Ratio (FAR) for this application is under the allowable by 2307 sq. ft. or 2.8%.

Mr. James pointed out that two new drywells will be installed to handle all of the proposals. Two more drywells will be installed to handle existing conditions of lot coverage for the entire driveway. Attorney Schkolnick stated that the C-1 and C-2 variances will be combined because of the unusual conditions and configurations.

Mr. James submitted Exhibit A-4: An additional drainage exhibit. He and Mr. Treloar reviewed the drainage patterns and the proposed drywells.

Mr. James brought up the variance needed for the height of the proposed pool house and proposed garage space. There will be 3 inches on the hip roof at the top.

Mr. James testified that the fourth variance is for the fourth garage door. In answer to a question raised by Mr. Treloar, Mr. James explained that the garage is further down the hill and is lower. It will also provide space to taper into the existing slope of the current driveway. Mr. James

showed how some of the existing driveway will be removed, measuring 618 sq. ft. as shown on Exhibit A-3.

Mr. Treloar asked if the driveway currently is level, or is it sloping down into the street.

Mr. James answered that the driveway is not level. It slopes from the back of the house down to the driveway. Mr. James clarified that the proposed trench drive will collect all of the water in the driveway.

A member of the public indicated that she had a question for Mr. James.

Jane Schelling, 129 Watchung Ave., was sworn in.

Chrmn. Cifelli asked Mrs. Schelling, if the way the stormwater currently runs, does that cause any problems on her property.

Mrs. Schelling testified that there is definitely run-off. Rocks had been installed on the Schelling property in order to carry the run-off down the private road maintained by the applicant. Mrs. Schelling also installed a wall. Currently her property doesn't get much water. Her basement does not receive any water. There is no sump-pump in her basement. Mrs. Schelling felt that any addition proposed by the applicant would benefit her and her property. Mrs. Schelling believed that the applicant will "do everything right" with these proposals. She felt the proposed drywells will benefit her own property.

Chrmn. Cifelli asked Mrs. Schelling if she had any concerns that the proposals, if approved, would overwhelm her property and the properties of the neighbors.

Mrs. Schelling did not believe so.

In answer to Attorney Dwyer's question, Mrs. Schelling pointed out on Exhibit A-5 the private road and her own property.

After further discussion, Chrmn. Cifelli concluded that if the proposed pool was installed at the back of the applicant's home, to the right side of the backyard, as the ordinance specifies, the pool would then be a considerable distance from the applicant's house. Mr. Treloar pointed out that the applicant's family would want a closer view of the swimming pool for safety reasons.

With Chrmn. Cifelli's permission, Mr. Williams, the Zoom host, put a Google aerial map of the applicant's property and the immediate area. He pointed out the private driveway, Mrs. Schelling's home, and the applicant's home. Attorney Dwyer asked Mr. Williams to mark this aerial photo as Exhibit Board-1.

Frank Rotonda, the applicant's civil engineer and planner, was sworn in to testify. Mr. Rotonda submitted his credentials to the Board. The Board accepted them.

Mr. Rotonda submitted Exhibit A-7: Figure O-1, tree mitigation plan. And Figure O-2, drainage plan.

Referring to the tree mitigation, Mr. Rotonda described the area of disturbance on the applicant's property. Within the area of disturbance, two existing trees will be saved and seven trees that will be removed. Eighteen new trees will be planted to replace the seven trees that will be removed.

Mr. Rotonda submitted the colorized version of Figure O-2, showing both the drainage and the landscaping plan. He pointed out that a swimming pool, during a rain storm, does not shed water, with the exception of hurricanes. Mr. Rotonda testified that the rain garden will serve as an additional storage area for storm drainage, however it had not been included in the stormwater calculations.

Mr. Rotonda believed the proposed rain garden will be attractive and well maintained. The rain garden will produce a good civic design and will promote ground water re-charge.

Mr. Rotonda testified that there is a recent proposal from the applicant and architect to add an irrigation system that would re-capture water from the seepage pits. The impervious coverage, therefore, will be off-set by these proposed installations. Mr. Rotonda noted that the swimming pool is counted in the impervious calculations; however, it's not the same impervious coverage as a parking lot. Water will not be flooding out of this pool.

Mr. Truilo asked if all four drywells will be the same size. What would be their volume?

Mr. Rotonda answered that the drywells will all be the same size. The two original drywells will be 1,000 gallons each. These drywells will be surrounded by crushed stone. The engineering calculations will be submitted to the satisfaction of the Board's engineer and the Borough's Building Department.

Mr. Treloar confirmed with Mr. Rotonda that the four drywells will total 4,000 gallons of storage. Mr. Rotonda discussed the proposed irrigation system.

Mr. Rotonda and the Board discussed the species of the trees to be planted. Mr. Rotonda testified that the species to be planted will be common to this area. Mr. Rotonda felt the trees will add to the screening of the pool.

Mr. Rotonda put Exhibit A-8 on the easel. He pointed out where the red maples and holly plants will be planted.

Mr. Treloar informed Mr. Rotonda that Japanese maples are now known to be an invasive species.

Attorney Schkolnick stated that Mr. Rotonda and the applicant are willing to work with the appropriate representatives from the Borough in deciding on the best species of tree to plant.

Mr. Rotonda and Mr. Degidio discussed the square footage needed for the run-off. Referring to the plans, Mr. Rotonda believed it would be 2600 sq. ft. per drainage pit. Unfortunately, the proposed rain garden had been omitted in the calculations.

Chrmn. Cifelli asked what would be the square footage of the pool itself.

Mr. James calculated that the pool would be somewhere between 1800 sq. ft. to 2000 sq. ft.

Chrmn. Cifelli pointed out that swimming pools do not have the same impact that impervious coverage usually produces. It will not create any run-off.

Mr. Rotonda testified that the pits will be over-sized.

Mr. Rotonda described the proposed two retaining walls.

Mr. Rotonda submitted Exhibit A-9: three photos

Mr. Rotonda discussed the first photo of Exhibit A-9 which is an aerial photo of the applicant's property and the surrounding properties. He pointed out that the applicant's property is unusually large, four times as large for what is required in that particular zone. Mr. Rotonda testified that the property is unusually steep, at least 20 feet higher than the elevation of Fairmount Ave. Mr. Rotonda recalled that he had difficulty finding the applicant's driveway, because the home does not appear to be on Fairmount Ave. Mr. Rotonda showed a photo he took recently on Watchung Ave. showing how difficult it was to see the applicant's home from the street. The existing trees would block your view.

Referring to the aerial map of Exhibit A-9, Mr. Rotonda described the shape of the applicant's property. The proposed pool will be place in the rear of the property, 80 feet from the lot line. From a technical zoning perspective, the pool is in the applicant's side yard. Mr. Rotonda showed a photo taken from the next door neighbor's yard (140 Fairmount Ave.). A large hedge would block any view of the applicant's pool from the neighbor's yard.

Mr. Rotonda showed the third photo of Exhibit A-9, a view from the property at the rear of the neighbor's property at 15 Inwood Circle. The existing trees and trellis will prevent any view of the pool from this location. The applicant will be adding supplemental plantings as well.

Mr. Rotonda and Mr. Treloar reviewed the details of the detention basin that will run between the pool house and the proposed plantings. It will be of the gravel variety. Mr. Treloar had concerns about the detention basin handling extreme weather.

Mr. James reviewed the setback measurements for Mr. Haeringer, with regard to the 15 Inwood Circle property.

Mr. Haeringer asked if the applicant could give his introductory statement as to why this application with variances was being proposed. This is usually done in the beginning of the hearing.

Joseph Chiarello, the applicant, was sworn in to testify. Mr. Chiarello testified that his parents bought the home in 2005. His father has since passed away. The house was too much for his mother. Mr. Chiarello and his wife originally lived in Hoboken. The Covid epidemic forced them to re-locate to this home on Fairmount Ave. Covid also was another reason for the swimming pool proposal. The pool house will also serve as a home office. The additional bay will house all of the family cars. He and his wife are planning to live at 132 Fairmount Ave. for a long time.

Attorney Schkolnick felt enough justification had been given for the granting of a “C-1” variance. He also brought up the granting of a “C-2” variance would give benefits to the public.

Frank Rotonda testified that benefits outweigh the detriments in this application. Given the large size of the applicant’s property, the proposed swimming pool would be appropriate and reasonable, thereby outweighing the detriment. Also, such proposed actions like ground water re-charge, irrigating and re-using rain water outweigh the detriments.

Mr. Rotonda felt that these proposals would benefit the community. He pointed out the steepness of the applicant’s property. The applicant is unable to get his existing driveway off of Watchung Avenue. Mr. Rotonda believed that the benefits of this application would outweigh the detriments, if approved. One of the benefits to the community would be the proposed office space in the pool house. Attorney Schkolnick pointed out that the applicant’s lot would be the appropriate size for a swimming pool. Mr. Rotonda felt that if it wasn’t for the configuration of the property, most of the variances being sought would be eliminated. He believed that the proposed swimming pool would not impact the neighborhood in any way.

After some discussion, Mr. Haeringer felt that this application involved more of “a want” and not “a need”. He would like to hear more testimony on how the pool would benefit the community.

Attorney Schkolnick answered that is covered by the criteria given for the C-2 variance. Better stormwater collection and better drainage will be created, if this application was approved.

Mr. Haeringer pointed out that the applicant’s neighbor had testified that she had no issues with stormwater.

Attorney Schkolnick gave the argument that no harm will be done to the community if these proposals were approved and carried out. Mr. James added that the applicant is taking the older existing conditions and bringing them up to the Borough’s requirements by adding drywells. Attorney Schkolnick felt that good civic design was being proposed which would benefit the community.

Mr. Degidio asked who would be “the community” in this case – the nearby neighbors who touch on the property line or someone on Elmwood Avenue. Attorney Schkolnick explained the term “public good” which generally meant the applicant’s neighborhood.

Chrmn. Cifelli asked if the public had any questions.

The public had no questions for the witnesses.

The Board had no further questions for the witnesses.

Attorney Schkolnick and the applicant closed their application and submitted it to the Board for a vote.

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

James Maher, 15 Inwood Circle, was sworn in to testify. Mr. Maher stated that he is opposed to this application. He is very concerned about the increase in impervious lot coverage. The testimony concerning the proposed drainage pits do not give him much comfort. Mr. Maher testified that a fairly steep slope exists behind the applicant's property, extending down to his property. Mr. Maher stated that his property already receives enough run-off.

Chrmn. Cifelli asked Mr. Maher if he had an opportunity to review the proposed plans for the drainage system and the rain garden.

Mr. Maher answered that he and his wife had reviewed the initial plans available at Borough Hall. He has not reviewed the most recent plans; however, he is not convinced that the existing downward slope going down into his property has been taken into account. There is already run-off coming down from the Chiarello property onto his property.

Chrmn. Chiarello thanked Mr. Maher for his comments.

Chrmn. Cifelli asked for comments from the Board. Chrmn. Cifelli felt that there was no other place to install the pool, except for the proposed location behind the home. A tremendous amount of natural screening will be in place for the pool. Also, the pool will also be sunken. The proposals for the garage will not affect the light, air, and open space. Chrmn. Cifelli discussed the 4th garage bay being proposed. He felt it was a good design and the applicant's large property could handle it. Chrmn. Cifelli brought up the proposed rain garden. He was convinced that the applicant's plans will adequately capture any stormwater run-off. Chrmn. Cifelli sympathized with Mr. Maher's concerns about run-off, however he believed that what is being proposed will not be detrimental to Mr. Maher's property. Mr. Haeringer had no comments. Mr. Hoffman noted that the applicant went to great lengths to mitigate the run-off by proposing seepage pits, drywells, and a rain. Mr. Treloar agreed with previous points made by other Board members. He felt the proposed pool will be in an appropriate location. The drywells and rain garden are well planned to capture the run-off. Mr. Degidio had no comment. Mr. Infante believed that the testimony given by applicant's witnesses was credible.

Chrmn. Cifelli made a motion to approve Application ZB 22-009: Chiarello – 132 Fairmount Avenue with the applicant to follow any recommendations made by the Borough Engineer regarding stormwater. Mr. Treloar seconded the motion. A roll call vote was taken:

Chrmn. Cifelli	-	yes
Mr. Hoffman	-	yes
Mr. Infante	-	yes
Mr. Treloar	-	yes
Mr. Degidio	-	yes
Mr. Haeringer	-	yes

Application ZB 22-009 was approved.

Chrmn. Cifelli announced that the remaining applications on tonight's agenda will be carried to the next Regular Meeting of the Zoning Board of Adjustment without further notice.

At 11:42 p.m. the meeting adjourned.

The next Regular Zoning Board of Adjustment Meeting will be held on Wednesday, September 28, 2022, 7:30 p.m., in the Council Chambers, Chatham Municipal Building.

Respectfully submitted:

Elizabeth Holler
Recording Secretary

