

CHATHAM BOROUGH PLANNING BOARD
September 5, 2018 7:30 p.m.

In Chairman Favate's absence, Vice Chairman Matthew Wagner called this Regular Meeting of September 5, 2018 to order at 7:30 p.m. in the Council Chambers, Chatham Municipal Building. Mr. Wagner announced that all legal notices have been posted for this meeting.

Name	Present	Absent
Mayor Bruce Harris	X – present by speaker phone	
Steve Williams	X	
Chrmn. Susan Favate		X
H.H. Montague		X
William Heap		X
Vice Chrmn. Matthew Wagner	X	
Torri Van Wie	X	
Matthew Engel	X	
Kyle Muir		X
Curt Dawson	X	
Council Member Peter Hoffman	X	
Vincent Loughlin, Esq.	X	

Also present:

Vincent DeNave, Borough Engineer and Zoning Officer
Kendra Lelie, PP, AICP, ASLA, Planner for the Planning Board

Cathy Baldwin, Administrative Secretary for the Board, substituted for Ms. Holler, the Minutes Secretary, at this meeting.

Public Comment

Robert Weber, 99 Summit Ave., stated that he was present tonight to comment on Resolution #18-265. He noted that the Borough Council had passed this resolution at their August 11th meeting, directing the Planning Board to undertake a study to redevelop the River Road area. He asked the Board to consider some other firm, other than Topology, for this study. He reminded Board members that Topology has been doing the Redevelopment Study for Post Office Plaza. Mr. Weber didn't think it was a good practice to use the same firm for what could potentially be a redevelopment project on River Road.

Attorney Loughlin advised Mr. Weber to caution his remarks as a Council Member, commenting on Planning Board resolutions and to not discuss decisions made by the Mayor and Council. Attorney Loughlin stated, respectfully, that Mr. Weber's remarks were inappropriate. He questioned what direction Mr. Weber's remarks were going.

Mr. Weber didn't feel his remarks were inappropriate. He felt he was just asking the Planning Board to consider another firm, other than Topology. He is asking the Board not to

automatically hire Topology, just because the Borough has hired them for another project. Mr. Weber brought up that for the last six months he has been asking Topography to provide him with information.

Attorney Loughlin interrupted Mr. Weber at this point. He felt Mr. Weber was now crossing a line. Attorney Loughlin pointed out that it was not appropriate for Mr. Weber to offer these particular comments.

Mr. Weber stated that he was present tonight as a Chatham Borough resident, not as a Council Member.

Attorney Loughlin answered no. He (Mr. Weber) has just referred to himself as a Council Member. Mr. Weber is “wearing two hats” but is primarily referring to himself as a Council Member, which is not appropriate for this hearing.

Mr. Weber thanked the Board for their time and sat down.

Jill Weber, 99 Summit Avenue, came forward. She asked the Planning Board to consider the impact this redevelopment would have on the Chatham School District from a physical point of view and its resources.

Resolution #PB 2018-22

Mr. Williams made a motion to approve the August 1, 2018 Planning Board minutes as amended. Mrs. Van Wie seconded the motion. A voice vote was taken. The minutes were approved.

Discussion Item

Chatham Borough Council Resolution #18-265

Vice Chair Wagner noted that the Borough Council has asked the Planning Board to consider this resolution for approval. He read it aloud:

A resolution authorizing the Planning Board of the Borough of Chatham to undertake a preliminary investigation to determine if certain real property within the Borough of Chatham are areas in need of redevelopment.

Attorney Loughlin explained that the Planning Board must update this Study as requested by the Mayor and Council. This Study will commence with the firm selected by the Planning Board.

Mr. DeNave gave an overview of what the Study would involve. A property owner on River Road has approached the Borough with the intention of accumulating some properties. The property owner wants to come in with a development. The owner has an idea about what type of development he wants. Mr. DeNave believed, because of the size of the development, rather than go before the Board of Adjustment, it would make better sense to have it done as a redevelopment. A study first needs to be done to see if this area is in need of redevelopment.

Mr. DeNave felt that these four lots on River Road will qualify for a redevelopment study. These are old industrial properties. He noted that a project of this scale, and the way it should be handled through redevelopment, if it gets past the first phase and is deemed for redevelopment, a redevelopment plan can be created. Other improvements could eventually be included in this plan.

Summing up, Mr. DeNave stated that the first step is to deem that these properties are in need of redevelopment. If these properties do qualify for redevelopment, it may open certain options in the future.

Council Member Hoffman pointed out, that if approved, only a very preliminary study could be done. He felt that Topology had a stellar reputation in the planning field.

Mrs. Van Wie asked if these four lots would be considered large enough for a redevelopment project. She questioned why the Planning Board should vote on it since the Borough Council would have already approved it.

Attorney Loughlin explained that the Board's vote would be the preliminary effort for undertaking the study and to hire a firm.

Mr. Engel felt that this land was already "set in stone" into what it could be developed into in the future.

Attorney Loughlin stated that wasn't true. He reminded Board members that there is nothing on the table, except to commence the process that's provided in the statute. It has no pre-ordained outcome. Also, there are multiple steps to pursue. Attorney Loughlin advised the Board that it would be inappropriate for them to discuss current conditions and future development for these properties.

A roll call vote was taken on Resolution #18-265:

Mayor Harris	-	yes
Council Member Hoffman	-	yes
Mr. Williams	-	yes
Vice Chrmn. Wagner	-	yes
Mr. Dawson	-	yes
Ms. Van Wie	-	yes
Mr. Engel	-	yes

Application PB #18-01
Main Street Development Group, LLC
20 Coleman Avenue, East
Minor Subdivision
Block 64, Lots 1 & 42

Council Member Hoffman recused himself from this application because he lived in close proximity of the subject property.

Mayor Harris excused himself from this hearing, since he could not see the exhibits that would be submitted. He will view a tape of the hearing.

Steven Azzolini, Esq., introduced himself as the attorney for the Main Street Development Group, LLC, They are the applicant and contract purchaser of part of the property which is the subject of tonight's application.

Attorney Azzolini stated that the applicant is seeking a minor subdivision along with certain variances for the development of a single-family home on the property known as Block 64 Lots 1 & 42, which are situated in a R-1 and R-2 zone. This property is part of Ogden Memorial Presbyterian Church, whose property extends back to Coleman Ave. East. He pointed out that Lot 42 is mostly in the R-2 Zone, and most of that lot is what the applicant is seeking to subdivide. The variances being sought to develop the single-family home are necessitated by the shape of the subdivision. The shape of the subdivision is being driven by the fact that the church operates a Montessori School on their property. A playground and rear walkway gives access to that area.

Attorney Azzolini explained that the proposed subdivided Lot 42 will conform to lot area regulations. However, the placement of the proposed home on the property and the configuration of the lot will be very unusual, thus driving the need for certain variances. These variances will be a side yard variance, a rear yard variance, and a lot depth variance for a two-car garage. Attorney Azzolini stated that testimony will be given on the proposed front yard calculations. He didn't believe a front yard variance was needed in this application; however, he will let the Board make that decision after listening to the tonight's testimony.

Attorney Azzolini stated that if the minor subdivision were approved, Lot 1 will increase in size by 3200 sq. ft. Lot 42 will have the remaining 10,235 sq. ft.

Attorney Azzolini called Mr. Andrew Clarke forward.

The following were sworn in to testify:
Andrew Clarke, the applicant's engineer and surveyor.

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

Mr. Clarke explained the four sheets of the Site Plan package that he had submitted to the Board. He also had a site data chart that catalogued all the zoning calculations for both lots with the needed variances identified.

Mr. Clarke described the existing conditions of the applicant's property. He testified that the applicant needs to retain the existing playground as part of the Montessori School. Mr. Clarke indicated on the site plan a line that will retain the playground and the church's existing walkway from Coleman Avenue. A small garden in the playground area will be removed.

Mr. Clarke testified that the proposed house design has been set with a portico at 25 feet, with the main body of the house at 29 feet. The house is 1 ½ feet back to the face of the garage. Five feet is required by the Borough.

Mr. Clarke testified that the left side of the proposed house, the north side, is set at 12 feet, which he felt was consistent with the normal setbacks of this particular zone. The proposed house will be set at 12 feet because of the configuration of the lot to keep the house mostly centered on what would be more normal with regard to the lot depth.

Mr. Clarke testified that in his research on neighborhood setbacks, he found that 60% to 70% of those neighboring properties have side yard setbacks of 10 feet or less. He stated that the proposed side yard setback is consistent or better with the immediate neighborhood in terms of side yard setbacks.

Mr. Clarke noted that he had a list of prevailing front yard setbacks belonging to the properties along Coleman Avenue East. He testified that the portico of the proposed house is at an average with regard to front yard setbacks for the main buildings going down the street. He did not believe a variance for a front yard setback would be needed. It's a matter for discussion. However, Mr. Clarke believed the proposed home will be consistent with the neighborhood streetscape.

Mr. Clarke reviewed the proposed stormwater management for the property. The entire roof area will be collected in a drywell system to the right of the dwelling. An inlet will be created to catch the driveway water. Mr. Clarke believed that nearly all the impervious surfaces will be managed with the proposed drywell system.

Mr. Clarke testified that a small wall, 3-feet high, will be installed along the back of the property, along with landscape buffering. The proposed two-car garage will load straight in. He noted that the rear yard setback is non-conforming.

At Attorney Azzolini's recommendation, Mr. Clarke, on the site plans, pointed out and discussed the proposed building envelope.

Mr. Clarke discussed the lot coverage situation. He felt that the existing walkway was a minor addition to the property's lot coverage.

Attorney Azzolini asked Mr. Clarke if this proposed home and property would be a detriment to the neighborhood.

Mr. Clarke answered that the house will be nice looking home that will fit in with regard to the scale and setbacks of the neighborhood. Mr. Clarke testified that these proposals will not be a detriment to the Borough's Zone Plan.

Mr. Williams asked if any trees in the Borough right-of-way will be taken down.

Mr. Clarke answered no. He noted that there are two significant trees that are between the curb and the sidewalk. They will be maintained. There is another 12-inch tree sitting very close to the line which will remain. Also, a 16-inch tree to the left of the proposed driveway will remain. However, the two existing trees close to the edge of the proposed driveway will be impacted by the construction and will have to be removed. Two smaller existing trees, to the right of the proposed dwelling, will have to be removed because of re-grading.

Ms. Lelie, the Board planner, confirmed with Mr. Clarke that 17 feet was being removed from the lot width on Coleman Ave. East, for Lot 1. Ms. Lelie felt that action would require a variance because it involves another street. She asked Mr. Clarke if he would consider this as an easement, instead of a lot line.

Mr. Clarke stated that possibility had been discussed with Ogden Church. The church was firm that this 17 foot width needed to be part of their property.

Ms. Lelie said she was sympathetic with the church's wishes; however, a "leg" of property will be created, that doesn't meet lot width. She asked Mr. Clarke to approach the church and ask them to put in an easement that would suffice, if drafted correctly.

Ms. Lelie noted that Mr. Clarke had testified that the Coleman Ave. sidewalk was needed for neighbors wanting to walk to Ogden Church. She asked if there was a large contingency of neighbors who would need an actual walkway to that area.

Mr. Clarke answered that he had not done a study on this situation. He had taken the church's word that this was an important part of their access that they wanted to maintain.

Also, with the lot configuration matter, Ms. Lelie noted that the Montessori School had wanted to keep the existing playground on the site. Was any other location considered to re-locate this playground?

Mr. Clarke answered that as the site is currently configured, there is little opportunity for a re-location. Mr. Clarke noted that there is a slight possibility of relocating the playground to an existing courtyard area of the church. The front yard area of the church would not be practical.

Mr. Clarke and Ms. Lelie discussed other possible options for the playground. None of them seemed practical.

Ms. Lelie concluded that the applicant is creating an unusually-shaped lot. Therefore variances are needed because of a self-created hardship to some degree, or a self-created condition. Ms. Lelie wanted to make sure this was a valid lot configuration.

Mr. Clarke felt that the front, rear, and side yard setbacks, even if the property line ran straight across, would still have those variances in play. He believed that was mostly due to having the depth of the lot being 100 feet and fitting a normal floor plan in that permitted depth of a permitted building envelope.

Ms. Lelie noted that the plans will be moving the proposed dwelling closer to the north side. However, obviously there is room on the south side. If the house was moved 5 feet, a couple of those existing trees could be saved. Ms. Lelie asked Mr. Clarke whether he had done a tree survey to find out what types of trees are on that property.

Mr. Clarke answered no. He did not believe the applicant had engaged a landscaper at this point.

Ms. Lelie recommended that a tree survey be done. The Borough now has a tree replacement ordinance in place. A one for one tree replacement is now required. She still urged that the house be moved a few feet to save those existing trees.

Ms. Lelie and Mr. Clarke discussed the front yard coverage. Mr. Clarke testified that it is about 23%. Thirty per cent is allowed by the Borough.

Mr. DeNave reminded Mr. Clarke that every shade tree that is removed, if it is healthy, must now be replaced one for one. He asked Mr. Clarke to show this action on the site plans. The replacement must be a shade tree. If, for some reason, the shade tree cannot be placed on site, another Borough location will be used or a Borough fee can be imposed.

Mr. DeNave pointed out that the Planning Board does not have the authority to grant any approval to remove a Borough tree. The applicant would have to go before the Borough Shade Tree Commission and seek their approval for a Shade tree.

Mr. Clarke confirmed with Mr. DeNave that the trees on the property should be catalogued, noting their conditions, in order to comply with this new Borough ordinance.

Mr. DeNave and Mr. Clarke discussed the stormwater plan. Mr. Clarke clarified that a drywell will be constructed to capture the water from the roof area and most of the driveway with the inlet that is proposed.

Mr. DeNave reported that a neighbor had informed him that he had received a great deal of water from the church property at one point. He noted that there are drywells currently on the subject property, Lot 42, belonging to the church. Mr. DeNave stated that no one knows exactly where those drywells are located. Those drywells must be located. The water that runs off the church property must be maintained. Mr. DeNave recommended that the pipe in the roadway be extended up the street and installed on that property line of the neighbor's. He felt that the existing French drains that come out to the street, and the broken-up curb, need to be directly into a drain.

Mr. DeNave asked Mr. Clarke if he planned to replace the concrete curbing in front of the church property.

Mr. Clarke noted that some of the curbing was "in dubious shape" so replacement would be appropriate in some of those sections. He will note this replacement on the plans. Belgian blocks would be used.

Mr. DeNave asked about landscaping.

Mr. Clarke said a landscape expert could be obtained, especially to look at the tree situation.

Mr. DeNave pointed out that the applicant is proposing, on the rear property line on the Elmwood Ave. side, to take down two trees. He reminded Mr. Clarke that these existing trees must be replaced with shade trees at certain locations. Mr. DeNave wanted to make sure that a sufficient buffer would be provided in that particular area. That proposed home will have a short backyard.

Mr. Lelie pointed out that the proposed patio shows up on the plans as a deck. Mr. Clarke clarified that a patio is being proposed. The dimensions of the patio are included in the coverage numbers.

Mr. DeNave and Mr. Clarke discussed the retaining wall. Mr. Clarke testified that the wall be 3 feet at its highest point. It will be cutting into the slope of the property.

Mr. DeNave asked if the proposed walkway will be screened.

Mr. Clarke answered that there were some shrubs currently existing at that location. He believed some maintenance could be done there, as well as supplementing, as needed, to create a separation.

Mr. Williams noted on the plans that a drainage pipe will run down Coleman Avenue and then run north to the proposed property. Who is responsible for this drain pipe?

Mr. DeNave answered that the builder will be responsible for extending that drain pipe.

After further discussion regarding this drainage pipe, Attorney Loughlin stated that if an easement was made in this area, the applicant would have to make a proposal to deal with the maintenance issue. It may become a marketing issue for the developer.

Mr. Clarke noted that revisions will be done for the proposed walkway, as well extending the drain pipe as discussed.

The Board had no more questions for Mr. Clarke.

Vice Chrmn. Wagner asked if the public had any questions for Mr. Clarke.

Robert Frommer, 24 Coleman Ave. East, noted that his property was directly next door to the proposed lot. Mr. Frommer stated that he was not against having a house next to his property. However, he expressed concerns about the drainage that may result.

Attorney Loughlin reminded Mr. Frommer that at this point of the meeting, only questions to the witness can be submitted. Comments on the application will be allowed later in the hearing.

Mr. Frommer asked why the side yard could not be maintained.

Mr. Clarke said that the input already given about the side yard situation will be taken into consideration by the applicant to see if it is reasonable and feasible.

Mr. Frommer asked why the proposed air conditioning unit was put in that particular location. Why couldn't the unit be installed at the back of the house?

Mr. Clarke answered that air conditioning units are usually located in reasonable proximity to a utility room. However, he and the applicant will consider another possible location for the A/C unit that would be more distant from Mr. Frommer's property. Mr. Clarke was aware that in Chatham, such units have to be screened.

Andre Maksimow, 21 Coleman Ave. East, noted that his property is across the street from the proposed home. He asked if the applicant had ever witnessed the traffic situation on his street in the morning when school is in session.

Mr. Clarke answered no.

At this point, Attorney Loughlin swore in Mr. Maksimow, since he would be making statements about his (Mr. Maksimow's) knowledge of his neighborhood.

Mr. Maksimow questioned why Ogden Church needed the easement in this 17-foot width in such an irregular shape. He explained the traffic situation on that section of Coleman Ave. East every morning from 7:30 a.m. to 8 a.m. Mr. Maksimow stated that mothers utilized the existing walkway to drop off their children at the Montessori school that operates at Ogden Church. Mr. Maksimow questioned why variances were being discussed to accommodate an easement and a new home. He pointed out the existing traffic congestion and the existing width of the street which is fairly narrow.

Mr. DeNave confirmed with Mr. Maksimow that the parking restrictions for that section of his neighborhood were not being enforced. Mr. Maksimow felt that if the easement is kept, it will be hard for mothers to resist dropping off their children at that location. He asked if the church is aware of the reality of the traffic situation in that section, with the width of the street.

Mr. DeNave asked Mr. Maksimow if he would be happy if the no parking regulations were enforced.

Mr. Maksimow answered that he would be happy if there would be no cars lined up in that section in the morning.

Vice Chrmn. Wagner asked Mr. Clarke whether this easement was being sought by Ogden Church for the church itself or primarily for the students of the Montessori School.

Mr. Clarke answered that he didn't know. The church did not stipulate that.

Mr. Clarke believed that the use of this existing walkway has been going on for the 30 years he's been in town. It's a quasi-public use. Young people use it as a short cut to reach the Main Street businesses. Mr. Clarke wasn't sure how Montessori used this walkway. He felt that the only impact would be the proposed driveway cut. Mr. Clarke said he sympathized with Mr. Maksimow's traffic situation in the morning, but he felt it was primarily an enforcement issue as pointed out by Mr. DeNave.

Mr. Maksimow recommended that the walkway be closed off to the street. He questioned why the walkway had to be maintained.

Mr. Clarke answered that he had no control over this matter. It's the church's walkway and the church's property. The applicant is just trying to create a subdivision to help the church operate. He cannot answer that the walkway be eliminated. The church seems to need that walkway. The walkway has been used for decades.

Mr. Azzolini pointed out that the proposal is a permitted use in this particular zone. When dealing with a permitted use, traffic and parking are not relevant to the Planning Board's determination. The matter of parking enforcement cannot be placed upon the applicant.

Mrs. Van Wie felt, as an Elmwood Ave. resident, that closing off the church walkway would become an issue on the Elmwood Avenue side of the church property.

Mr. DeNave pointed out that when Montessori School was approved to operate, they had to agree to a certain drop-off plan. If the school is not adhering to this drop-off plan, the Borough should look into it. Mr. DeNave stated that the police would serve as the enforcement agent to make sure the drop-off plan is being adhered to. He will contact the police on this matter.

Anthony Piechnik, 19 Coleman Ave. East, noted that his property is directly across the street from the open lot. Mr. Piechnik was sworn in to testify by Attorney Loughlin.

Mr. Piechnik testified that the traffic issue involving the church was occurring when Mr. DeNave became employed as the Borough Engineer.

Mr. Piechnik asked Mr. Clarke if he had done a use study at all for the walkway as part of the application.

Mr. Clarke indicated no.

Mr. Piechnik stated that he didn't want Mr. Clarke to speculate on what the paths and accesses were around Ogden Church, if he didn't really know. Mr. Piechnik testified that he has lived in that area for 20 years. At one time there was no access to the church from Coleman Avenue. Mr. Piechnik recommended that a use study be undertaken to be part of the subdivision of the property. He believed that the walkway was created several years after the Coleman Avenue improvements. Mr. Piechnik felt that these actions had been documented by the Planning Board and Council.

Mr. Piechnik asked Mr. Clarke if he had done a drainage study on this property.

Attorney Azzolini stated that as part of this application, the applicant had done an OPRA request for any zoning and planning applications and resolutions regarding this property. He was advised that there were none.

Mr. Piechnik asked if a drainage study and an investigation of the soils had been done.

Mr. Clarke answered that an investigation of the soils has not been done yet.

Mr. Piechnik stated that there are drywells in place on that property. However, a sheet-flow of water comes down that lot and runs into the street during rain storms. Mr. Piechnik believed that the drywells did not have the capacity to handle what rainfall is occurring now. He believed that none of the soils in this area percolate at all. Mr. Piechnik strongly urged that a drainage study be undertaken for this particular area.

David Politano, 25 Coleman Ave. East, asked if the subject property, as it is presently situated could fit a house on it without needing a variance.

Mr. Clarke answered that if the subdivision followed the same historic line as Lot 42, following the way it is currently configured, a house could be built on the lot.

Mr. Politano asked if a house could be built on the lot with the way the lot's configuration is being proposed.

Mr. Clarke answered no.

Mr. Politano asked if a smaller house could be constructed on that lot.

Mr. Clarke answered no, because of the rear yard setback requirement. He discussed this rear yard situation further with Mr. Politano. Mr. Clarke informed Mr. Politano that the church wanted to retain their playground area for the school. He noted that a tenant uses the playground area. The tenant is an important area of the church's liability.

Mr. Politano asked how long the tenant's lease is.

Mr. Clarke said he didn't know.

Mr. Politano felt that this walkway is not really needed for the church. It's basically to get people in and out of the school.

There were no further questions for Mr. Clarke.

Attorney Azzolini noted that the applicant's architect will be next to testify; however, he asked if he could have some time to confer with his client in private.

The Board consented to the break.

After the short break, Attorney Azzolini spoke on behalf of his client. If the Board wished to hear testimony from the applicant's architect, he will come forward. Otherwise the applicant will ask the Board if he could return at a future date with revisions made to the side yard setback and to address issues raised by the neighbors tonight. The applicant will also meet with the church to discuss options.

Mr. DeNave asked if Ogden Church could have a representative to give additional information. If the church use should ever go away before Montessori decides not to function at that location, a very irregular-shaped lot would be left behind which is not good from a planning perspective. Mr. DeNave suggested that the church give serious thought to doing this as easement, that would dissolve if the use goes away.

Attorney Azzolini pointed out that the applicant doesn't have the authority to act on that idea. A church representative should be present when that matter is under discussion with the Board.

The Board consented to carry Application PB #18-01.

Application PB #18-01: Main Street Development Group, LLC – 20 Coleman Avenue East will carry to the October 3, 2018 Planning Board meeting.

No Planning Board meeting will be held on September 19, 2018 because of Yom Kippur.

The next Planning Board meeting will be held October 3, 2018, 7:30 p.m., in the Council Chambers, Chatham Borough Hall.

Respectfully submitted:

Elizabeth Holler
Recording Secretary

