

July 15, 2004

The regular meeting of the Board of Adjustment of the Township of Chatham, County of Morris, and the State of New Jersey commenced at 7:30 p.m., 58 Meyersville Road, Chatham Township. The meeting was called to order by Chairperson, Lawrence Dalziel.

Attendance was taken and the following members were present:

Lawrence Dalziel, Chairperson
 James Matthews, Vice Chairperson
 Joseph Cooney
 Parker Godwin
 Therese Hough
 Peter Pizzi
 Jesse Benton
 Timothy Walters

There were no members absent.

Also in attendance:

Lewis Wilson, Esq., Board Attorney
 Katherine T. Hollerith, Recording Secretary

The agenda for the evening was as follows: Calendar 04-120-3, Thomas Nebus; Calendar 04-78-19.02, Mr. and Mrs. Taylor; Calendar 04-104-1.01 Mr. and Mrs. Worden; Calendar 02-144-22, Beth Fuller.

The Open Public Meetings Act Statements was read by the Chairperson.

Mr. Dalziel said that there were a number of sets of minutes for review. There were no comments on the minutes dated March 10, 2004, March 18, 2004, April 7, 2004, May 12, 2004 or July 7, 2004.

Regarding the minutes of May 20, 2004, members indicated the following changes:

Pg. 3 “fire point” should be “*fine* point”

Pg. 5 3rd paragraph “he said originally *he* did not need a variance”

Further in that paragraph “that that” should be “*that*”

Pg. 6 first paragraph, last sentence “zoning gave a basis”

Pg. 6 2nd paragraph, ¾ way down “proposal *presented*”

Pg. 8 2nd paragraph, 2nd line “porch would not be covered” should be “*enclosed*”

Regarding the minutes of June 17, 2004, Mr. Dalziel indicated the following changes:
 Exhibits for Nebus need to be marked

Pg. 3 bottom “*enough clearance needed to maintain that portion of the property*” clarification was needed.

The minutes were approved by the Board.

Calendar 04-120-3, Thomas Nebus

Mr. Jason Sobel, Esq. was present on behalf of the applicant and presented R. Henry Huelsebusch, P.E. who was sworn in and qualified. Mr. Huelsebusch was present on behalf of Mr. Richard Schommer.

Mr. Huelsebusch stated he was familiar with the application and had visited the property. Mr. Sobel confirmed that the Board had received the revised plans from Mr. Schommer. Mr. Huelsebusch explained the changes to the plans and presented Exhibit A22 (7/15/04), the colorized version. The existing wall is 5' to the west of the western rear corner of the house. The wall has straight wall segments and tapers toward the back, 18' of the existing wall is less than a foot from the side property line and the rear property line. The proposed plan is to replace the existing wall. There is a 24' linear section of the original wall where the new wall will be placed in a similar location starting from the point nearest the house. There is a 34' linear section of the new location of the proposed wall and will be a modular block wall. The existing height of the wall is a maximum of 6' and that is the point closest to the existing dwelling. Where the new location of the wall starts, it is 3.5' high and that portion is 7' from the side property line. The wall then tapers to a point that is 2 ½' high and that is 5' from the property line. The last 7' is 5' from the rear property line; the first angle point is 2 ½' then is 0' high at the end of the wall. Mr. Huelsebusch stated the applicant was before the Board because of an inability to comply with the 20' separation from the existing building and the 15' requirement from an existing deck. Mr. Huelsebusch stated the wall was 5' from the existing building and it is also about 8' from the existing deck. He stated the present wall was in a state of disrepair.

Mr. Dalziel asked about proposed grades; Mr. Huelsebusch stated there is 108 -110' contour. Where the new wall meets the existing wall is 107.7', which Mr. Huelsebusch stated was close to grade. Mr. Dalziel asked more about the existing grade which was to go up 3.7' in 7'; Mr. Huelsebusch explained that the grade there today is steeper than the 3-1 maximum and that would not be disturbed. Mr. Huelsebusch indicated a typographical error; the plans read 'top of wall 111.2, bottom of wall 110.5'. It should read bottom of wall 108.7. That is the portion of wall that is 2 ½' high.

Mr. Dalziel stated he mentioned two other issues to Mr. Schommer that are on the zoning denial, the wall is 6'9" high, exceeding maximum allowed (at the stairs). Mr. Dalziel reported at the site walk the wall seemed higher than 6'. Mr. Huelsebusch stated that while it appeared from the driveway to look higher, from the base of the wall it is 6' high because of the natural grade. Mr. Frost made comments relative to the discussion about the development of the wall ordinance.

Mr. Cooney read the prepared site visit report marked Exhibit A21. Mr. Dalziel asked about the drainpipe mentioned in the site visit report and was not shown on the revised plans. Mr. Huelsebusch said should the Board allow it, the perforated pipe behind the proposed wall can be tied into the leader drain system that ties into the roadway. There is

a pipe under the driveway and this would eliminate the pipe that drains onto the neighbors' property. This is not on the plan and would be a condition if approved.

Mr. Frost asked if the pipe's sole purpose is to drain groundwater from behind the wall; Mrs. Nebus stated the pipe handled several drains in the backyard and the backwash from the pool. Mrs. Nebus stated that will be changed. Mr. Frost recommended that when the wall is rebuilt, there should be a separate drainage pipe for the backwash from the pool and a separate pipe for drainage from behind the wall.

Mr. Matthews asked if re-grading was considered to make it more aesthetically pleasing to the neighbors; Mrs. Nebus stated there were two considerations: one was for a fence or else landscape it.

Mr. Dalziel asked if there were questions from the public; there were none. Mr. Dalziel asked if there were any problems with grading on the property; Mr. Frost felt there was not a problem. Mr. Matthews made a motion to grant the request for the variance for the distance from the existing structure and Mr. Cooney seconded, with all in favor. Mr. Dalziel stated the resolution would be drawn for the meeting on August 19, 2004.

Calendar 04-78-19.02, Mr. and Mrs. Taylor

Mr. Dalziel recused himself and Mr. Matthews served as acting chairperson. Architect Mrs. Hoffman was present on behalf of the applicant (40 Dellwood Avenue) and distributed revised plans. Mrs. Hoffman stated a neighbor was present to testify. First, the site visit report (A18) was read into the record by Mrs. Hough.

Mr. Matthews summarized that the Board's counsel was asked to determine the starting point for calculating the 15' distance from the house. Counsel's opinion was the starting point was not the principal foundation of the house, but the place where the porch is supported on the outside by the "pillar" as it has a roof over it. Mrs. Hoffman was notified and asked to re-calculate based on this data.

Mrs. Hoffman summarized that the height measurement was taken from the porch and went 15' back, which was beyond the path, and an additional 6" was added as a cushion because of the topography. Mrs. Hoffman stated that if they went out 15' from the foundation of the porch, the land dropped down an additional 3' so the height of the highest point of the second floor addition is now 38'. However the section that pulls out the additional 6' because it is shorter front to back is 3' lower, so 35'. This will be the highest point of the whole house – the higher peak is the highest point of the house.

Mr. Matthews asked the height pre-construction; Mrs. Hoffman stated it was 26' because it is not a full second floor, but an attic with dormers. Mrs. Hoffman was unable to answer absolutely on the back of the house. The variance for the proposed construction is for 3', to allow for a 38' height. The photos of the property were reviewed to ascertain the highest roof on the house; Mrs. Hoffman felt the two roof peaks seem fairly close in height according to the photos. There does not appear to be a current violation with the

present structure. The maximum height is 38' in the back. The section that pulls to the northerly side is 35', which affects neighbor Michael Meaney.

Mr. Meaney, 36 Dellwood, was sworn in and testified that he has reviewed the plans and supports the proposed construction. Mrs. Hoffman stated the proposed construction will be in a similar scale to Mr. Meaney's house. Behind the house are the recreational fields of the school.

Mr. Wilson indicated the site visit report is listed as Exhibit A18. Exhibit A19 included four pages (Sheet 1, 2, 6, 7, revised date 7/15/04) of the plans that were revised. Mr. Frost asked the applicant to submit 5 complete sets of the revised plans to the town. The photo board was marked as Exhibit A20.

Mr. Pizzi asked for a review of the variances requested. Mrs. Hoffman stated they included:

1. minimum side yard on the northerly side
2. combined side yard
3. height

Following this review, Mr. Pizzi moved to approve the application presented and Mr. Godwin seconded. At roll call, all eligible members voted "yes". The resolution will be memorialized at the August 19, 2004 meeting.

Calendar 04-104-1.01, Mr. Worden and Mrs. Woodworth

Architect Mr. Delle Donne was present with the applicants for the property located at 30 Floral Street, Block 104, Lot 1.01, which is a request for a rear yard setback to expand to a non-conforming lot. Mr. Delle Donne and the applicants were sworn in and Mr. Wilson checked the proofs.

Mr. Worden explained that the proposed plan would include the expansion of the kitchen in to the rear yard 4'. Mr. Worden stated the current structure ends 21.78' from the rear property line and with the proposed plan the structure would end 17.78' from the property line. Currently there is a bay window "bump out" that extends 2'. Mr. Worden compared the property's setbacks to the neighbors, who are at about 17' feet from the property line. Mrs. Woodworth stated that behind the house was a gravel area as there cannot be a garden or grass as there is no light. Mrs. Woodworth stated the family wished to update their kitchen to accommodate the needs of their growing family.

The variances requested include the rear yard setback, front yard setback (pre-existing) and lot width. Mr. Dalziel noted the plan called for a patio. Mr. Worden stated in the area of the proposed patio was the area of stone and that blue stone or paving stone would be put down. Mr. Dalziel indicated there would be an additional variance for the patio. Mrs. Woodworth stated the proposed plan would be to change the window in the kitchen to a sliding door to have access to the rear from the kitchen. Therefore, there would be steps down from the sliding doors to the patio. The material of the steps was not

determined. Mr. Delle Donne testified that the intent of the landing would be an extension of the patio. There was additional discussion about the steps and the patio.

Mr. Delle Donne explained the applicants were seeking relief because of hardship: the house is a corner lot, the useable area is only the side and back of the house. Mr. Pizzi asked about the pine trees on the lot and Mrs. Wordworth stated the trees on the property served as a buffer between this property and the neighbor's.

Mr. Dalziel advised the applicants to work with their professionals to determine the materials desired for the patio/deck area so the application can be reviewed appropriately. Mr. Dalziel asked that the first floor plan have dimensions for the setback lines included. A site visit was scheduled for August 7, 2004 at 9:00 a.m.

Calendar 02-144-22, Beth Fuller

Architect Lynn William was present for Nick Bensley with the applicants and all were sworn in. The applicants presented a request for a variance for front yard setback to add an addition to a non-conforming structure located on 711 Shunpike Road, Block 144, Lot 22.

Mr. Dalziel explained the process to the applicants and stated the site visit would be on August 7 at 9:30 a.m. Mr. Wilson informed the Board and the applicant that there was no certification of service in the file and that must be completed; Mrs. Fuller agreed to complete the form.

Ms. William referred to plans with a revision date of April 16, 2004. Ms. William also presented a black and white version of site photos, which were marked as Exhibit A27, dated 7/15/2004 and diagrams of the first floor plan dated 7/15/04 and marked Exhibit A28.

Ms. William continued that two variances were being sought: front yard setback and building height (both are non-conforming). Alterations are to be made to the existing structure. The hardships outlined included the exterior of the building is surrounded by wetlands, the exterior of the house is close to the street and the site drops steeply behind the house. This is a historic house dating back to 1840. A 150' setback (transition area) has been established and a homeowner is allowed a one-time exemption of up to 750' square feet of disturbance within that zone. The applicants are planning to take their exemption to expand their home and this is pending with the DEP.

Ms. William testified the proposed area of disturbance was 549' square feet. Proposed is maintaining the historic center portion of the house and making alterations at each wing. The wing to the right will be taken down and rebuilt higher (1 ½ story to 2 stories) and include a new dining area, new family room, new breakfast room and above that, a three bedroom area. On the other side of the house (1 story) a master bedroom suite would be added. The design calls for a bit of the front to be pushed out and a bit at the right side for covered porches with foundation piers. Ms. William stated the front of the house

does not act as the entry façade of the house, but the rear does serve as the entry. The proposal is to build out over the upper terrace (raised 7') with portions of the kitchen/mud room/lavatory. On the lower terrace, the plan proposes dropping a portion at the far end to have a walk out condition at the new basement at this wing. Currently, underneath the upper terrace is a root cellar, which would be excavated. The terrace would be dropped to provide access from the proposed playroom.

Ms. William referred to the elevations (Rendered Sheet 3, marked as Exhibit A28) and stated in the proposed addition, the plan was to adjust the linear façade and the incongruity between the every high middle portion and the much lower flanks. From the reference low point of the site, the highest point of the new addition is 39.6'. Ms. William stated that while the overall building height remains at 47', the new addition is lower but requires a variance. From the street, the height of the new addition is approximately 31'. There is also a fence running along the Shunpike Road and there is screening provided by trees. Mr. Dalziel asked if any of the trees would be lost in construction; the applicant responded one tree in the rear was to be removed.

Ms. William addressed the left side elevation and the indoor-outdoor relationship and access to the site. According to Ms. William, some of the addition in the area of disturbance is porch and deck space, which is on piers to disturb the site as little as possible. Ms. William described a landscaped berm near the lower patio.

Mr. Frost asked about the elevation of the patio that was to be dropped 3'. Ms. William referred to the photographs showing the landscaped berm and patio at 286' that will drop to 283'. Ms. William stated they would be cutting into the berm. Mr. Frost expressed concern about the grading once the patio was lowered. Ms. William will provide additional information at the next meeting. Mr. Dalziel stated the architect must revise the plans.

Mr. Wilson asked about the high point of the existing house; Ms. William stated it was a three-story expression, but actually an attic and not full height. Mr. Frost stated it was two bedrooms and a bath; Ms. William stated that the rooms were tucked under the eaves. Mr. Wilson stated the definition of a half-story is where the headroom is 5' or less for at least 40% of the total floor area. The applicant asked if there was a difference if it were three stories instead of two. Mr. Wilson stated it was another variance although it is a pre-existing condition. A determination needs to be made on this issue.

Mr. Dalziel addressed the issue of height. Mr. Frost stated the existing height of the building is 47' and will remain 47'. Mr. Frost continued to state the proposed addition is still above the maximum building height. Therefore, the amount of structure above the maximum building height is greater and deferred that to Mr. Wilson. Mr. Wilson stated that was a "D" variance because it exceeds the maximum height by more than 10% and explained the ramifications of the "D" variance.

Mr. Frost asked the applicant if roof drainage discharges onto the applicants' property over land and into the pond; Mr. and Mrs. Fuller answered, "yes". There were comments about the property line and the right of way line for Shunpike Road.

Mr. Dalziel asked for public questions. James Novick of 400 River Road asked if something is on piers, is it considered in the disturbance area. Mr. Dalziel answered, "yes". Mr. Novick asked procedural questions about voting.

The next regular meeting of the Board of Adjustment will be August 19, 2004.