

The October 18, 2004 meeting of the Township of Chatham Planning Board was called to order by Chairman Joel Jacobson at approximately 7:30 p.m. The Open Public Meetings Act Statement was read into the record. The agenda included Gunn, Bernardo, Lyons and Chestnut Street.

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#### Roll Call

Those present included Mr. Jacobson, Mr. Cashman, Mrs. Chambers, Mr. Browne, Mr. Caprioglio, Mr. Ciccarone, Mr. Cohn, Mrs. Fair and Mrs. Hoag. Planning Board engineer Marshall Frost and Planning Board attorney Donald Malehorn were also present.

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#### Minutes

Mr. Cohn requested a change to the October 4, 2004 minutes to read, "Mr. Lyons (*grandson of Helen Lyons*) was sworn in...". Mrs. Fair moved to accept the minutes with the noted change and Mrs. Chambers seconded, with all in favor.

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#### Discussion

Mr. Jacobson informed the Board that Ms. Banyra, the planner, had submitted the information requested regarding the reexamination/Master Plan review. The Master Plan Committee will arrange a meeting to review the information.

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## Applications

### Gunn

Attorney Richard Traynor was present with the applicant and the applicant's planner, Peter Steck, for the continuation of a hearing regarding minor subdivision at 51 Ormont Road. Mr. Traynor gave a brief review of the application and testimony from Mr. Cunningham, the engineer for the project. Mr. Steck was sworn in and his qualifications accepted.

The existing lot is approximately 47,100 sq. ft., rectangular in shape with 235' in frontage. The back half of the lot is steeper and is undisturbed. The front half of the property has a dwelling, a pool, a driveway and formerly, a garage. The house has a 47' setback to the existing right of way line, which has a 40' right of way. The average slope is about 18.5%. The house on the property has a first floor area of 1,125 sq. ft.; 3,322 sq. ft. of floor area in total. Mr. Steck continued that the applicant proposes to demolish the existing improvements and divide the property in to two equal lots and construct two single-family dwellings designed with the topography in mind and the driveways would be located near the new property line and have access underneath the dwellings. Mr. Steck reported that the footprint of each new two-story house was estimated at 1,746 sq. ft. Mr. Steck stated that Ormont Road was developed with different sized lots and different sized dwellings. The setbacks on properties to the east have a 43.9' ft., then a 37.6' ft. setback; on the other side of Ormont where the ground slopes down, the setbacks range from 25' ft. to 36' ft.

Mr. Steck presented Exhibit A2 titled, *Survey of Neighborhood Dwellings*, which was based on the tax maps and reflect habitable area. Mr. Steck stated the exhibit illustrated six existing dwellings, which have larger footprints than the applicant's proposed construction. Mr. Steck also stated he reviewed the Master Plan and determined there were no special

considerations listed within this neighborhood. The property is in a R-3 zone and two variances are being sought and include one for the 45' front yard setback in lieu of the 50' minimum; and one for the retaining walls that run through the rear yards of both properties. Mr. Steck cited a C-2 variance for the setback as the 45' setback would lessen the disturbance on the property. Regarding the retaining wall, Mr. Steck stated there were both aesthetic and efficiency benefits to a contiguous wall, provided there is a maintenance easement.

According to Mr. Steck, other items of relief pertained to steep slopes and were exceptions to design standards; Mr. Frost and Mr. Malehorn informed Mr. Steck that the steep slopes required a variance, not an exception. Mr. Steck testified that a C-1 hardship would be appropriate as many of the steep slopes were created during earlier construction. There was also discussion of the minimal useable area.

Board members asked questions about the size of the houses. Mr. Frost asked if the houses could be built without a height variance; Mr. Steck deferred that question to the engineer. Mr. Cunningham was present and said yes, the houses could be built without a height variance and that there would be a limit on the steepness of the roof pitch. There was additional discussion about the continuous retaining wall; Mr. Cunningham stated the walls could be separated but he would prefer they not be separated. Mr. Frost stated he would prefer the walls to terminate at the property line and then abut. Mr. Malehorn asked if cross easements would be required under both configurations; Mr. Cunningham stated he would prefer that.

Mr. Frost asked about adjacent properties to the north (Lots 6 and 8) and the west; (Mr. Gunn indicated he owned the abovementioned properties.) Mr. Frost suggested that an easement would be needed to extend sewer service to Lots 6 and 8 and noted that no such easement was shown on the proposed plans. Mr. Traynor indicated his client had no current plans for Lots 6

and 8 but agreed it would be wise to consider a sewer easement and perhaps designate a location for the easement. Mr. Frost stated a new set of plans should be submitted with the alternate plan (45' setback) and the easements shown. Mr. Frost also noted that the Board might request a conservation easement in the back of the property to protect the steep slopes; Mr. Jacobson asked the applicant to consider this.

After additional discussion, the Board advised that the 45' setback was reasonable and no serious concerns were raised and the hearing would continue on November 15, 2004. An extension was requested and granted. Mr. Gunn commented that he had the demolition permit and the house would be demolished by November 15, 2004.

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#### Bernardo

The Bernardo resolution was postponed for consideration until the next meeting. There was discussion regarding the escrow and who would hold the escrow; the Board determined the attorney for Bernardo should hold the escrow and the Planning Board engineer would make the determination on the use of the funds for tree replacement. It was determined that the escrow would be in effect two years from the date the certificate of occupancy is issued or completion of the lot grading plan, whichever is later. Mr. Frost will speak with Mr. Kennedy and Mr. Osmun and advise Mr. Malehorn of the outcome.

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#### Lyons

Mr. Schaffer was present on behalf of the applicant with planner Michael Tobia and engineer Richard Schommer. Mr. Schaffer referred to the subject property, which is in an R-3 zone, Block 106, Lot 18 located on the corner of Lafayette and Floral Avenues.

Mr. Tobia was sworn in and qualified and gave a project overview. Mr. Tobia referred to exhibits: Exhibit A1, a photo board of the property (dated October 13, 2004); Exhibit A2, a photo board of the yard conditions; Exhibit A3, a colored plan of the subdivision plan and Exhibit A4, renderings of the proposed homes (dated October 11, 2004). Mr. Tobia testified that the building was built as a schoolhouse and was converted to a four-family home. According to Mr. Tobia, the Lyons family owned the house for 51 years.

Mr. Tobia stated the proposal is to demolish the house, which he stated is a non-conforming dwelling, create a subdivision line down the property and build two new houses on lots that are similar to lots in the area and homes that are similar to those in the area. Mr. Tobia testified the two building lots do not have a lot of trees on the interior – Mr. Tobia stated two trees would come down for each new home. Mr. Tobia stated the interior lot (18.01) is a fully conforming lot requiring no variances and fitting within the building envelope (3,882 square feet). Mr. Tobia continued that the corner lot is the subject of variances and the house size would be smaller than the other lot, measuring approximately 3,310 square feet. The corner lot has conforming setbacks. The lot width required on the corner lot is 125'; a side yard setback variance for 10' vs. 15' required; a lot area variance is requested (required 20,000 sq. ft. required; 19,866 sq. ft proposed). This variance is needed to conform with the 25' radius dedication. Mr. Tobia stated on the westerly property line of lot 18.01, the proposed driveway is 5' off the property line and some movement (lot grading) may be needed to pave the driveway. Mr. Tobia stated the plans were flexible.

Mrs. Hoag asked if the applicant considered having the house on the proposed lot 18 (corner lot) face toward Floral Street, instead of Lafayette Avenue as proposed, since the front setbacks were more similar than those of Lafayette Avenue. Mr. Tobia said this had been

considered but rejected in favor of the proposed plan and presented Exhibit A5, which was an enlarged tax map. In the survey, Mr. Tobia stated 80-90% of the homes along Lafayette face Lafayette. Mr. Tobia also stated it was his opinion that the backyards were more private when the houses face Lafayette. Mr. Ciccarone asked for clarification on privacy. Mrs. Chambers suggested driveways on less busy streets were better; Mr. Schaffer stated the streetscape was considered in the planning. Mr. Jacobson asked for Ms. Banyra's (Planning Board planner) comments be included for the next meeting. Mrs. Fair asked about moving the houses on proposed lot 18 (corner lot) closer to Floral Avenue so the proposed houses wouldn't be as close together; Mr. Schaffer responded that the proposed layout was more appropriate. Mr. Tobia referred to the rendering that showed scaled elevations; the distance between the houses is 25'. Mr. Tobia stated, in his opinion, making the house narrower would not be appropriate. Mr. Tobia stated the applicant would be willing to move the houses 5' towards Floral Avenue to allow for 30' between the houses if that is what the Planning Board preferred. Mr. Tobia also offered the option of moving the garage on the side of the house on proposed lot 18.01 to a front entry garage, giving more space between the houses. Exhibit A6, a rendering of the side of the house on proposed lot 18 (corner), was reviewed. Mr. Tobia discussed the possibility of building one 6,000 sq. ft. home on the property and stated, in his opinion, this was not as "in character" with the neighborhood. Mr. Tobia referenced the Paray property also on Lafayette. Mrs. Hoag asked Mr. Tobia to identify houses in the area that would be approximately 6,000 sq. ft. so the Board could visualize a house of that size on the lot. Mrs. Chambers pointed out that the other lots nearby are 40,000 sq. ft. lots and that the existing house is a historic property and could be reconverted; Mr. Tobia stated that there were a number of significant problems with the existing house.

Mr. Thomas Lyons (son of Helen Lyons) was sworn in and gave testimony about the condition of the existing house. Mr. Lyons stated that it was a financial hardship to maintain the property as it is. Mr. Lyons stated that the electrical and heating systems are outdated. Mr. Lyons stated it was not economically feasible to maintain the property.

Mr. Jacobson called for questions from the public. Mr. John Nachtigal, 8 Floral Avenue; Mr. Eric Sappenfield, 3 Buttonwood Road; Mrs. Kimmy Fritts, 304 Lafayette Avenue; and Mrs. Gale Forrest and Mr. Mark Forrest, 286 Lafayette Avenue made comments relative to the discussion.

The Board decided to do a site visit and asked that the corners of the proposed homes be marked where possible, due to the existing house. The site walk was scheduled for November 6, 2004. Several Board members expressed concern about the applicant creating another non-conforming situation on the property. A one-lot sketch will be provided by the applicant showing a single home on the property. Mrs. Fair stated that new COAH regulations pending indicate there may be a requirement for every eight new houses built, one affordable unit needs to be made accessible. The hearing will be continued at the November 15, 2004 meeting.

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#### Chestnut Street

Mrs. Hoag reviewed the properties of the people who signed the petition for rezoning. Mrs. Hoag referred to a GIS map that showed the lots, and showed which lots go through to Chestnut from Meyersville Road. Mrs. Hoag pointed out there are areas where, if the zoning was changed to ¼ acre lots, some properties could be subdivided and wanted the Board to be aware of the information. Mrs. Hoag stated she did invite the petitioners to the meeting; if asked,

Mrs. Hoag will advise the petitioners that the subject will be considered in the Master Plan review.

There being no further business, the October 18, 2004 meeting of the Township of Chatham Planning Board was adjourned.

Respectfully submitted,

Katherine T. Hollerith  
Recording Secretary