

The November 15, 2004 meeting of the Township of Chatham 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 for the evening included Bernardo, Gunn, Lyons and Executive Session.

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#### Roll Call

Those present included Mr. Jacobson, 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

Following changes made to the minutes from the October 18, 2004 meeting, Mrs. Chambers moved to accept the amended minutes and Mr. Caprioglio seconded, with all in favor.

Following changes made to the minutes from the November 1, 2004 meeting, Mrs. Hoag moved to accept the amended minutes and Mr. Cohn seconded, with all in favor.

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#### Applications

##### Bernardo

The Board reviewed the Resolution for amended site plan approval with Mr. Malehorn and Mr. Frost. There was discussion about the replacement of trees damaged or removed in construction, which concluded with an agreement that \$9,600 will be placed in a trust account

held by the applicant's attorney's office and \$480 would be placed in the inspection account.

Mr. Frost also calculated the cost of the monuments for the conservation easement.

Mr. Osmun will notify the judge in this matter that the matter has been resolved.

Mrs. Hoag moved for approval of the Resolution as amended and Mrs. Chambers seconded. At the vote, all members voted "yes", except for Mr. Ciccarone who abstained.

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### Gunn

Richard Traynor was present on behalf of the applicant and stated that demolition of the existing dwelling had begun on November 15, 2004. In review, Mr. Traynor stated that the Board had conducted a straw poll at the last meeting and concluded that the alternate plan showing a 45' setback was preferred. The applicant had been directed to return with plans reflecting the setback and those plans had been submitted. Mr. Traynor also reported that the applicant also added the 50' conservation easement along the back of the property. A possible utility easement was shown within the conservation easement.

Mr. Robert Cunningham was presented to review the changes in the plans. Mr. Cunningham stated pages 1-2 remained unchanged; Sheet 3, *Minor Subdivision Plan*, showed a change in the data charts to reflect the 45' setback, three easements were added including the conservation easement, the proposed utility easement and a cross easement for the maintenance of the retaining walls abutment; Sheet 4, *Lot Development Plan*, same plan with the retaining walls returns and easements; Sheet 5, *Tree Removal Plan*, a reiteration of the former plan; Sheet 6, *Grading and Drainage Plan*, remained virtually unchanged except for the retaining walls returns; Sheet 7 unchanged; Sheet 8, *Post Development Slopes Plan*, reflected the 45' setback and returns; Sheet 9-11 show the 45' setback but unchanged otherwise; Sheet 12 is new and was

submitted at the request of Mr. Frost to illustrate the two sewer laterals should they ever be used in the properties behind the subject property. Sleeves to be placed under the retaining walls at the time of construction were shown.

Board members discussed the utility service to the lots known as lots 6 and 8 and the disturbance to the slopes and the area reserved under the conservation easement. The Board expressed concern that with the utility easement in place, it would encourage development on lots 6 and 8. The applicant stated that the area for the easement had to be reserved before the conservation easement was dedicated and there would be mitigation provided for any disturbance. There was discussion about what the disturbance would be in the area. Slopes would have to be re-stabilized and re-grow the groundcover to protect the slopes from further erosion. Mr. Traynor indicated the applicant would do what the Board recommended and Mr. Cunningham stated that the sewer lines were 2 - 4" sewer pipes. Mr. Jacobson stated there would need to be a landscape restoration plan for the area. The applicant stated trees of 6" or greater would be replaced.

After discussion, Mr. Jacobson stated the primary concern of the meeting was whether or not there was a problem with the disturbance of the conservation easement. Mr. Malehorn clarified that there would be a condition in the conservation easement regarding mitigation for any disturbance in the conservation easement. In reference to the development of lots 6 and 8, Mr. Jacobson felt if they are otherwise developable, sewer would not be a problem.

Mr. Jacobson asked for public comment. Mrs. Stillinger, Environmental Commission, expressed concern that mitigation cannot return the area to its natural state; Mr. Traynor stated every effort would be made to avoid tree removal. Mrs. Fair asked if the applicant knew what the depth of bedrock was on the property; Mr. Cunningham did not know but stated Mr. Gunn

indicated a pool had been excavated on the property. Mr. Gunn stated ground was leveled to 30” for the demolition machine and trucks and had no problems. Mrs. Fair expressed concern about granting an easement without indication of depth of bedrock.

Mr. Jacobson asked the Board to vote on a request for Mr. Malehorn to draft a Resolution based on the discussions at the hearing. Mrs. Hoag moved to direct Mr. Malehorn to draft the Resolution and Mrs. Chambers seconded. At roll call, all voted “yes”. This hearing will be continued at the December 6, 2004 meeting. An extension was requested and granted.

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### Lyons

Mr. Steven Schaffer, attorney for the applicant, was present and stated the focus of the presentation was further analysis of the one house/two house option, addressing the Board’s concerns and reviewing the report issued by Ms. Banyra, the Board’s planner. Mr. Jacobson interjected that a site visit had been conducted and attended by Mr. Cohn, Mr. Caprioglio and Mr. Jacobson.

Planner Mr. Tobia was called to review a sketch (marked Exhibit A7) of one single-family dwelling that would be fully conforming on the lot in question. The house would be 8,000 sq. ft. and would face Lafayette Avenue. The footprint of the house would be 95’ by 40’ with a four-car garage. Mr. Tobia presented photographs (Exhibit A8 and A9) of houses within a few blocks of the subject property that were built within the past 20 years, approximately. The conclusion of the photo study was that recent construction ranged in size from 3,500 sq. ft. to 4,500 sq. ft. Mr. Tobia stated that the originally proposed homes were 3,300 sq. ft. and 3882 sq. ft., and in his opinion, the two house option is better than the one house option and more in character with the neighborhood. Mr. Tobia said that he felt a 6,000 or 7,000 sq. ft. house

would be out of character. Mr. Tobia added that the space between the two homes provided a visual break, where with one house, similar to the sketch in Exhibit A7, there was a 95' stretch with no visual break.

Mr. Tobia stated there were options with the two-house plan. The house on lot 18.01 could be moved to the west 15' and change to a front entry garage, creating more space between the two homes. Mr. Frost also stated 5' could be taken off the house on lot 18; Mr. Tobia felt that was not the best option. There was additional discussion about orienting both homes to Floral Avenue.

Mr. Tobia proceeded to review the report dated November 10, 2004 from the Board's planner, Ms. Banyra. Mr. Tobia stated the applicant is in agreement with most points (points 1-2) in the report. Mr. Tobia highlighted (point 3: merits of the project) that Ms. Banyra's report stated the removal of the non-conforming multi-family use was positive; Ms. Banyra pointed out the importance of compatibility with the neighbors; according to Mr. Tobia, Ms. Banyra's report reviewed other lots in the area on Floral and they were compatible with the proposed construction. Mrs. Chambers interjected that Ms. Banyra's report stated that five lots near the subject property were 40,000 sq. ft. lots. The report also stated the C-2 variance for the side yard setback should be addressed by the applicant's planner to outline the merits of the design and provide an explanation as to why the side yard setback cannot be met. Ms. Banyra also stated in the report that the large trees on the property were significant and efforts should be made to save them. The applicant has stated the driveway would be redesigned on the corner lot to circumvent a 36" tree.

Mrs. Fair asked about the square footage of the existing dwelling; Mr. Tobia stated it had a footprint of 1,881 sq. ft. and three stories, which he approximated to total 5,600 sq. ft. The

existing garage added 560 sq. ft. Mr. Jacobson asked Mr. Tobia to review the Floral Avenue option. Mr. Tobia said there had been discussion previously about taking the lot line that runs perpendicular to Lafayette and turning it the other way so the lots would face Floral Avenue. The design team was not in favor with this option as the back yards would be on Lafayette. Mr. Tobia cited most corner houses in the area faced Lafayette, except for the house on Spring, Crestwood and one corner lot on Longwood. Ms. Banyra's report was referred to as it stated the proposed houses were more compatible to those on Floral. Mrs. Fair outlined the history of the 125' setback ordinance for corner lots and stated it was an important ordinance. Mr. Jacobson and Mrs. Fair asked about the setbacks of the other houses on Lafayette on either side of Floral; Mr. Tobia stated that other than the lot immediately next door which is about 250', most were in the 50-75' setback. Mr. Tom Lyons (previously sworn) approximated the setbacks in the neighborhood (Floral and Buttonwood) were about 50'. Mr. Lyons also made comments relative to the design of the houses.

Mr. Jacobson said that the sense from the site visit was that two houses 25' apart did not look good. The applicant stated that the houses could be shifted to accommodate that preference and Mr. Lyons talked about moving the houses and creating 60' between the houses. Mr. Frost suggested flipping the house, placing it 15' from the side yard with the garage loading off the common property lines and that would create 40' between the houses. Mr. Frost asked about the term "architecturally specific"; Mr. Tobia stated the applicant is committing to the proposed footprint complete with floor plans. Mrs. Fair stated she was in favor of one house instead of a subdivision; Mrs. Fair stated she felt contiguous green space around one house was more acceptable.

Mr. Jacobson asked for public comment. Gail Forrestt, 286 Lafayette Avenue; John Nachtigal, 8 Floral Avenue; and Arthur Forrest, 286 Lafayette Avenue; made comments relative to the discussions.

Mr. Schaffer said that alternate drawings would be prepared to show a wider space between the houses. Mr. Ciccarone addressed the 125' zoning regulations and the value of eliminating a non-conforming use. Mr. Ciccarone stated that one house on the property would conform to all ordinances and create no hardship to the owner. The Board members were polled as to their preferences between facing homes on Lafayette or Floral; the consensus was that the houses should face Lafayette.

The hearing was continued to December 20, 2004. An extension was respectfully requested and granted through December 20, 2004.

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The Board went into Executive Session. Following Executive Session, the November 15, 2004 meeting of the Planning Board of the Township of Chatham was adjourned.

Respectfully submitted,

Katherine T. Hollerith  
Recording Secretary