

The July 7, 2008 meeting of the Planning Board of the Township of Chatham was called to order at approximately 7:30 p.m. by Chairman Joel Jacobson. The Open Public Meetings Act Statement was read into the record. The agenda for the evening's meeting included the Application for the Estate of Hazel Dudley.

Roll Call

Board members present included Mr. Jacobson, Mr. Brower, Mr. Browne, Mr. Caprioglio, Mr. Cohn, Ms. Hanger and Mr. Hurring. Board professionals present included attorney Bill Robertson, planner Chuck McGroarty of Banisch and Associates and engineer Peter Turek of Hatch Mott McDonald.

Minutes

Mr. Browne moved to approve the minutes from the May 19, 2008 meeting and Mr. Brower seconded, with all in favor.

After changes were made, Mr. Caprioglio moved to approve the amended minutes from the June 2, 2008 meeting and Mr. Browne seconded, with all in favor.

Discussions

Bikeway Plan

Mr. Jacobson encouraged the Board and the planner's office to develop a focused document for the Bikeway Plan, with targeted, real world perspective. Board members agreed.

Cougar Field

Mr. Jacobson stated the Planning Board would be hearing the Cougar Field application on July 21, 2008. Mr. Jacobson stated that an application has been filed with the Department of Education and according to the School District, the Planning Board has a 45-day period to comment. According to Mr. Jacobson, the area residents who object to the project feel that the School Board has to apply for formal site plan approval to the Planning Board. Mr. Jacobson said that the Planning Board should conduct a thorough analysis of the application in a timely manner. Mr. Robertson has made a preliminary determination that the School Board is correct in its interpretation of the statute.

According to Mr. Jacobson, the School Board submitted an application without sufficient information for the Board's professionals to review. The School Board was notified that additional information would have to be provided before the application could be heard. However, with the advisory status, there is a 45-day window for comment, so the School Board is being encouraged to provide additional information, while the Planning Board schedules its review.

The Planning Board's options were reviewed. Mr. Jacobson also asked Mr. Robertson if there is a way to formally notify the affected neighbors of the review; Mr. Robertson stated he would speak with the School Board attorney and request that neighbors be notified.

Regarding the July 21, 2008 hearing, Mr. Robertson stated he expected the attorney for the objectors would be present, in addition to the attorney for School Board. Mr. Robertson will request briefings regarding jurisdiction in advance of the hearing.

Master Plan Schedule

Mr. Jacobson reviewed the timing of Master Plan issues. Mr. Robertson said the deadline for submission for the Housing Element and Fair Share Plan is the end of December. Mr. Robertson stated his recommendation was that the Planning Board has the public hearing on the adoption of the element

no later than the last meeting in November so that it can be reviewed and endorsed by the Township Committee. Mr. Robertson continued that an informal presentation of the plan be offered in October. Mr. Jacobson commented that the subcommittee would have to meet during the summer in anticipation of this schedule and asked Mr. McGroarty to notify Mr. Banisch. Mr. Brower asked if the plan should be submitted under protest; Mr. McGroarty advised against that.

Mr. Jacobson hoped that the Bikeway plan would continue simultaneously. Mr. Jacobson stated he received a packet of information from the Recycling Coordinator. Mr. Jacobson asked Mr. McGroarty if an amendment to the Recycling Element of the Master Plan was needed to comply with the amended mandatory recycling ordinance. Mr. McGroarty will look into the issue.

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Applications

Dudley

Attorney Lawrence Cooper was present on behalf of the Applicant, the Estate of Hazel Dudley, requesting Minor Subdivision for the property located at 130 Meyersville Road. Mr. Cooper said the property proposed lot is a $\frac{3}{4}$ acre lot; the remaining property would be 14.22 acres. The 14.22 acre parcel has the bulk of the environmentally sensitive areas and there is presently a house and garage on that property. The $\frac{3}{4}$ acre lot that is proposed is presently vacant and the hope is that a single family residence can be constructed.

Mr. Cooper asked that engineer Aidan Thomas Murphy be sworn in and qualified. Mr. Murphy testified that he prepared plans that were dated 5/10/06, with the last revision date of 3/26/08.

Mr. Murphy explained the preparation of his plans and described the property being over 15 acres in size. A survey of the property identified the house, garage and the wetlands flags marked by the firm responsible for the LOI, which was submitted to the DEP. Mr. Murphy testified that the property is

in two zones: the R-3 and the R-1A. The zone closer to Meyersville Road is the R-3 zone. The bulk of the area that is to be disturbed is in the R-3 zone; the remainder lot is in R-1A.

Mr. Robertson indicated that the smaller lot, Lot 11.02, is in the R-3 zone. Mr. Robertson stated that any of the area in the rear, like the rear setbacks, would be governed by the R-1A regulations. The portions in the R-3 zone would be governed by the R-3 regulations.

Mr. Murphy stated that a variance is required for the larger lot, even though no development is planned, because part of the calculation of lot area in the R-1A zone is that 100,000 square feet is measured within 400' of the road; Mr. Murphy stated the Applicant was shy of that number. Mr. Robertson clarified that the remainder lot meets all the bulk requirements of both the R-3 and the R-1A, with one exception of the variance required.

Mr. Cooper interjected that the bulk of the 400' is not in the R-1A zone and stated this condition presents an anomaly. Mr. Robertson stated the definition section of the ordinance refers to the depth of measurement beginning at the street right of way. Mr. Robertson continued that so, to the extent that there is the lot that is located primarily in the R-1A zone, it requires the street frontage and the definition requires it to be measured from the street. Therefore, Mr. Robertson feels a variance is required. Mr. Jacobson interjected that the Applicant would not have to meet the R-1A minimum frontage or minimum yard width; Mr. Robertson agreed.

Mr. Cooper addressed the driveway issue. Mr. Cooper stated the adjoining property, Lot 11.01, is an existing house owned by another member of the Dudley family. There is a proposed reciprocal agreement for that property so that the driveway on Lot 11.01, designated paved drive shown on Sheet 3 of 7, will be used by the larger lot. Mr. Cooper stated the easement will go on record allowing that driveway to be used for both properties and there will not be a need for another road cut. The memorialization of the easement will be sent to Mr. Robertson for review.

Mr. Murphy indicated there are no changes proposed for the existing garage or the brick dwelling.

Mr. Murphy described the location of the proposed house set back at the required set back from Meyersville Road. Mr. Murphy stated soil logs and permeability tests have been conducted to show the location of the dry wells will work. Mr. Murphy testified that the soil is basically sand at the location. Mr. Murphy continued that a drainage system has been designed for a typical house (70' across and 45' deep) and a driveway with the associated grading. Mr. Browne asked if the dry wells would be specifically for the new lot; Mr. Murphy stated that was correct.

Mr. Murphy stated the storm water management report was submitted and Mr. Ruschke's comments were added. Mr. Ruschke suggested additional soil tests be done at the time of construction. There was discussion of the Operations and Maintenance Manual that would be the responsibility of the future homeowner and the need for it to be understandable. Mr. Browne asked if there was concern for runoff during construction; the Applicant's professionals explained the construction was short term and soil erosion and sediment control will have to be managed.

Mr. Brower asked Ms. Hagner about the new tree ordinance in reference to this Application. Ms. Hagner indicated that most of the trees within the building area do not meet the protected tree definition.

Mr. Jacobson stated that the Environmental Commission submitted a memo on this Application dated October 30, 2007. Several suggestions were outlined in the memo and included a recommendation to require a conservation easement on the wetlands and wetlands transition areas; and to clarify the presence or not of underground gasoline or heating oil tanks on the property. Mr. Cooper stated Mr. Dudley would testify regarding the tank issue.

Mr. Cooper stated the Applicant had an agreement with the NJ DEP dealing with the preservation of the wetlands. Mr. Jacobson suggested to Mr. Cooper that he discuss the possibility of a

deed restriction with the Applicant. Mr. Robertson stated he had a form of a conservation easement that assists the Township when the property transfers ownerships and the new homeowners do not understand the limits or locations of the easements. The easement identifies and delineates the sensitive areas. The easement would also give the Township enforcement power in the event some future owner would develop or disturb the area within the easement. Mr. Cooper stated there was no problem with that; he had felt the easement with the NJ DEP would cover that, but would be able to accommodate the request. Mr. Cooper will forward the NJ DEP easement to Mr. Robertson and the Environmental Commission.

Mr. Jacobson asked if there were questions from the public; there were none.

Mr. Cooper presented John Peel, professional planner who was sworn in and qualified. Mr. Peel stated he made application to the NJ DEP for an LOI (letter of interpretation).

Mr. Peel referred to Sheet 2 of 7 and testified that the majority of the property consisted of wetlands or wetlands buffers. Mr. Peel indicated the symbols marking these environmentally sensitive areas.

Mr. Peel indicated plans that were submitted to the DEP. Mr. Cooper stated that the plan has been approved by the DEP and has a stamp of approval by the DEP on it. A copy of the plan, *Wetlands Application*, (dated 2/15/07) that was submitted to the state was marked as Exhibit A1.

In response to Mr. Browne's question regarding the significance of the DEP approval, Mr. Peel replied that the approval from the DEP was a combination LOI and a transition area waiver averaging plan. Therefore, on the map, all the wetlands that were designated, delineated and surveyed were confirmed by DEP as accurate. According to Mr. Peel, the second component of the DEP approval was a transition area waiver averaging plan. Mr. Peel explained that allowed for a modification of the buffer,

particularly in the proposed new lot, to allow for a better building area for the house. Mr. Peel testified that the restricted area was already disturbed by a garden and lawn area.

Mr. Jacobson asked about the Special Water Resource Protection Area; Mr. Peel stated it referred to a 300' zone next to a water course, which is different from wetlands. Mr. Jacobson asked how many trees would be cut down; Mr. Murphy referred the Board to Sheet 5.

Mr. Jacobson asked Board members if there was a need for a site visit on the property; the Board deferred the site visit. Mr. Jacobson asked what the existing dwelling was used for; Mr. Peel said it was Mr. Dudley's mother's house before she passed away.

Mr. Browne asked if there were any variances required for slope disturbances. Mr. Murphy answered, "No".

Mr. Jacobson asked if there were questions from the public. Township resident Richard Sloane (Lot 12, Block 12) pointed out a large maple tree on the property line. Mr. Sloane stated he had planted the tree 40 years ago and he would like it to be preserved. Mr. Murphy indicated it would not be a problem to save, as no grading will be done there.

Applicant Donald Dudley, 77 Meyersville Road, was sworn in. Mr. Dudley testified that he was raised in the house at 130 Meyersville Road, the subject property. Mr. Dudley stated that there were no underground storage tanks on the property. Mr. Dudley indicated the location of the original house that was razed. Mr. Jacobson noted that Mr. Ruschke said there is a lot of old equipment on the property and asked if he planned to clean that out; Mr. Dudley stated some of it was being cleaned up but most is not in the proposed subdivided lot.

After discussion, Mr. Jacobson asked if the Board would make a motion to direct Mr. Robertson to draft a Resolution of approval, but a vote would not be held until the Board can review the conditions

of the Resolution. Mr. Brower made the motion and Ms. Hagner seconded, with all in favor. Mr. Cooper consented to an extension through July 21, 2008.

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There being no further business, the July 7, 2008 meeting of the Planning Board of the Township of Chatham was adjourned.

Respectfully submitted,

Katherine T. Hollerith
Recording Secretary