

MINUTES

The February 5, 2007 meeting of the Planning Board of the Township of Chatham was called to order at approximately 7:30 p.m. by Chairperson Joel Jacobson. The Open Public Meetings Act Statement was read into the record. The agenda for the evening's meeting included A&F Realty, Novick/Hagner and Subway.

Roll Call

Board members present included Mr. Jacobson, Mr. Browne, Mr. Caprioglio, Mrs. Chambers, Mr. Ciccarone, Mr. Cohn, Mr. Hartford, Mrs. Kenny and Mr. Hurring. Board professionals present included attorney Bill Robertson, engineer John Ruschke and planner Frank Banisch.

Discussion Items

A&F Realty

Mr. Steven Schaeffer was present on behalf of A&F Realty to discuss the modification of a condition of the Resolution regarding the COAH growth share for the applicant, which was affected by an appellate court decision. Mr. Schaeffer stated this issue needed to be resolved to sign the subdivision deed.

Mr. Robertson suggested an amendment to the resolution indicating that prior to obtaining a certificate of occupancy, the applicant must satisfy its affordable housing obligation in accordance with the then applicable Township ordinance. After discussion, Mr. Browne moved to approve the amended resolution and Mr. Ciccarone seconded the motion. All eligible members voted in favor, except for Mr. Hartford who voted “no”.

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Novick/Hagner

Mr. Hartford and Mr. Ciccarone recused themselves from the discussion.

Attorney Barry Osmun was present on behalf of the applicant and reviewed the application’s recent history. Mr. Osmun stated that Mr. Ruschke had reviewed the revised storm water management plan in accordance with a memo dated January 25, 2007, which was distributed to the Board. The Board discussed whether or not there was a need for the applicant to file an amended site plan application because of the changes.

Mr. Ruschke discussed his memo with the Board. Mr. Ruschke reviewed the following changes: the principal structure was reduced in size; the future pool was relocated to the front yard; the configuration of the driveway changed to increase the amount of impervious coverage by 3,500 sq. ft.; the storm water management plan was modified to offset increase in impervious coverage; the overall limit of disturbance was reduced and some of the limit of disturbance changed; structural retaining walls were redesigned to less than 6’ in height; and the revised storm water management plan is in compliance.

Following discussion, Mr. Caprioglio made a motion to approve the changes to the subdivision based on the testimony from Mr. Ruschke and his review of the changes confirming the requirements for storm water management are met and the changes do not impact any of the other variances, and Mr.

Jacobson seconded. Mr. Jacobson, Mr. Browne, Mr. Caprioglio and Mr. Cohn voted “yes” and Mrs. Chambers voted “no”.

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Subway

Attorney Michael Ahearn was present on behalf of the applicant and attorney Bennett Stern was present on behalf of the Hickory Tree Shopping Center. Mr. Ahearn reviewed the application to date and stated his position was that while site plan approval was required with a change of use, site plan waiver is appropriate based on the application of one space per 200sq. ft. (versus one space per 50sq. ft.) applied to Subway in this mall. Mr. Stern addressed the Board citing a Resolution of the Board of Adjustment dated 1967, with variances, including one for parking. Property owner Sal Davino made comments relative to the discussion.

Mr. Ruschke pointed out that there was a question regarding the amount of square footage of the site noted in the 1967 Resolution. Mr. Jacobson cited the Township ordinance and noted that the two areas of dispute include whether or not as part of the site plan waiver application, the parking can be reviewed if the total parking for the shopping center satisfies the Township’s requirements, and whether or not the current parking conforms with the requirements of the 1967 variance

Mr. Hal Simoff, planner and professional engineer, was sworn in and qualified. Mr. Simoff was hired by Board Counsel and reviewed his traffic study. Discussion followed.

Following additional discussion, Mr. Robertson indicated that he would not recommend that the Board find as a matter of law that the parking standard should be a blanket one parking space per 200 sq. ft. Mr. Robertson suggested that the Board research the prior variance and that the applicant attempt to prove that there is adequate parking for the proposed use.

Mr. Jacobson stated that the hearing would be adjourned until February 12, 2007. During that time, Mr. Jacobson directed Board counsel and the attorney for the applicant/shopping center to attempt to reach agreement on the criteria to be used to decide this application. Mr. Ciccarone moved to continue the hearing to February 12, 2007 and Mrs. Chambers seconded, with all in favor.

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The Board adjourned to Executive Session to discuss matters of litigation. Following Executive Session, the February 5, 2007 meeting of the Planning Board of the Township of Chatham was adjourned.

Respectfully submitted,

Katherine T. Hollerith
Recording Secretary