

The May 19, 2008 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 meeting included discussion of Conservation Easements and the Walkway/Bikeway Plan, Memorialization of Resolutions for the Hocko and Majmudar Applications and a hearing for Ronald Gunn.

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Roll Call

Board members present included Mr. Jacobson, Mr. Brower, Mr. Browne, Mr. Caprioglio, Mrs. Chambers, Mr. Cohn, Mrs. Kenny, Ms. Hagner and Mr. Hurring. Board professionals present included attorney William Robertson, planner Joanna Slagle and engineer James Coe.

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Discussions

Mr. Jacobson referred to proposed Ordinance 2008-09 that was distributed to the Board. Ms. Hagner stated this was a series of ordinances that will be considered by the Township Committee on June 12, 2008. Ms. Hagner stated that most of the recommendations under consideration were made by engineer John Ruschke after a year of working with the Board of Adjustment. Ms. Hagner stated that the proposed changes are intended to clarify the ordinances. The subjects included front porch projections, wetlands in respect to lot grading, recording of conservation easements, maximum building coverage, and the definition of a garage.

It was determined the discussion would be postponed until the June 2, 2008 meeting when Mr. Ruschke would be present.

Mr. Jacobson did ask Mr. Robertson to develop a procedure for conservation easements so a clear procedure is in place for recording and monumenting the easements.

Wetlands Notification

Mr. Jacobson asked about wetlands notification and Mr. Robertson and Mr. Coe stated that Planning Board comment was not required. Mr. Jacobson asked if the Environmental Commission should receive them; Mr. Caprioglio stated the Environmental Commission did receive them and responds.

Walkway/Bikeway Plan

Mr. Coe distributed materials for review regarding the Bikeway. Mr. Jacobson asked Mr. Coe and Ms. Slagle to assist the Board in determining the role of the Planning Board in the bikeway project and to explain what the bikeway plan was about.

Ms. Slagle, from Mr. Banisch's office, referred to a memo she distributed and presented a review of the history of the Walkway/Bikeway Plan. While a 2006 grant application to fund the bikeway was not successful, the Township Committee allocated funds from the Open Space Trust Fund to review and revise this Master Plan Element. Since then, the outline that was done as part of the grant application was used to create a draft revision of the 1999 Master Plan. The plan identifies two subsets: areas of improvement and identification of project areas from a regional perspective.

Ms. Slagle continued that from identifying the two subsets, the plan moves forward to identifying implementation strategies over 2, 5 and 10 years. The priority planning leads to competitive funding options. Ms. Slagle felt the planning does stay with the Planning Board.

Ms. Slagle stated that she and Mr. Ruschke are working on a plan of implementation document. Then, Mr. Ruschke will itemize and budget for each item on the plan.

Ms. Slagle stated there is a public participation mapping website (PPGIS) established for this for the public to view the plan and write comments.

After discussion, it was determined that the topic will be discussed in depth at the June 16, 2008 meeting. The press will be notified and the public will be invited.

Mr. Browne discussed a COAH letter and requested authorization for Mr. Banisch to compare the state and county information with the Township's information regarding the build-out analysis and the COAH regulations.

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Memorializations

Majmudar

Mr. Robertson reviewed the Resolution memorializing the denial of the Application for variance relief in connection with the proposed construction of a residential dwelling for the property located at 55 Mountain Avenue, Block 37, Lot 5.01. Following comments by several Board members, Mr. Browne moved the memorialization of the Resolution of denial of the Application and Mrs. Chambers seconded. At roll call vote, eligible members Mr. Jacobson, Mr. Browne, Mr. Caprioglio, Mrs. Chambers, Mr. Cohn and Mrs. Kenny voted in favor and the motion carried.

Hocko

Mr. Robertson reviewed the Resolution memorializing the approval of the Application for Amended Site Plan Approval to retain a shed in its existing position for the property located at 449 River Road, Block 63, Lot 21.02. Following Mr. Robertson's review, Mr. Brower moved the memorialization and Mrs. Chambers seconded. At roll call vote, Mr. Jacobson, Mr. Brower, Mr.

Browne, Mrs. Chambers, Mr. Cohn, Ms. Hagner and Mrs. Kenny voted “yes” and Mr. Caprioglio voted, “no” and the motion carried.

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Applications

Gunn

Attorney Samuel DeAngelis was present on behalf of the Applicant Ronald Gunn for property located on Ormont Road, Block 32, Lots 31 and 31.01 for Amended Minor Subdivision with Amended Slope Variance. Mr. DeAngelis noted that Lot 31, also known as 51 Ormont Road, was previously owned by Mr. Gunn and has been sold.

Mr. DeAngelis reviewed the history of the property and stated Mr. Gunn had applied for subdivision with variances and waivers, which was granted by Resolution on December 6, 2004. Mr. DeAngelis stated that what was constructed in the rear yard was not what was approved and that is why the Applicant was before the Board.

Mr. DeAngelis referred to plans submitted by engineer Robert Cunningham, dated March 2008, and asked they be marked as Exhibit A1. Mr. DeAngelis distributed copies of the Resolution dated December 2004 and a correspondence document dated March 18, 2008 from Mr. Cunningham and asked them to be marked Exhibit A2 and Exhibit A3, respectively. Mr. DeAngelis identified three issues that Mr. Cunningham will testify to which include drainage, tree removal and disturbance of steep slopes. Mr. DeAngelis asked for Mr. Cunningham and Mr. Gunn to be sworn in for the purpose of testifying.

Mr. Cunningham referred to a separate sheet titled, “*Proposed Drainage System Extension*” and it was marked Exhibit A4. Mr. Cunningham stated that the drainage issue pertains to the pavement edge grade of the street along the property and was not addressed in the application plans and was to be

resolved as an engineering question. The plan shows the installation of a 12” pipe 2-3’ behind the edge of pavement and the construction of one more inlet in addition to the three inlets constructed near the ends of the driveways. The inlet would be placed a few feet off the end of the pavement and was designed to prevent the building up of a 2” puddle. This would add 63’ of pipe and one small inlet.

Regarding tree removal, Mr. DeAngelis asked Mr. Cunningham to describe the issue and the proposed resolution. Mr. Cunningham testified that during the entirety of the project, more trees were cleared than indicated on the plan. Mr. Cunningham stated he identified 14 trees that fell or were removed for different reasons including a request by the utility company and a decision made by the clearing contractor, for example. Several trees outside the limit of disturbance or on the line were taken down.

Mr. Jacobson stated there was a letter from the Environmental Commission dated May 6, 2008; Mr. Cunningham had not seen the letter. Mr. Jacobson said the Committee spoke specifically on the effects on the soil from the removal of the trees. The Commission requested the trees be replaced with hardwood trees to provide stabilization. Mr. Caprioglio stated it was difficult to discuss the trees without discussing the steep slope disturbance.

Ms. Slagle commented on the inspection of the site. There were trees above the upper retaining walls that had some tree damage. Ms. Slagle stated having an arborist come in and evaluate the tree would be appropriate.

Regarding steep slopes, Mr. Cunningham’s letter of March 18, 2008 was cited. Mr. Cunningham stated that any of the work that was done above/behind the originally approved retaining wall was done by hand. This would include the re-grading and the construction of the steps and walls. The additional walls were constructed to give more useable space. The slopes ranged from 15-20% and a slight percentage of 25% slope and now Mr. Cunningham estimated the slope was about 8-10%. Mr.

Cunningham stated this was mostly a fill job with a bit of cutting to eliminate an abrupt transition. Mr. Cunningham stated the area is generally stabilized and the smaller walls are not causing a potential for erosion.

Mr. Brower asked if the runoff was speeded up or slowed down; Mr. Cunningham stated it would slow the velocity of runoff. Mr. Brower asked if the improvements were removed, the velocity would increase and be worse; Mr. Cunningham agreed it would be worse. Mr. Cunningham stated the second wall was installed by the builder. Mrs. Chambers asked if the fill that was put in was stable; Mr. Coe (from Mr. Ruschke's office) stated from the photographs he had, it appeared to have been stabilized. Mr. Coe continued that if it was put back the way it was, there would probably be more chance of it being unstable. Mr. Coe stated it could be more stabilized with additional plantings and returned to a more natural environment. The rear 50' of both lots are dedicated easements for conservation and essential represent 26% of the lots. Mr. Cunningham testified that approximately 20% of the steeper slopes on the lot were essentially created when the original home had been built in the 1930's.

Ms. Slagle presented eight photographs that were marked as Exhibit PB1. Ms. Slagle stated the photos were taken by Mr. Banisch on Friday, May 31, 2008 and included views from Ormont Road, looking toward the dwellings from the driveways. Ms. Slagle stated they showed the retaining walls and a break between the retaining walls and the tree damage she had referred to earlier. Mr. Robertson swore Ms. Slagle in and asked her to present her qualifications.

Mr. Robertson asked Ms. Slagle about paragraph 4 in Mr. Banisch's memo; Ms. Slagle stated the paragraph referred to the need for additional testimony for the two retaining walls, one behind the driveway and the one to the north, as it is not clear from the plans if they were installed in violation of the ordinance. Mr. Cunningham stated the two originally approved retaining walls were staked out by

the surveyor at 20' off the house. According to Mr. Cunningham, except for the wall at the back of the driveway, which was considered by site design as an extension of the line of the building, there were no spot elevations above 6'. The break in the wall was required so the walls would be independent for maintenance purposes. The wall behind the house was built as a solid wall and taken apart to put in the stairway.

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

Mr. Gunn was sworn in earlier and was called to testify. Mr. Gunn first expressed his apologies to the Board and the other professionals regarding fences and landscape walls. Mr. Gunn presented photos (marked as Exhibit A5) that he took in the past week that show the property at 47 Ormont Road. Mr. Gunn stated by building the steps into the wall, his intent was to accomplish access to the area behind the wall. Mr. Gunn stated the fences were to encompass the conservation easements and Mr. Gunn stated that the zoning officer indicated no permits were needed for the fencing because the fence measures less than 6' in height.

After discussion, it was determined that the Board would conduct a site visit to 47 Ormont Road before the June 2, 2008. The Applicant consented to provide access to the Board prior to the next meeting.

Dr. Ghosh, owner of 51 Ormont Road, asked to comment and was sworn in. Dr. Ghosh stated that he was aware of the conservation easement, he was but he was unaware that the conservation area cannot be maintained, although he knew he could never build a structure or swimming pool in the easement. Dr. Ghosh stated that he knew there was a temporary certificate of occupancy, but his attorney said if there was a temporary c/o, the Ghosh family could close on the property.

Mr. Robertson reviewed briefly the history of the temporary c/o for context. Mr. Robertson stated that a certificate of occupancy was applied for 51 Ormont Road; Mr. Ruschke noted the steep

slopes had been exceeded and would not issue the c/o. Because a closing was scheduled and created a hardship for the potential owner, a temporary c/o was issued with the conditions that a \$50,000 cash bond would be posted to cover any remediation and the builder would submit an application immediately to address the issue of the steep slopes. Mr. Robertson stated that the application was not submitted until April, 2008 and was precipitated by another closing that was about to take place on 47 Ormont Road. There was not a refusal to issue a second temporary c/o, but required that a second \$50,000 cash bond to cover the costs of potential remediation, and the second purchaser would be required to sign off on an acknowledgment that if it closed, the purchaser would be responsible for any improvements required by the Planning Board, as the developer would be gone. The Board also determined an arborist would be engaged to examine the damaged trees.

Following discussion, an extension through June 2, 2008 was requested and granted. The hearing will be continued on June 2, 2008, with no further notice.

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There being no further business, the May 19, 2008 meeting of the Planning Board of the Township of Chatham was adjourned.

Respectfully submitted,

Katherine T. Hollerith
Recording Secretary