

The September 13, 2004 meeting of the Planning Board 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 meeting included a report on Cross Acceptance, Fairmount Country Club, Valle Estates, Bernardo, Gunn Enterprises and the Darcy School.

Roll Call

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

Minutes

Mrs. Hoag moved to accept the minutes from the August 2, 2004 meeting and Mr. Cashman seconded, with all in favor.

Discussion Items

Cross Acceptance Report

Mr. Jacobson asked Mrs. Fair to review the Cross Acceptance report, which had been distributed to the Board. Mrs. Fair described the Cross Acceptance report as a document developed in response to the State's redevelopment plan to try to institute growth management. The purpose is to protect environmentally sensitive areas and to create centers to absorb additional growth. In Chatham Township, two planning areas are designated by the State plan; one is the metropolitan area due to the ½ acre zoning and the area that does not have sewers. Two environmental/historical sites were highlighted. There are areas of the plan that are incorrect and needed to be updated. The subcommittee, (Mrs. Fair, Mr. Browne, Mr. Caprioglio, Mr. Cohn and Mrs. Kathy Abbott) made adjustments and asked the Board to review the report and Mr. Jacobson asked for comments to be returned by October 4, 2004.

Oak Knoll Fields

Mr. Bennett gave the Board a status report of pending technical issues at the site of the fields. Mr. Bennett stated the requirements of the infiltration system have not been met and he will review this with the appropriate professionals.

Fairmount Country Club

The Board was asked to consider an amendment to the Resolution to accept minor changes to the project that was previously approved. Mr. Frost described the revision of the footprint of the addition in the rear of the club (925' sq. ft). Mr. Frost's opinion (memo dated August 25/2004) was that the changes were diminimous. Mr. Malehorn stated that a new Resolution would be enacted if the Board was amenable to this request, which approved the changes in the revised architectural plans. Mrs. Hoag moved to grant approval and Mr. Jacobson seconded, with all in favor.

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Applications

Valle Estates

Attorney Barry Osmun was present on behalf of the applicant with engineer Ed Caballero for the memorialization of final site plan approval (Block 135 Lots 19 and 19.01, Shunpike Road). Mr. Osmun stated that a memo from Mr. Frost was sent out on September 13, 2004 listing conditions that he suggested for the pending approval, and a list of the 82 document sheets to be attached to the approval and a document from Mr. Bennett dated September 13, 2004 with his comments with respect to the approval. Finally, Mr. Osmun referred to the surety estimate in the amount \$6,823,310.00. Board members and Mr. Osmun suggested that the conditions be reviewed with the Board. Mr. Malehorn and Mr. Frost discussed the conditions each prepared and determined that the Conditions 6a-x would be eliminated from Mr. Malehorn's document and replaced by Mr. Frost's document.

Mr. Osmun asked to review points of Mr. Frost's memo. Mr. Osmun expressed concern about having to return to the Board for amended site plan approval for minor deviations; after discussion, it was determined that proposed deviations will be reviewed by the engineer and amended site plan approval would be considered if required. There was also discussion about sight lines on to the county road. Mrs. Fair expressed concern that there was suitable funding for the many inspections needed; both the applicant and Mr. Frost stated there was acceptable funding.

Discussion was held on the 7% mitigation for the infiltration system. Mr. Bennett explained that at the time of preliminary approval, the amount of infiltration was approximately 70% of the no net increase requirement; through infiltration, soil amendment and re-vegetation, 93% of the no net increase requirement has been met. Mr. Bennett stated, in his opinion, the applicant has done all that could practicably be done. The options of mitigation were reviewed and the Board, in agreement with Mr.

Bennett, determined that credit for mitigation would be given for improvements including water treatment, repair of the impacted stream and the building of a new dam. Mrs. Hoag moved that the Board accept the credited mitigation and Mr. Ciccarone seconded, with all in favor.

After additional discussion, Mr. Ciccarone moved to approve the resolution as amended and Mr. Cashman seconded. At roll call, all members voted "yes".

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Bernardo

Barry Osmun was present with engineer Mark Chisvette, who was sworn in, on behalf of the applicant and gave a brief history of the application (Block 37, Lot 5.01 55 Mountain Avenue). Mr. Osmun stated that variances were required for the length of the driveway and the retaining wall. Mr. Osmun stated that, in essence, a settlement had been reached with the Board with regard to the plan itself and notice of the hearing had been sent to neighbors.

Mr. Osmun stated that the steep slope variance request had been removed as the septic system had been removed, as the applicant will connect to the public sewer. Mr. Chisvette was presented to review the plans, dated June 10, 2004, and referred to a marked up version of the plan the Board had in its possession. Mr. Chisvette testified that retaining walls were necessary on some parts of the driveway to meet grade without encroaching on neighboring properties. Mr. Chisvette stated there are two retaining walls where the driveway is a little higher than the surrounding ground, within about 50' of Mountain Avenue. Mr. Chisvette continued that another retaining wall is proposed on the west side of the driveway at the point of the widening of the property, as the driveway is slightly lower than the ground and the difference in grade is two feet on the walls. Mr. Chisvette stated there was another retaining wall in the rear of the driveway behind the house so a backyard could be leveled.

Mr. Chisvette stated the development is contained in the northeast of the property, where the slopes are least steep. Mr. Chisvette testified there were two pairs of dry wells proposed behind the home for drainage from the driveway and from the roof of the house and the wells have been sized for the 100-year storm. The testimony continued that there would no longer be a septic system but an ejector pit in the front area of the dwelling to pump the sewage uphill along the driveway to the public sewer system. The maximum wall height in the rear is 4' high, the majority of the wall is 18"-2'. The retaining wall along the driveway will not exceed 2'.

Mrs. Fair suggested that the color of the wall blend with the natural surroundings as much as possible. Mrs. Hoag asked about the potential for damage to Mountain Avenue from the construction vehicles; Mr. Frost stated an inventory of the road should be done prior to construction and then reparations can be made. Mrs. Hoag asked if the dry wells were in the correct locations in regards to perc tests; Mr. Frost commented that he has concerns as to their location being at the crest of some of the steeper slopes and suggested the final location of the wells be determined at the time of the lot grading plan, in case they should be moved to the west of the house. Mrs. Fair asked about the plan for planting; Mr. Chisvette stated the plan called for sassafras on the southerly side of the property and Norway spruce on the northerly property line. Mr. Chisvette stated it was acknowledged that some of the trees along the driveway will be removed during construction and they will be replaced with 7 northern red oaks.

Mr. Frost clarified that the proposed house would need no variance for height; Mr. Chisvette concurred. Mr. Frost asked if the footprint of the house would be no more than 1500'sq. ft.; Mr. Chisvette said yes. Mr. Osmun stated a conservation easement is shown on the steep slopes, but does not presently have metes and bounds description. Mr. Frost asked if there would be curbing along the

driveway; Mr. Chisvette stated it could be added to help contain the runoff. Mr. Frost stated there would be an easement for the water main.

There was also discussion about the potential of the trees being distressed by construction; Mr. Osmun stated the applicant has always been prepared to replace the trees. Member of the public and neighbor of the applicant Mr. Bernard Kennedy, 51 Mountain Avenue, made comments relative to the discussion. The size of replacement trees was discussed. There was also discussion about the design of the driveway apron.

Mrs. Hoag moved to have the Board direct Mr. Malehorn to draft a resolution in accordance with Mr. Frost's memo and Mr. McCutcheon seconded, with all members in favor.

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Gunn Enterprises

Mr. Richard Traynor was present on behalf of the applicant for the property located at 51 Ormont Road, Block 32, Lot 31. The applicant is proposing a minor subdivision of two lots conforming, except for steep slopes and buildable area. Mr. Traynor stated there were two alternate plans: an original submittal, which called for the new residences to be 50' back to conform. After the TCC Meeting, there was an alternative plan developed moving the dwellings forward in response to the suggestions.

Engineer Mr. Robert Cunningham was introduced and sworn in. Mr. Cunningham referred to Sheet 3, "*Minor Subdivision Plan*" to review the existing conditions on the property. Mr. Cunningham described the property as 235.5' wide and 200' deep, fronting on Ormont Road. Mr. Cunningham testified there is an existing single-family home, retaining walls, stairs, a gravel drive, the remains of an in-ground pool and a concrete floor of a garage. There are also the remains of a septic system, a lateral

hook up for sewers and water service follows the drive to the home. Mr. Cunningham stated the lot slopes upward from the road.

Mr. Cunningham outlined the proposed project to include two lots; each 117.75' feet wide and 195' deep with a 5' right of way along the frontage. Mr. Cunningham referred to Sheet 8 of the plans showing the plan to demolish the structures. The construction would proceed from the rear of the lot. Mr. Cunningham testified there would be 2 dwellings with garages underneath, a pair of driveways, retaining walls and a boulevard between the driveways. The retaining walls would be constructed in the rear yard, dividing the higher backyard area from the driveways. Farther in the rear yard would be a retaining wall separating a terrace from another wall and from there back, the remainder of the property would be undisturbed.

Mr. Cunningham referred to Exhibit A1, dated 9/13/04, a composite plan to show the limit of disturbance. Mr. Cunningham testified that the proposed homes and limits of disturbance were at or forward of the original development. Mr. Cunningham stated that some of the existing 25% slopes were created by cuts or fills by the previous construction and were outlined in a report submitted to the Board. Mr. Cunningham calculated that, on average, the original slope of this lot was approximately 18.5%. Mr. Cunningham referred to Sheet 8 to illustrate the proposed installation of dry wells to capture the run off from roof areas and overflow provisions and soil logs have been submitted. Mr. Cunningham stated in response to comments at the TCC Meeting, an additional proposed drainage system was proposed including a swale and four new inlets to capture water running down to the road. The new storm water regulations are not applicable to this site as the regulations pertain to 1 acre of disturbance and ¼ acre of impervious coverage, and, according to Mr. Cunningham, this site is well below those criteria. Mr. Cunningham stated there were variances required for steep slopes and relief needed for the 7,000 sq. ft. buildable area requirement.

Mr. Cunningham referred to Sheet 7 to discuss the buildable area requirement. Mr. Cunningham stated two 7,000 sq. ft. rectangles were depicted in this drawing. Within those areas listed, on proposed Lot 31, the useable area is 4,780' sq. ft and on Lot 31.01 the useable area is 4,127.5' sq. ft. where 7,000' sq. ft. is required. Regarding the steep slopes relief, Mr. Cunningham referred to Sheet 8 and stated that relief was required in all slopes categories. Mr. Frost stated a variance would be required for the continuous retaining walls and an easement would have to be provided for maintenance of the walls; the applicant was amenable to allow independent access. Mr. Cunningham stated the first wall had a maximum height of 5', the second wall had a maximum height of 6' and the maximum height of the third or upper wall would be 3'.

Mr. Cunningham also presented the proposed alternate plan referring to *Sheet 4, Lot Development Plan* (of an additional set of plans). This subdivision plan would be predicated on the front yard setback line being moved 5 feet closer to the existing right of way dedication; the setback would be 45' back from the proposed right of way line. Mr. Cunningham stated in this plan, all the improvements would be moved 5' closer to the road, including dry well system. The project would only require one retaining wall in the back instead of two and three fewer trees would be removed. Regarding slopes variances with this configuration, about 1,000 sq. ft. less of slopes would be disturbed. Mr. Cunningham testified that he preferred the alternate plan.

Chairman Jacobson asked for public comments. Mr. Robert Latzer, 20 Mountainside Drive, Mr. Marty McHugh, 61 Ormont Road and Ms. Alison Tesoriero, 54 Ormont Road made comments relative to the discussion. Ms. Tesoriero asked if the existing dwelling could soon be demolished because of the safety risks it represented; Mr. Gunn stated there was a demolition permit filed and the exterminator was scheduled for September 24, 2004.

The proposed footprint of the dwellings measure approximately 58' width and 34' depth, with an area of 3,400 sq. ft. and a two-car garage. The Board asked if individual members could make informal site visits to the property before September 20, 2004; the applicant agreed to that request. The hearing will continue on September 20, 2004.

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The Darcy School

Mr. Barry Osmun was present on behalf of the applicant, The Darcy School, regarding the property on 700 Shunpike Road, Block 135, Lots 1&9 in the R-2 zone. The Darcy School is a non-profit, coeducational independent day school and is making an application for a conditional use permit and site plan approval for the purpose of allowing it to occupy the property for the school. Mr. Osmun gave a brief history of the property's ownership.

Mr. Jacobson asked Mr. Malehorn explain the conditional use application. Mr. Malehorn stated it is required that the applicant meet the conditions established for the particular use. Height of the building, minimum lot area of 3 acres and the setbacks of the buildings, setbacks of 100' from the street and 25' from any property line and 100' from any rear property line, has to front on a major street, parking requirements (1 space per 100'sq. ft.) are all part of the conditional use review. Mr. Osmun interjected that the maximum parking spaces on the property is 65; he also stated that no changes and no new construction proposed with the Darcy School application. Mr. Osmun stated that another requirement of the conditional use permit is that the applicant must show that the use in accordance with the plans and conditions will not result in any insignificant adverse effects upon the environment, public health and safety and will not contribute detriment to the use and enjoyment of residential properties in the neighborhood. Site plan approval is required within 2 years of the conditional use permit.

Mr. Frost indicated that a site plan was needed to answer some of the questions relating to a conditional permit. Mr. Frost did state he reviewed the traffic impact briefly and felt while there was more traffic than an office building, it was spread out over a greater period of time.

Mr. Osmun presented Pamela Fianer, Ed. D., the director of the school and she was sworn in. Ms. Fiander testified that the school opened in 1998 in Madison and then moved to Livingston. Ms. Fiander stated the school caters to a variety of learning abilities grades preschool through 8th. The hours of operation for the school are 7:30 a.m. to 6:00 p.m., which includes after care. The school would have 12 teachers with an increase to 20 teachers in 2011; 32 staff now and 58 in 2011. Enrollment and staffing projections were presented, as were transportation projections; this data was based on the actual experience on the Livingston campus. Enrollment at the school will not exceed 240 students. On the survey submitted, buildings marked 1,2 and 3 would be occupied. The main building would house the classrooms, the mansion would house the offices and the third building would be the dining hall, where the food is delivered, not prepared on site. The school officials would like to use the other buildings for storage as needed.

The logistics of the parking was discussed. There was also discussion about the allowability of use of the utility buildings. Mrs. Fair raised the issue of the need for athletic fields for the school; Ms. Fiander testified that the school did not require athletic fields per se; the school offered courses like yoga and fencing for physical education. Mr. Jacobson asked for comments from the public. Mrs. and Mrs. James Jenkinson of Gibbons Place and Mr. Andrew Bell of 11 Gibbons Place made comments relative to the discussion.

After additional discussion, Mr. Cashman moved to grant a conditional use permit with conditions including limiting the use of buildings 1, 2 and 3; no use of the property or issuance of permits until site plan approval; enrollment cannot exceed 240 students; no parking on public streets for

school related functions; variance for 65 parking spaces; and a site plan must be presented within 2 years. Mrs. Hoag seconded. At roll call, Mrs. Chambers, Mr. Cashman, Mr. Caprioglio, Mr. Browne, Mrs. Hoag and Mr. Jacobson voted, “yes”; Mrs. Fair, Mr. Cohn and Mr. McCutcheon voted, “no”. The Board directed Mr. Malehorn to draw up a memorializing resolution granting conditional use.

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There being no further business, the Township of Chatham Planning Board meeting of September 13, 2004 was adjourned.

Respectfully submitted,

Katherine T. Hollerith
Recording Secretary