

**April 17, 2008**

**BOARD OF ADJUSTMENT**

**TOWNSHIP OF CHATHAM**

**CALL TO ORDER AND STATEMENT OF COMPLIANCE**

The meeting was called to order at 7:30 p.m. and the Statement of Compliance was read into the record.

**ROLL CALL:**

**Mr. Lawrence Dalziel  
Mr. Glen Nelson  
Mr. Thomas Quinn**

**Mr. Parker Godwin  
Mrs. Francine Alcorn  
Alt.#1 Vacant**

**Mrs. Hough  
Mr. Karl Schmidt  
Alt.#2 Vacant**

**Mrs. Alcorn and Mr. Schmidt were not present.**

**Mrs. K. Tsimboukis, Secretary  
Mr. Banish, Planner**

**Mr. Ruschke, Engineer  
Mr. Steven Shaw, Attorney**

**MINUTES : February 21st & March 20, 2008**

Motion made to accept minutes of Feb. 21<sup>st</sup> and March 20<sup>th</sup> (with correction to a typo on page four) by Mr. Godwin seconded by Mr. Nelson with all in favor

**Chatham Township Environmental Commission**

**Patricia Collington**, present a draft of a “ Construction Application Handout” to the board.

**AMENDED RESOLUTION**

**Mr. & Mrs. Caputo  
2 Overlook Road -**

**BOA 07-102-1**

Mr. Shaw outlined the amendments.

Mr. Nelson seconded a motion made by Mr. Godwin to approve the Resolution as amended. Roll call: Mr. Dalziel, Mr. Godwin, Mrs. Hough, Mr. Nelson. Mr. Quinn recused himself

**GINES/YANES  
11 Wickham Way  
Block: 48.08 Lot:**

**CALENDAR BOA 07-07-48.08-5**

**Joanne Gines  
Mr. Yanes  
Ms. Ileana Martin-Novoa, Arch.  
(all witness sworn)**

**Mr. Dalziel** – we just need a brief description of your application, then a site visit will be scheduled with a follow up meeting in May.

**Mrs. Gines** – we are applying for variance for modification of our home. We want to convert our screen porch into a mud room and study room for our son. Our five year old son is autistic. We have a lot of therapy at home. This was easy before we had a second child. We had previously done his therapy in the basement but with the second child and the toys our son is easily distracted. We are trying to create an environment for him where he is comfortable. The therapist will have a set area to work in with him, he will have appointed places to put away his things and he will not be distracted by others in his area.

**Mr. Dalziel** – the first thing to be clear that the variance is land use based and as I understand your need we cannot decide on a need based decision. Maybe you can explain.. the floor plan only shows the affected area and not the rest of the house. Perhaps a full floor plan could be made available.

**Ms. Martin-Novoa**- brought forth some exhibits - large drawing to be marked as A18 and the colorized survey would be A19 - both w/today's date. 2 car garage, behind the kitchen is the dining room, next to kitchen is a family room, to the rear are bedroom. There are stairs going upstairs. Basically the reason we felt this was the best is because it is contained and he can't get out without being seen. The only place for the mud room is as shown. The house is already in variance. We are increasing the max. width, the back yard variance. We are keeping proposed in line with existing but you will note the angle of the property line. The building coverage is already exceeded. We felt we were only increasing them by a reasonable amount.

**Mr. Dalziel** – what is to the left of the family room

**Ms. Martin-Novoa** - Powder Room, entrance hall, stairs and over further is a guest room w/bath.

**Mr. Dalziel** – this room wouldn't work where the existing porch is.

**Ms. Martin-Novoa** - The existing porch, if we take that space they would just have the therapy room and not the mud room. This is needed to organize his life style. You need specific procedures.

**Mr. Godwin** - The reason for the bump out for the desk is..

**Ms. Martin-Novoa**.-The main reason is trying to maintain a very open ceter and the second reason was aesthetic

**Mrs. Hough** - any thought to using the media room.

**Mrs. Gines** – because it is a corner you cannot view it from the kitchen. If he were in the media room he could not be there by himself. The family room would have been a choice area accept for the fireplace and the doors. I have to be near him so I can see what he is doing.

**Mr. Dalziel** – I really have to say again that as difficult for us to separate the issue of land use and personal need. You need to keep in mind you have to give us the reasons from the land use

perspective. We really need a floor plan of the house. Is there a reason why the desk could not be placed somewhere else.

**Mrs. Gines** – if needed we can move it back.

**Mr. Dalziel** – what is determining the size of the room.

**Ms. Martin-Novoa** – it looks balanced as it lines up with the rest of the house. Adjustments can be made.

**Mr. Dalziel** – site visit May 3<sup>rd</sup> - 9 AM - an outline of the addition would be appreciated.

**JOSEPH FALCONE**  
**38 Nicholson Drive**  
**Block: 62.08 Lot: 6.**

**CALENDAR BOA 08-62.08-6**

Present: Mr. Murphy, Engineer

**Site Visit Report** read into the record by Mr. Quinn

**Mr. Dalziel** - Questioned changes in drainage plan.

**Mr. Ruschke** – noted that a lot grading plan will be submitted

**Mr. Dalziel** – any questions from the Board – there were none.

**Mr. Murphy** – had a list of technical comments ....do you want to go thru them?

**Mr. Godwin** - referred to Jan. 24 list.

**Mr. Dalziel** – can this wall be constructed reasonably

**Mr. Murphy** - I did have some concerns about maneuvering around the seepage pits. It will be a very systematic construction.

**Mr. Dalziel** – have you sought any advice from any contractors as to how to do this.

**Mr. Falcone** - have spoken to the contractor and he suggested using jumbo blocks rather than the smaller blocks. Redi Rock – this one does not use a tie-back. They interlock.

**Mr. Dalziel** – any questions from the audience... not heard. Comments/Questions from the Board.

**Mrs. Hough** – I think the concerns are the steep slopes. I think the way it is now is dangerous. There is nothing to keep you from falling down. The proposal is good as it reduces the runoff, etc. This is better for all concerned. I think it's a good application

**Mr. Shaw** – Could you describe the nature of the back yard. It had apparently been built up for the present back yard.

**Mr. Falcone** - Looking at the dramatic drop-off – you can walk off the slate patio onto a steep and steeper drop-off at the back right corner. Our concern is that it is a dangerous drop off where a child is concerned. We are leaning toward safety in a reasonable way.

**Mrs. Hough** - we did comment at the site visit that a lot of those slopes were man made.

**Mr. Dalziel** – this is not going to be level

**Mr. Falcone** - It is going to be a gentle slope down. It starts off at the top of the wall (108 – 110 + 2 ft drop.)

**Mr. Dalziel** – any other comments?

**Mr. Godwin** - the biggest concern is the integrity of the wall but that would be up to the engineers.

**Mr. Dalziel** – comment from audience. None heard – public portion closed

**Mr. Nelson** moved that we pass this with the approval of Mr. Ruschke. Mrs. Hough seconded. Roll Call: Mr. Godwin, Mr. Quinn, Mrs. Hough, Mr. Nelson, Mr. Dalziel.

**Mr. Dalziel** – the Resolution will be ready for the May meeting.. We will need 5 set of revised plans to be submitted.

**JOSEPH & GAIL MAURILLO**  
**51 Dale Drive**  
**Block: 102.8 Lot: 10**

**CALENDAR BOA 08-102.8-10**

Barry Osmun, Attorney  
Joseph Maurillo, Applicant (sworn)

Site visit read into the record.

**Mr. Osmun** - The architect was here at the last meeting and showed the plans. I would note that the lot area is 20000 sf in this area. This lot exceeds these requirements. The rear yard to this house is quite large and no variance is needed for the side yard. You noted in the first application that personal needs were not grounds for a variance but it may be possible under a C2. I would submit one of the purposes of zoning – what we have here – is an attractive addition and helps to create a desirable visual environment. It does provide air, light etc. That is the positive criteria. In respect to the negative criteria.. it's a small addition – 341 sf. We are going to remove 289 sf. of the patio. It will not have any adverse affects on the existing neighborhood.

**Mr. Maurillo** – we previously moved here from Rolling Hill Drive which is 10 houses from where we moved. It was a 4 bedroom home. We have 2 children, 16 yr. old handicapped daughter and a 14 yr. old daughter. Our 16 yr. old has a caretaker. A year ago my mother-in-

law passed away and my father-in-law stays with us for 4 months out of a year. About a year ago my father passed away. My mother visits on every holiday and spends a month every summer. We have run out of bedroom. Mr. DeMarzo had this house. The problem was the kitchen was very small. We are asking for the variance so that we can put a family room off to the back and has our kitchen table in it. Our parents will be with us often and we need the room. We are building over any existing patio....we are not going to expand the remaining patio. It should be noted that this house was up for sale for quite a while and the reason it wasn't selling was because of the size of the kitchen. We purchased with the hopes of putting a family room off the back.

**Mr. Dalziel** – could you move the arched wall over so you could put furniture in the kitchen.

**Mr. Maurillo** – then we would have no family room.

**Mr. Dalziel** – addressing Mr. Osmun – I am not to clear about your interpretation of the C2 Variance – how does this aid the Land Use Law - I do not understand your argument.

**Mr. Osmun** - It advances one of the purposes of zoning. That is what a C2 variance is. It became part of the Municipal Land Use Law in 1982. The courts were having problems when variances could only be based on the conditions of the land. They amended the act to provide for the C2 variance (Cox ).

**Mr. Shaw** – do you think a professional planner would agree with you.

**Mr. Osmun** – sure. Do you want me to bring in a planner.

**Mr. Shaw** – agreed that the applicant could.

**Mr. Dalziel** – re: oversized lot – the upside – the house is also oversized.

**Mr. Osmun** – it's a one story addition.

**Mr. Maurillo** - it will be 8 ' closer to the existing house than the garage.

**Mrs.. Hough** – My understanding of a C2 variance is that you have to show that there is a community benefit.

**Mr. Shaw** – one can find for the general welfare. The explanation is very broad. You have to weigh the strength of the purposes with the facts of the case. In terms of weighing those you need a professional planner who can present a more factual basis for you to make a final determination.

**Mr. Osmun** – if the board says to us to bring in a planner we will do so.

**Mr. Dalziel** – we need a little more to go on.

**Mr. Shaw** – the one issue the board has to deal with is the impact on the zone plan/scheme.

**Mr. Osmun** – would like to carry this to the next meeting and we will bring in a planner.

**Mr. Quinn** - a question was raised before about moving a wall you would not have a family room on the first floor. Is there another family room on the second floor.

**Mr. Maurillo** – no we just have a basement (finished)

**Mr. Quinn** – That will be my Mom’s bedroom. She just had knee replacement. If we were to put the family room down there she could not go down.

**Mrs. Hough** – wanting to be up front said she was not in favor of this. She felt it was a detriment to the ordinance and she also did not want to waste the applicants time & money.

**Mr. Osmun** – said that he felt that she should listen to the planner to see what he says.

**Mr. Dalziel** – had some difficulty with the application as well. He could not see how it advances the zone plan. Maybe you can open up the living room.

**Mr. Godwin** – said he was new to this but felt if we gave it to this applicant than why couldn’t they give it everyone. I am concerned about undermining the zone plan. I would be happy to hear the testimony of a planner and from Mr. Banish and will try to make a fair decision.

**Mr. Dalziel** – noted that there were only five members present.

**Mr. Dalziel** – questions from audience – there were none. Mr. Ruschke has no comments.

It will be a continuation of a hearing next month.

**NEW YORK SMSA Ltd.  
Partnership d/b/a Verizon Wireless – Chatham 2  
529 Green Village Road,  
Block: 48.21 Lot: 179**

**CALENDAR BOA 08-48.21-179**

**Richard Schneider, Attorney**

Transcript will be provided by the applicant.

A motion was made by Mr. Godwin seconded by Mr. nelson to adjourn the meeting at 9:45 p.m. – all in favor

Respectrully submitted

Mary Ann Fasano  
Recording Secretary

