

August 16, 2007

**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. Joseph Cooney	Mr. Parker Godwin
Mr. Nelson	Mrs. Therese Hough	Mrs. Nelson
Mr. Tom Quinn	Mr. Karl Schmidt	

**Also Present:** Mr. Steven Shaw, Attorney for the Board  
Mr. John Ruschke, Board Engineer

**MEMORIALIZATION**

**JERRY & CAROLE ROCHE**

**Calendar BOA 07-122-11**

9 Warwick Road  
Block 122 Lot 11.

Mr. Cooney seconded a motion made by Mr. Godwin to approve the resolution as submitted

Roll Call: All in favor

Mr. Quinn, Mr. Cooney, Mrs. Hough, Mr. Godwin, Mr. Nelson, Mr. Schmidt, Mr. Dalziel

Not Eligible to vote: Mrs. Nelson

**ROBERT & CARRIE CONTE**

**Calendar BOA 07-86-22 2**

2 Lenape Trail  
Block 86 Lot 22.

A motion was made by Mr. Nelson to approve the resolution as submitted was seconded by Mrs. Hough.

Roll Call: All in favor

Mr. Quinn, Mr. Cooney, Mrs. Hough, Mr. Godwin, Mr. Nelson, Mr. Schmidt

Not Eligible to vote: Mrs. Nelson, Mr. Dalziel

**APPLICATIONS:**

**WATCHUNG SOMERSET STREET PARTNERS**

**LLC Calendar BOA 06-117-12**

31 Oak Hill Road.  
Block 117 Lot 12.

Mr. Barry Osmun

Mr. Thomas Murphy  
Mr. Washington, Architect

Mr. Osmun noted that this was the third meeting on this application and both Mr. Washington and Mr. Murphy had submitted revised plans. There has been a reduction in the size of the structure that reduced the magnitude of the steep slope disturbance. Mr. Washington (previously sworn) will be my first witness so that he may go through the changes.

Mr. Washington – referred to the revised plans dated 8/1/07 stating that he had reduced the footprint of the house. A little over four feet out of the depth of the house had been removed. In reducing the depth of the house, it made the attic not useful as a room any longer so any living space was eliminated.

Mr. Osmun asked what the square foot was previously and what it was now.

Mr. Washington – the square footage prior to the revisions was 6004 and is now 5198.

Mr. Osmun asked if there were any changes in the siting of the house.

Mr. Washington advised that the house was re-sited.

Mr. Dalziel inquired as to the difference between your number labeled as total floor area and new building area.

Mr. Washington – It was 7120 before and now it is 6240. It includes chimneys, front porches, and other spaces. Neither the garage nor basement is counted in the total floor area.

Mr. Dalziel said he didn't understand.. ...you have area of largest floor at 2728 but the difference between the total floor area and the new building area is more like 1100. There must be something in the basement in that number.

A discussion ensued as to what was or was not included in the total floor area.

Mr. Washington stated that normally they would include all the chimneys, porches, steps and everything would be included in the new building area because that is the area included for the building code. Basically, the 6240 is the floor area of the two floors of the house plus the 98 sf. ft. of the covered front porch and the 9.4 sf. ft of the garage.

Mr. Cooney – and that is the total sq.ft. of the new house.. correct?

Mr. Schmidt – if you do not count the basement then why do you have the area of the largest floor being the cellar plus the garage? Is that is not considered part of the floor area?

Mr. Washington – the basement is not considered part of the floor area and I think someone made a mistake in my office, because I don't think the 944 is supposed to be added in there either. I don't know why it was done that way but I missed it. The 944 is part of the basement so why it would be into the total....

Mr. Osmun – the 5198 sf is the first and second floor?

Mr. Washington – correct... without the basement.

Mr. Nelson – was the 944 included in the 1484 or is that in addition to that? Cellar or lower level , garage (inaudible). They are both on the same level.

Mr. Godwin felt he had to believe that they were separate because if you add those two together you get area of largest floor 2728.

Mr. Nelson it has to be because if you've got 2728 for the area of largest floor it's got to be basement.

Mr. Washington – the garage and the cellar area add up to somewhere around 2630.

Mr. Nelson – they should add up to 2728

Mr. Schmidt – the 2728 I think is the first floor plus the porches.

Mr. Washington – that's exactly what it is. But, in the building code we measure the basement area on the interior of the walls so that space is always going to come up less than the first floor space.

Mr. Osmun said he had no further question of Mr. Washington.

Mr. Cooney - What is the total new square footage of the house?

Mr. Washington – the living area of the house is 5198

Mr. Osmun - where as before it was 6400 sf. ft.

Mr. Cooney – well then the previous plans are wrong because the total floor area, which is what you are saying is 5198, the previous plan said it was 4483 so there is an increase not a decrease.

Mr. Washington – the previous plans show a total floor area of 6004 sq.ft.

Mr. Cooney – that is not what I have on this one – it says 4483.

Mr. Washington – the plan you are looking at was the previous one dated 4/11/07.

Mr. Cooney – this is 11/15/06.

Mr. Washington – that is a totally different house.

Mr. Cooney so it increased from 11/15/06 to April 11<sup>th</sup> and now it went down.

Mr. Washington – right. The footprint of the other house was larger because they put the garage on the surface with the first floor.

Mr. Osmun – the house has been re-sited.

Mr. Dalziel – so what are we facing now for variances.

Mr. Osmun – we have less variances than before. Mr. Murphy will clarify the measurements.

Mr. Washington – the only variance from a architectural standpoint, that I know about right now, is that we are asking for a setback variance from the street based on putting the roof on the front porch of the house. If we take the roof off the front porch, we need no variance.

Mr. Osmun – what would be the variance for the front yard if you left the roof on the front porch.

Mr. Washington said he did not know but Mr. Murphy would clarify.

Mr. Dalziel – going back to the discussion about the nature of putting a new house on a lot, is there a reason why you need a front yard variance for this house. Why can't you design a house with all the qualities that your client wants and not have variance.

Mr. Osmun – they can remove the roof over the front porch if need be.

Mr. Osmun – called Tom Murphy (previously sworn). He asked that Mr. Murphy go through what the changes to the plans are, the siting of the structure itself and any impacts it may have on the variance and what the variances would be.

Mr. Murphy – as far as the site of the house – we did move the house closer to the road. The building itself is 50.2 ft. setback from the cul-de-sac. If you cover the roof area then I measure that setback to be 45.6 ft. If the roof is added then you need a variance if you don't then it is eliminated and there is no setback variance needed. As far as siting the house, what we did was, besides moving it forward slightly, (originally it was parallel to the property line) now it is slightly askew to the property line, kind of facing the cul-de-sac a little bit better. That twists the one corner of the building out of the portion of the steep slopes in the back of the property so overall in moving the house a little forward it will reduce all the slope factors. The footprint is smaller. The total coverage of the building and the driveways, etc. is approximately 100 sf. less that what was previously proposed.

The categories of steep slopes are: 0-15 we now have 9,950 sq. ft. of disturbance. Originally, we had 10,148 so its 198 sf. ft. reduction in that slope category but there is no restriction. We could disturb the entire property. The next is 15-20 - right now we are at 650 sf. and are allowed by ordinance 433.8. Before we were at 894 sf so we have reduced that by 444 sf. The 20-25 we are allowed 338 sf. and we are disturbing 500, previously we had 916 so we are 416 sf. less. Finally the slopes greater than 25 we are allowed 500 and we are at 400 so we are OK there. Previously we were at 1403 sf so we are 1000 sf less in that category. With the house moved forward, twisting of the house so that it is parallel with the contours in the back and we have eliminated a big chunk of the disturbance.

Mr. Osmun asked Mr. Murphy about the required size of the lots in this zone. Are they 20000 sf.?

Mr. Murphy confirmed that number and advised that the lot was 30850 sf. so we are over 10000+ of the required size. The existing house setback is 40.2 sf. and we are going to either the 50.2 or the 45.6 ft. if we have a covered porch. So the proposed improves the setback from what is presently existing.

Mr. Osmun had no further questions of Mr. Murphy.

Mr. Dalziel asked if the Board had any questions of Mr. Murphy.

Mr. Osmun said that there are two variances needed for steep slopes and a potential third variance if the front porch has a roof. Addressing Mr. Murphy he asked If the board were to grant a variance so that the setback of the house would be the same as the existing house, what would happen to the steep slope variances?

Mr. Murphy – I don't know if we could eliminate all of them but there is chunk on the east side of the property that you would be able to move that closer so you could eliminate some of that disturbance... it probably would be less.

Mrs. Hough – questioned the removal of trees. Mr. Murphy felt that the removal should be less because we are moving the house a little forward so all that disturbance in the steep slopes, where trees exist, should be saved now. I would think less but I have not made a count to give an accurate answer.

Mr. Osmun – I am looking at the report from the Planner dated March 5, 2007 and was revised on May 1, 2007 which addresses the issue of trees. At that time the memo reads “that the applicant proposed to remove 13 trees”. Whatever the ordinance requires we will have to comply with.

Mr. Dalziel – asked for any other question of Mr. Murphy.

Mr. Godwin– you wouldn’t happen to know what the square footage of the current dwelling is.

Mr. Murphy – the dwelling No. I have the footprint that is 1,493 sf. It is a smaller dwelling.

Mr. Dalziel – going back to our prior discussion... this is a yes or no question... is it possible to design a variance free application for this site?

Mr. Murphy – I would think yes but by making the house much smaller, maybe nothing that is marketable. It would be variance free as far as the setback, if we eliminate the covered porch, so then you would have is slope disturbance. If you cut out approx. 15 ft. depth to the house you might be able to get out of all the slopes but I would have to see what the house size was.

Mr. Godwin – if you took a house the size of the existing dwelling, repositioned it (build another with exact same footprint) would you be out of the steep slope disturbances

Mr. Murphy – it would be less but I couldn’t say you would be out of it.

Mr. Osmun – I think I understand where the board is going. You want the size of this house reduced more than it is now. What you are saying is that you may not grant these steep slope variances because the house is too big. Of the steep slope variances, there are some, which are minor in size. Many of those conditions exist on that property. We have attempted to follow your suggestions. We have reduced the size of the house. I would submit to you that in round numbers a 5000 sf house in today’s world is not a McMansion. It is not a huge house.

Mr. Dalziel – that is not where I was going with my questions. What I want to establish for the record, and why we are here with this application at all is, what happens to the size of the house if you were able to design a variance free application. What is the result?

Mr. Osmun – I don’t think we can answer it without doing an analysis.

Mr. Shaw – do you think it would be worth while to supply an analysis to the board.

Mr. Osmun – I have to say that my client has been carrying this property for a long time. There is a loss.

Mr. Dalziel – what I am asking for in order of magnitude, and I think you can, in your professional abilities and opinions, be able to look at that plan and say, not an order of magnitude. If we were to design an envelope on that plan that eliminates the need for any variances, what do you end up with. Do you end up with something smaller than the existing house? I just want to establish why we are here at all.

Mr. Murphy – I am looking at the slope category 15-20% where we are allowed 434 on that 650 so we are basically looking at approx. 200 sf of that slope. I would have to look at where that slope

category is – its in the section where the drywells are, in the middle of the house and in the front yard so you would have to look at moving the house over to eliminate that category but it may trigger more disturbance in the 20-25% . Both of those are next to each other. Moving one might make the other worse.

Mr. Osmun – you are disturbing steep slopes toward the dry wells.

Mr. Murphy – part of the dry wells which are required by ordinance and are under the driveway in that particular case.

Mr. Ruschke – I think what the board is questioning besides the size of the house .. you look at the foot print and you are reducing the foot print and you also have to compensate for the grading around it. The question is, what is the impact of keeping a 50 ft. front yard plus not impacting the steep slopes, the house gets so narrow its almost 50% reduction in what you are getting and what you are proposing. What is that perspective of not disturbing those steep slopes. In a practical sense of just general grading.

Mr. Murphy – you are basically chopping off the back of the house to get away from that slope area. The front will stay the same. You already have a garage under so that reduces the amount of disturbance.

Mr. Dalziel – again just to establish the reason for the size of the house... if you were to pull the back of the house forward to reduce those steep slope disturbances.. currently the house is 44.4 ft. deep. What would it need to be to get yourself far enough away (approximately).

Mr. Murphy – I would guess that you would probably have to take off 10 feet, which really narrows the house.

Mr. Osmun – you are disturbing some slopes in the front as well, aren't you.

Mr. Murphy- yes we are doing driveway coming in so there is disturbance associated with grading in the front yard. You have walls on one side where we are able to set the house lower. By setting the house lower means we don't have to grade as much out at the back.

Mr. Godwin – it could be 7 ft less deep at both garages instead of 9 and 16, for example.

Mr. Murphy – right but that's a 2 car garage. 9 and 16 is a three car garage.

Mr. Dalziel – asked if there were any more questions of Mr. Murphy.

Mr. Ruschke – I didn't do a follow up memo but the new plan, which can be covered under lot grading process, need additional details such as the collection of storm water. I have recommended on previous steep slope applications is to modify the sequence of construction so that as soon as the frame and the roof is constructed that gutters are installed and directed to the drywells. I did notice on the architectural drawings that the AC units are within the side yard setback. I would recommend that they be relocated at least outside of this setback.

Mr. Bannish – I did not update the review from May 1<sup>st</sup> but the variances were reduced and one eliminated (the one for disturbance greater than 25%). I also, on the 10 ft., I came up with the same figure. If you cut off the back 10 ft. of the house you will eliminate that slope variance in the back but you would still have the one in the front but it might bring the whole thing under the threshold.

Mr. Murphy – the applicant just gave this to me. What he had done was an outline of the proposed building and this building is pretty much smaller than most of the surrounding properties.

Mr. Dalziel asked if there were any further questions from the Board. Any from the Audience.

Mr. Arthur Low – lives next door to the property in question. I don't know the builder, I have been in this town for 9 years. I have looked at the plans that he submitted first and I feel this particular plan is so much better than the other one. You asked questions that I don't understand. Have any of you been in that neighborhood. On Noe or Oakhill or any of those neighborhoods? They are putting up two and two point five million dollar houses... big houses. I don't understand how you can sit there and say that you don't understand why somebody will come in and put up a big house on a lot. Have you looked at the houses on Noe.

Mr. Godwin they are not part of this application

Mr. Low – I know they are not part of this application but we are talking about that part of town and it sounds like little house to go in there now. I have no axe to grind. I am sitting here saying to myself.. what is going on here. Don't these people understand that these houses are coming in to this town and

Mr. Dalziel – and most don't require variances, this one does. They are asking for something the ordinances do not allow them to have. They are asking for relief. My only question is can you put a house on that lot without asking for that relief?

Mr. Low - another thing. Somebody asked the question and that has to do with real estate values. You can't put up a \$100,000.00 house in our neighborhood. It won't sell.

Mr. Dalziel – and that is what I want them to establish as the base of their case here. Why do you need a 5-6000 sf. house on this lot? Apparently, if you were to design a variance free house it would be so small it would look of place and not be marketable. That is what I am trying to get them to prove.

Mr. Osmun – we would ask that this application be carried to the next meeting. We will measure the houses in the neighborhood and we will give you a clear picture as to what the size of this house would be if we didn't have to have these variances. Mr. Osmun granted an extension until the 20th of September.

**MARK & SANDY ALLEN**  
13 Westminster Road.  
Block 48.07 Lot 14.

**Calendar BOA 07-48.07-14**

Mr. & Mrs. Allen, Applicants  
Mrs. Siegel, Architect

Mr. & Mrs. Allen and Janet Siegel, Architect

Mr. Cooney read the Site Visit Report (A-16) of August 4, 2007  
(Present: J. Cooney, G. Nelson, S. Shaw, Bd. Attorney,  
applicants and J. Lane, Architect)

Ms. Siegel – I just have a couple of clarifying points. We are seeking the “C” variance. Two points of the variance mentioned in the last hearing were to make our case based on Hardship which would be relying on information based on size, shape, topography, exceptional situations related to the lot. The existing house style that was chosen for the site, goes back to the initial development. The length is a little wide then some of the other properties at the front which could be why the one and

one half story was chosen. The front porch is also a feature of the house and something we don't want to eliminate. Our proposal is not increasing the volume to the extent that it affects any of its neighbors. Some have two stories and some have added a story over the garage. I did check on the zoning requirements. I looked back on the dates and found the date that the zoning ordinance had changed – 1998. There was no separate building coverage at that time. So some of these houses that are past this 200 ft. radius, further down Wickham Way, have building footprints that are larger because they were allowed at that time. In 1998 they changed it to read entire lot coverage which included driveway/building and building coverage. That may be why this footprint is larger. Nine of the 17 homes within this radius are either maxed out or over building coverage which makes sense on the ordinance change. Therefore, in expanding this particular style we chose the options to stay with one and one half story as opposed to doubling the volume and creating a two story home. In looking at the "C" variance the other option was show that the benefits outweigh the detriment. What is proposed does not have a detrimental impact on the Character of the neighborhood. The addition will not only maintain but embellish the homes appearance from the rear by connecting the shed roof with the new gable that creates a balance with the existing gable on the back of the house. The over all rear is more appealing. From an aesthetic viewpoint, the variance will have a positive rather than a negative impact on the public good. The over all addition, combined with the front porch renovation, replacement windows, siding and new trim and present landscaping on the property will not have a detrimental on the impact.

Mr. Dalziel - those houses that have bigger footprints than this in the neighborhood also have bigger lots.

Ms. Siegel – no, not necessarily. Lots are very similar. Most of the lots in this neighborhood are in or around the 20000 sf.. The two that are over, as you were looking at lot 8 and lot 7 – they are 26,000 sf. What I found interesting is the one and one half story houses, which are similar in style to this one were both over in almost the exact square footage. Those were some of the original houses. The point I was trying to make is that that house basically, not knowing the current zoning that exists today is a hardship circumstance, that first floor was larger – that master bedroom was on that first floor where in the other homes all the bedrooms were on the second floor. Their second floor is smaller because it is in the dormer space. Yes, plenty of these homes have expanded even past the two story. They gone to two and one half stories and many of them have taken the space over the one story garage. Their volume is a lot bigger. You don't count volume in the overall. Only one neighbor has a good view of this back yard. They would be the only one impacted but they are negatively impacted. It is still a pleasing view.

Mr. Dalziel – I am trying to make a connection between what I thought I heard about the research on zoning as it relates to other houses that have larger footprints but similar lot size and how they compare to this lot. Was something in the zoning at the time that allowed those houses and this house to be bigger

Ms. Siegel – I am saying that. Prior to 1998 there was no distinction between driveway and house. It was all impervious coverage therefore the houses that are larger were allowed to be larger under that ordinance.

Mr. Dalziel – and where does it fall with this house?

Ms. Siegel – there was a question asked earlier. There are two additions on the back of this house or possibly one. One may have been original. Its hard to tell. There is obviously a second one. There was no date on it as it was prior to this owner. It probably happened legally within the ordinance based on the dates. They were conforming in building coverage at that time.

Mr. Dalziel – you are under total impervious?

Ms. Siegel – yes. The shed as it relates to total impervious coverage would not bring it over.

Mr. Dalziel – any question from Board/Audience. There were none.

Mr. Dalziel – said he would entertain a motion

Mr. Nelson moved to approve the application as presented which included variance for pre-existing patio and with the understanding that the shed would be moved within the proper setbacks for an accessory structure. Motion was seconded by Mr. Cooney.

Roll Call – In favor: Mr. Schmidt, Mr. Nelson, Mr. Godwin, Mr. Cooney, Mr. Quinn

Against: Mrs. Hough, Mr. Dalziel

Not Eligible: Mrs. Nelson

Mr. Shaw advised that the Resolution of Approval would be ready at the next regular meeting and building permits could be pulled after the Resolution is approved

Mr. Godwin made a motion to adjourn at 8:45 p.m.

Respectfully submitted,

Mary Ann Fasano  
Transcribing Secretary