



Mrs. Stillinger - The applicant was to give a Conservation Easement to the DEP as shown on the plans where Transition Area is shown. The Environmental Commission's request is that in addition the applicant gives a conservation on the identical property to Chatham Twp. The reason for that is that then Chatham Township has the right to monitor the property.

Mr. Shaw – what we are talking about is the specific – the DEP permit which I referred to – we would simply need to indicate – and convey the easement required to the Township as well – basically.

Mrs. Stillinger - applicant give a conservation easement on the identical property – which would need a second document to be signed.

Mr. Malman, Attorney – just for the record – we have no objection to including Chatham Township. Whether it is one document or two I don't really know. I will have to confer with the DEP, as it is their permit. We will abide by whatever they want us to do. We can add Chatham Twp. as a party to that. If they want a separate document then we can live with that as long as the DEP is in approval.

Mrs. Stillinger - it does have to go thru some channels – it has to be accepted by the Twp. Committee (formality) and Mr. Ciccarone will know how to handle the paperwork as will Mr. Carl Woodward, the Township Attorney.

A discussion ensued regarding the easement documents, should they be inclusive or separate.

A motion was made by Mr. Godwin and seconded by Mr. Nelson to approve this resolution of action as amended. Roll call vote: Nelson, Schmidt, Godwin, Quinn, Hough, Alcorn, Dalziel

### **Hearings**

**Raj & Tejaswini  
Maganti, 42 Mountain Ave.  
Block: 39 Lot: 13.01.  
Slope Disturbance C(2)**

**Calendar BOA 08-39-13.01**

Mr. Dalziel - We have a letter requesting that their application be carried/extend to January 22, 2009. They are waiting for a report from our planner.

A motion was made by Mr. Godwin, seconded by Mrs. Alcorn, all in favor to carry this application to the January meeting.

**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**

A letter was sent requesting that their application be carried to February as they are still resolving "Landlord" issues.

Mr. Godwin asked if the notices were in order or would they have to re-notice. After some discussion it was decided that because this has been long going and extended several times that the applicant would have to re-notice.

Mr. Godwin made a motion to accept their extension with the applicant being advised that they would have to re-notice. Motion seconded by Mrs. Alcorn. Board members all in favor.

It should be noted that because the Board Engineer was presently in the Township Committee Meeting the applications were shuffled so he could be present for the Village Super Markets, and Magistro applications.

**Mr. & Mrs. Part**  
**38 Rolling Hill Drive**  
**Block: 102.04 Lot: 71.**  
Building coverage

**Calendar BOA 08-102.04-71**

Diana Hoffman, Hoffman Architect  
Mr. Part. Applicant

Mr. Dalziel explained that basically tonight would be an introduction to your application. We will go over with you what your application is about, then there will be a site visit within a few weeks and then there will be a follow up hearing next month.

Diana Hoffman, Hoffman Architect and Mr. Prat were both sworn in.

Mr. Prat – we moved to Chatham about 3 years ago and to this home in November of 2006. We didn't take possession of the house until June 2007. The reason being is we had a situation where we bought a house half way thru construction and the builder failed to complete the house. We scramble to find another builder to complete the house. During that time we basically stayed in a rental place. This is something we should have done at time of construction but for whatever reason we did not get around to doing it. After living in the house and contemplating what we would like to have is an area outside that is covered, where we could put furniture outside – something we could use the greater part of the year. Diana has explained that we are looking for a building coverage variance for an existing patio (4110 ft allowable 3609 ft).

Mrs. Alcorn had to recues herself as I have had business transaction with Mr. Pratt – I was his agent for rental of property while his house was being completed.

Mr. Shaw – if you feel uncomfortable that is a good rule to follow. I don't think there is problem.

Mrs. Alcorn said she didn't have a problem with this application but felt she should advise everyone of our prior situation.

Mr. Prat had no problem with Mrs. Alcorn sitting on this application.

Diana Hoffman, I have the same boards as you have plus a photo board (A11) and colorized site plan (A12) that I would like to submit. Additionally, Exhibit No. - your sheet 2 is A13, sheet 4

is A14. What we did on the site plan was to show that it's a good-sized lot with a lot of green. The gray areas, immediately adjacent to the house, are paved with pavers/blacktop, etc. The little brown rectangular space is the roof area (flat roof) over the existing patio, which is outside of the kitchen. What we wanted to show on sheet 2 (A13) is that they have a good size kitchen and family room. While we covering the existing patio it's a very open structure with a flat roof with open rail. It has 3 open sides and some columns on top of an existing low garden wall that surrounds the patio. The reason for pointing out the size of the kitchen/family rooms are large is that they would never intend to enclose the proposed area. There is no need for it. The variance requested is the only one being asked for – all else conforms.

Mr. Hough questions the calculations – the ordinance has changed for that – are the new calculations included in this application.

Ms. Hoffman – we (my associate) did these calculations in September and reviewed the Township Zoning Official. I will double check to make sure when the ordinance was changed.

Mr. Prat – we just got the CO recently (about 6 wks. Ago) so recent calculations were made.

Mr. Schmidt – your building permit would have been issued under the old ordinance.

Ms. Hoffman – going forward – based on our calculations - A13 shows the openings on 3 size and is not even as deep as the existing patio. It is set in 4 ft. so that we can have a barbeque at the existing far end of the patio and not have it under the roof (eliminate fire hazard). The new open porch doesn't even totally cover the existing patio. For these reasons, because it is so transparent, it's central location, it doesn't present any visual obstacles to the neighbors we feel there is no detriment to the neighborhood and its consistent with the Township Master Plan. We hope that after you see the project you will agree with us.

Mr. Dalziel – the purpose of this is...

Ms. Hoffman – it's a covered area outside so that you can dine, sit in a shaded area or sit out in a light rain.

Mr. Dalziel – your photos show 4 different umbrella type structures out there ...

Mr. Prat - one is in the sandbox for the kids, one is by the pool, one over a dining table and the other is moveable where the kids might be playing. We don't want the kids sitting in the sun all day.

Ms. Hoffman – if you have ever sat under an umbrella and you're on the wrong side you can see that not everyone gets shade. You certainly cannot sit under an umbrella in the rain.

Mr. Prat – basically there will be an umbrella by the sandbox and one by the pool.

Mr. Dalziel - you define your application as a hardship... could you please explain

Ms. Hoffman - I think there are two ways you can present an application – one is hardship which is usually needed for FAR variances and the other is to say that there is no detriment. I would say that there is no detriment to this application. If we were covering more property then I would

say there was a detriment. But because it is so visually open and has a flat roof, which is more transparent and presents no water issues.

Mrs. Alcorn - so you are saying this is a C2 application.

Mr. Dalziel – this clearly shows that it is a Hardship File. You need to address the facts of hardship (how/why). Granted it's an oversized lot in the neighborhood with an oversized house. Things are pretty close to being maxed out and you are asking to exceed those. You need to prove why you need to exceed those numbers.

Mr. Dalziel – questions?

Mr. Godwin – I guess John can probably answer this - a built in barbeque – is that now considered an accessory structure?

John – you have to look at a structure and see if it's significant that you would consider it an accessory structure. We have had issues with fire pits. Some times it's small and not considered as an accessory whereas a larger one might be considered an accessory structure.

Mr. Dalziel – were you aware that at the time of purchase that the allowable numbers were pushing the limits.

Mr. Prat - no.

Mr. Dalziel – on your site plan you show an unlabeled rectangle behind the pool.

Ms. Hoffman – pool equipment. It's not a shed but a low fence with equipment behind it and it's been included in lot coverage.

As there were no other questions applicants were advised of a site visit on January 3<sup>rd</sup> – 9 am.

**Paul Magistro**  
428 River Road  
Block: 62, Lot: 79.  
Maximum lot coverage

**Calendar BOA 08-62-79**

Robie Wood, Architect  
Mr. Magistro

Mr. Wood – referring to the revised plan – essentially from the original proposal the revised plan (A27) shows the proposed garage shifted 8 ft. closer to River Rd. to allow for ease in the turning radius - The entrance to the garage being perpendicular to the driveway. There was some confusion last time regarding the numbers and the original zoning so I thought I go thru one by one – from the Engineers' report - The Max. Allowable impervious coverage is 4041 and previously we were at 4,821. By shifting the garage 8 ft. we added 180 sf. of coverage so the new total is 4929. On the principal structure I think there is a question about the garage being part of the house or not. This is one correction I have to the new zoning table – nothing was added to the structure/garage so the building coverage did not change from the 2213, which was on our original submittal. The last one in question was the height and I would note that the

garage structure would be 17.5' from mean grade. One of the smaller items that I wanted to add to the discussion was that as noted on the original site plan as it currently exists and relates to turning radius and the width of the driveway - it is part of the non-conformities is the minimum driveway width originally proposed as 19 ft (24' required) – now that the garage is shifted 8 ft. we can have a driveway and gravel area so the total will now be almost 27 ft. in width.

Mrs. Hough – when we were at the site visit there was another proposal that was discussed that would have taken part of the proposed addition into the family room and that would have changed the egress to the garage. Did you discount that?

Mr. Wood – no we did not. We did consider it. I looked at an option that turned the garage 90 degrees so that the entrance would come directly off Cardinal Hill Drive and it created other problems.

Mr. Dalziel – lets talk about the building width.

John Ruschke – since this application was submitted and deemed complete the ordinance change the definition of a garage. Previously the definition indicated that if the garage did not share a common wall that was heated with the existing structure or did not share a foundation wall of the existing structure it was not considered part of the primary structure. The new definition took out all that language so essentially if the garage is attached to the house its considered part of the structure. Again when this application was deemed complete the garage was not included in the max. allowable coverage for the principal structure but in the new ordinance it would be. That change in the definition of a garage also changed how we look at the width of the structure. With the width of the structure if the garage was taken out with the breezeway but now its part of the structure. In this case we would look at the width. However this application is in the R5 zone and the width requirements' are only in the R3. Width is not applicable here. The change in that ordinance did however impact the variance for the maximum coverage for the principal structure. So you have to add in the 281 sf for the garage into .....

Mr. Dalziel so what does that put us ....

Mr. Wood- I think that would have been in there for the impervious coverage so I think it's to 2313. As I understand the language says that garages would not count if it's attached being that is already counting as impervious.

Mr. Ruschke – so you agree that it goes up to 2340 if you add in the 281 it is 2421.

Mr. Wood – agreed.

Mr. Ruschke – that is why you are proposing 2702 for building coverage.

Mr. Wood – agreed

Mr. Dalziel – you pushed the garage toward the street for accessibility of vehicles?

Mr. Wood – said that was correct. In the original proposal we were trying to hold the line of the existing house so we would not further encroach into what is essentially the entire house being beyond the front setback. At the site visit it was deemed that it was a bit tight so if we could look at shifting it would help the access.

Mr. Dalziel – to come back to the house comment we also discussed pushing it to the south and since building width does not apply in this zone....

Mrs. Hough I am not understanding why the other alternative ..... That seemed to me the better one for this.

Mr.Schmidt – said he would disagree because he felt by doing that you would be incurring the side yard setback on the Cardinal Hill Drive Side and while it is sticking further toward River Rd. It seems to me that is the better one to intrude on being that the whole thing... essentially it is an unbuildable lot.

Mr. Dalziel – I don't think we have actually seen from the applicant what that proposal would look like.

Mrs. Hough explained what was asked of the applicants at the last meeting, the need for actual numbers etc. We asked that they come back with the plan they preferred rather than the many options they had proposed.

Mr. Wood – felt it was best to present the preferred proposal and go from there.

Mrs. Hough – what is shown is what was marked out on the property, correct?

Mr. Wood – said it was accept for the turnaround

Mr. Schmidt – the size is the same the position is different.

Mr. Wood - by moving the garage around we create different variances.

Discussion ensued

Mrs. Hough asked if Cardinal Hill Drive would ever be expanded so that if you were encroaching would it create problems later on.

Mr. Godwin - I believe there is a 15 ft. easement that goes down to River road allowing one of the property owners to have a River Rd. address because Cardinal Hill Dr. is not actually a road. To me this seems like the least intrusive for width/depth that you can manage to attain given the restrictions of the lot.

Mr. Dalziel – to counter that comment – I am looking at A25 which is the site plan option 2 shows the garage aligned in the same fashion as the house and it appears from the diagram that it is no closer, possibly a little further away from Cardinal Hill Dr., than the current proposal and it doesn't encroach in that area. It's also, rather than 20 ft set back 32 ft. setback and gives you direct access into the garage. I don't understand why this would not be a preferred solution.

Mr. Wood – to do that it took up part of the family room.

Mr. Dalziel – how much space did you lose... possibly the width of a door and a wall – maybe 4.5 ft.??

Mr. Wood – I am not saying we don't like the plan we just want to be clear to go with our preferred.

Mr. Magistro – that was what were the Marching Orders from the meeting last time. It was my understanding was ...

Mr. Shaw – I think the marching order was that we could not compare what the numbers were.

Mr. Magistro – understood but also was the idea that we should come with what we were actually seeking.

Mr. Dalziel – so you came in with the plan you preferred.

Mr. Magistro – this is my first choice. I did not want to sacrifice room in the family room. The appearance was another thing.

Mr. Wood – in creating the breezeway anyone could park in the driveway and have direct access to the house – pushing it away makes the route to the house that much longer.

Mr. Magistro – it would be more difficult to channel the front door if option 2 were adopted.

Mr. Dalziel – felt that architecturally option 2 was much more in character with the house. Do we have any comparison numbers?

Mr. Schmidt – the measurements are correct. Because the setbacks are flipped I think the actual numbers on the chart go the other direction... if you are looking at the front yard setback (75) and you are saying there are 32.86 existing as you move the garage down you get down to 20 ft. from the line – your moving further in the front setback – not less. The original setback is originally 75' minus 32.86' and you new setback (proposed) is 75' minus 20.25'. As you go down you move further into the setback.

Mr. Wood – the way I read it is that this is from the property line 75 required – existing is 32 and proposed is 20

Mr. Dalziel – the way the numbers are presented are correct.

Mr. Godwin – it is semantics – John how would you interpret the double negatives

Mr. Ruschke – I think it's the distance from the right of way line to the structure.

Mr. Wood – if I could just make one comment on the question of the coverage on option 2 – in order to keep within the side yard setback (25') the garage was roughly embedded about 4-5 ft. – 65 sf less of building coverage...

Mr. Dalziel – the size of the family room is still about 19.5 x 16 ft.

Mr. Wood – if memory serves me correctly – yes.

Mrs. Alcorn - option one was preferred because of the access to the front door. And if you didn't have that you would have to travel around the garage and across the front to get to the front door.

Mr. Magistro – I would basically be ripping out half of the lawn where right now Option 1 will keep the current walkway there and I could light. Option 2 I would have to add a significant amount of walkway and would start in the middle of the driveway, which might be a little awkward.

Mr. Dalziel – lets not use exaggerated terms – half the lawn is not realistic expression of what really has to happen. On option 2 – the dimensions of the garage – from the existing house to the end of the garage is shown as 17.4’ your proposed garage extension is 13.5’ plus the width of the breezeway – in fact its almost the same. So really the extended link of whatever sidewalk you might have would be the width of the garage which 13.5 ft.

Mr. Magistro – it would have to come all the way out until the middle of where the.....

Mr. Dalziel – I am just saying from the access point of the driveway at the breezeway or beyond the garage the difference is about 13.5 ft.

Mr. Wood - I disagree

Mr. Dalziel – the map is right here on the plan

Mr. Wood – its got to be this way plus that way versus thru a breezeway – in other words you are going to go 13.5’ plus whatever the extension is coming out into the driveway.

Mr. Dalziel – but the driveway is as wide as the garage is – the sidewalks will come over and meet with the driveway. If you are parking a car in front of that new garage - where the sidewalk is –it would be 13.5 ft. beyond the breezeway. To me that doesn’t sound like that big a deal. If I understood your testimony correctly it is not about access from the garage but about people coming to visit and using the front door.

Mr. Wood – in option 2 – in order to allow for that access to the garage entrance would mean further widening of the driveway as well that would offset some. The small amount you save in building coverage if you were to add roughly half the width of the garage by about 30 ft.

Mr. Dalziel – I think, that could be mitigated as well. Again we don’t have numbers showing the coverage for option 2 but if I look A102 of A25 option 2 you have a proposed garage that is 13 ft. wide – how wide is that door that where the car would actually park – 8 ft?

Mr. Wood – 9 ft.

Mr. Dalziel – you are showing the driveway coming out to the very corner of the garage when it doesn’t have to come that far. The door could be offset a little in the garage – there are ways to mitigate that a little bit and reduce the coverage. It doesn’t have to be as you have shown it. From a front setback standpoint, frankly in my opinion and an aesthetic standpoint, I don’t agree with you plan.

Mr. Dalziel asked for other comment/questions from the Board

Mr. Godwin - If I were doing it I would go with option 1 for convenience of access and think it’s least intrusive.

Mrs. Alcorn – I think aesthetically it has some balance.

Mrs. Hough – I don't think its objectionable but I do think that the façade on option 2 is better than having the projection of the garage. It is a tough lot to do anything on.

Mr. Dalziel asked for other comment/questions from the audience. They're being none the public portion was closed.

Mr. Dalziel – asked if there was anything else from the Board.

Mrs. Hough – because of the nature of the lot whatever is done you will some relief. I personally think the other option is a better look/solution

Mr. Dalziel – asked for a motion on this application. Before the vote is there any landscape plan.

Mr. Wood said not at this time. The walk way is almost in the identical spot. The is one tree that might have to be removed because of its proximity to the front of the house.

Mr. Ruschke said he did ask for a lot-grading plan re: driveway, wall construction, etc.

Mr. Nelson seconded a motion made by Mrs. Alcorn to approve Option1. Roll call vote: In favor - Nelson, Schmidt, Godwin, Quinn, Hough, Alcorn. Not in favor: Dalziel

Mr. Dalziel said the resolution would be ready for the meeting in January 2009.

Mr. Shaw – in answer to a question raised by Mr. Wood advised that variances we grant now would be good until 2011. The time periods has been tolled. A memo will be out on that.

**Phil Ortolani**

27 Pembroke Road

Block: 16 Lot 7. Front yard setback

**Calendar BOA 08-16-7**

Phil Ortolani, Applicant

Jeffrey McEntee, Architect

John Piel, Environmental Consultant/Professional Planner

Mr. Dalziel explained that tonight would be an introduction to your application and we will go over what your application is about. There will be a site visit within on January 3<sup>rd</sup> and then a follow up hearing next month.

Mr. Ortolani – my wife and I have resided in Chatham Township in 2000. We are active in the community and Corpus Christi Parish. Our 3 children are currently in the Chatham School System. Our existing home is a 2 story colonial on Pembroke Rd with 2246 sf of living space, 2.5 half baths and a two car garage. I am hear to discuss our existing front portico, which is in horrible disrepair. The masonry platform has settled and is pulling away from the house, the columns/roof are rotting. The actual platform is only 3.10' deep and provided very little coverage during inclement weather and is a safety concern and needs to be replaced. There is

awkward and clumsy access in/out of the house because of the size of the platform. In addition the entrance hallway does not afford much room for circulatory purposes. There is a bedroom located above the foyer occupied by my 16-year-old son and that room is only 13 x 9 ft. with minimal wall space for furniture. We are seeking a C2 variance in order to construct a two-story addition with a portico at the front. The addition will allow for a safer portico, more living space and additional room in the foyer.

Mr. Dalziel - I see a plan by David E. Fantina, NJDEP Permitting Plan, showing a proposed addition in the rear as well. Can you explain what that is?

Mr. Ortolani – he prepared a plan in coordination with this variance application. The proposed addition to the rear is also going thru a permit process with the DEP. Variances are not required.

Mr. Dalziel – and the DEP permitting is for what.

Mr. David Fantina, PE- the reason both additions are on there because virtually the entire lot is in a wetlands transition area. There is a small wetland in the rear of the property, which encompasses the whole property. In discussing options with Mr. Ortolani his primary desire is for this front addition/portico. Because DEP approvals are needed for all of this property he included the rear yard to the DEP at the same time. Both of those services comply with the general permit. The total disturbances are less than 750 sf on the ground and that complies with that vey minor permit – so that is why both of them are included.

Mr. Dalziel – asked if the rear addition was a one or two story addition. He was advised that it was a one story. Mr. Dalziel then asked if the principal building coverage numbers that Mr. Fantina shows include that rear portion as well? Your number of 40.3 ft. is to the covered portico, correct not the enclosed portion of the house? ..... Applicant answered that it was to the columns on the portico. When asked if the dimension were shown to the actual face of the extension he was referred to drawing A2. Mr. Dalziel then asked for questions from the Board.

Mrs. Alcorn asked how big the portico was at present and was advised it was 3 ft.10 inches and 8 ft. wide.

Mr. Dalziel – your height on A1 is 24.4” is that a height that complies with the zoning ordinance or is that measured...

Mr. Fantina - 24.4” is a grade elevation at the front door to the existing ridge.

Mr. Dalziel – I would encourage you, although you are well within the ordinance, there really should be dimension that complies with the measurement definition of height.

Mr. McEntee - said it was on table A... under zone calculations.

Mr. Dalziel – your left side elevation shows a slope to the lot so I am saying is that the elevation measurement is defined other than grade at front door. Generally the accurate number should be there since you are building a second story addition w/roof. I think it may be a little bit more than 24 ft. but not by much.

As there were no other questions from the board/audience Mr. Dalziel advised applicant that there would be a site inspection on January 3rd – around 9:30 am. If possible he asked the applicant to stake out the area affected.

**Village Super Markets, Inc.,**

**Calendar BOA 08-48.17-126.04**

641 Shunpike Road.

Block: 48.23 Lot: 126.04.

Use Variance and Waiver of Complete Site Plan

Tape id 1:32

Jay Delaney, Attorney

Mr. Pavese – Planner/Architect

Mr. Sumas, Executive Vice President

Mr. Gordon Meth, Professional Traffic Engineer & Traffic Safety Expert

Mrs. Vicki Capenegro, Floral Manager

Mr. Delaney – we are here with revised plan (colorized rendition of plan previously submitted A24 revised 10/23/08) and we would like Mr. Pavese to explain them.

Mr. Pavese - We have added color to the area in question, landscaping, paved sidewalk and the raised cross walks (one on east/west) as previously discussed. Signage will be added to the cross walks (stop/yield). These changes have been discussed with Mr. Neff. At the last meeting you asked us to do a typical layout of the landscaped areas so we did one for spring/fall. In the spring we mostly have flats in the area so we created isle ways with flats. There are crosswalks about 30” in the center and crosswalks in between the flats. The fall layout is mostly pots (8” +-) and again we have oriented it with crosswalks in both directions. We have worked with Mrs. Capenegro and have utilized her input. Basically the changes are what we have discussed.

Mr. Dalziel – so how would the various arrangements here be delineated/monitored/staked out – how will that work – how will you maintain this pattern you have created.

Mr. Pavese – there is no delineation on the ground, its all mulched area. It is up to the manager to maintain it. What is shown is just a possible way to lay this out. Unless we put pavers or something in the ground to delineate it....

Mr. Dalziel – that kind of goes to the issues we have previously had. This is nice and good that you have put dimensions and everything on here but what does it really mean. How is the going to actually take place on a consistent/regular basis? I will go back to my phrase “ looks first class in this town”

Mr. Delaney – I think we have worked out with Ms. Capenegro who has been the floral manager for 20 years that she will comply with this. This will be a trial basis for one year. I think we understand our obligations to comply with all the previous conditions and this would be a condition of the application to see that it is kept in this particular vein. He will visit the site once a week to see that it is compliant and has an aesthetic look to in compliance with what plans have been submitted.

Mr. Dalziel - just for clarity your statements now counter what he just said about this may not be the arrangement. I want to make clear... is this the arrangement or is it not the arrangement. It goes to the issue as to how this place becomes managed.

Mr. Delaney – we have Mr. Sumas, here who can testify that it will be in conformance with the plan and that is what the intent was. Certainly if you would like we can do that.

Mr. Shaw – what you are indicating is that they would stipulate to comply with the flower layouts delineated on the plans.

Mr. Delaney – absolutely

Mr. Sumas, as I indicated at the last meeting I will oversee and if we don't do what we say we will do then you take it away.

Mrs. Alcorn – re: delivery of flat material... does that go around to the back of the store by the loading dock. How will the plants be brought to the store? They won't be dropped at the front?

Mr. Delaney said Mrs. Capenegro could answer that. I believe she gets a combination of both – thru the store and out to this area and in busy times she gets them up front.

Mrs. Capenegro – the busy seasons sometimes the cart size will not make its way to receiving in the back because of a height problem. It's easier for the growers to deliver them to the front. They are usually in & out within 15 +/- minutes. Deliveries are made in the morning and some later in the afternoon (between 4-5) when we are not busy. We start getting the customers after 5. We have never had a problem with the deliveries nor have we had any customer complain about the unloading of plants. The greenhouses unload for us and help some of our male employees unload/unpack. I will just have to teach them to set them up according to Enzo's schematics. One of the things I like to do is keep my plants in blocks of color. And because I look at it as a block it would be easy to see how many I could block. You want a nice up/down affect. After thanksgiving there will be evergreens etc. and we would propose the block system for that as well. We do not sell cut trees. We do sell winter hardy potted Christmas Trees. It will be aesthetically pleasing and kept immaculately clean. The flats we be set in single layers and replaced as sold.

Mr. Dalziel – the additional floral area against the building is that to be more of same – like what is there now.

Mr. Capenegro- that is correct. The carts that are there now we would propose to continue all the way up to the ramp/railing next to the exit door.

Mr. Banisch - the surface of the area that would be the selling space is the mulch area?

Mr. Delaney – yes

Mr. Banisch - what is the nature of any cart/flats any other kind of display components that would be brought into that area?

Mr. Delaney- everything will sit on the mulch. There is a gentle slope to the sidewalk and as Vicky said it would either be potted plants or flats, which will lay on the much giving it a natural look. No cinder blocks etc. will be in the area.

Mr. Banisch, concerns about the mulch surfaces only is terms of appearance on the site plan. What I am really concerned about is what it will look like when you are not selling plants etc. What will it look like then?

Mr. Delaney- what we are proposing to do, obviously this is spring, summer, fall and possible some of March, up until Christmas time – it really the months of January/February and part of March that they will not be anything there for sale. We are proposing to plant evergreens in the area to stabilize the much and it will appear green and look nice thru the winter months. Come springtime they will either be sold or removed.

Mr. Dalziel asked for question from board/audience for this witness... there were none.

Mr. Delaney asked Mr. Meth to testify

Mr. Meth, Professional traffic engineer & traffic safety expert – said he had worked with Mr. Pavese on this project as well as attending the last meeting testifying to safety. Last meeting we discussed in great detail what it would take to improve the pedestrian safety in the shopping center and the one thing we talked about that I felt the board kind of concurred with was the raised crosswalks. They are not as extreme as a speed bump but effectively a mechanism that would make a vehicle slow down. We gave a detail to Mr. Pavese to add to his plans, which included crosswalks. Mr. Pavese explained where they are located. The way they are designed is that they will be 10 ft. wide on the top, wide enough for customers to pass each other; the approaches will be five ft. wide on each end with a 3” rise with a slope of 5% (less steep than handicap ramp). That being said we also added signage at the bend in the road (re: A24) so we have taken the opportunity to position a few signs by the crosswalks. One is a high visibility pedestrian crossing sign and added a regular sign, which basically reminds motorist to yield to pedestrians in the crosswalks. In my professional opinion I am comfortable with the crosswalks and believe it’s appropriate for the site. Its strikes a balance between the needs of pedestrians with carts to circulate and the need to slow down the vehicles. The benefits would be raise awareness of potential crossings at our proposed outdoor display area, which would also enhance the utilization of parking spaces adjacent to it. It will raise general awareness of pedestrians of the shopping center.

Mr. Dalziel – I noticed after our last hearing that there are actually some signs in that location. Are they to be replaced?

Mr. Meth – these are replacements. There are crosswalk signs but they are not high visibility. They are designed according to all traffic control regulations/standards.

Mr. Schmidt - if I understand the signage the down are will be paired with the diamond shape pedestrian on one post and the yield to would be on another post – side by side.

Mr. Meth – that is correct. The diamonds shape with the down area is the required markings for a crosswalk. The other sign is motorist attention and is placed further into the roadway so it gets more attention. They are side by side but one is closer to the entrance than the other. The second sign is not really part of the standard treatment, it’s an extra sign added for general

awareness. I wouldn't put it on the same signpost because the sign get to high and you don't want people hitting into it.

Mr. Schmidt - it trying to get the visual I wonder if it isn't to clutter or perhaps redundant. If it's a safety issue – then it's a safety issue.

Mr. Meth – you have to think of it as two signs side by side.

Mrs. Alcorn – if this was a new shopping center being developed with an exterior plant area is what you would recommend or would something different have to go in – based on new operation based from square one.

Mr. Meth – this isn't very different from what I would design on a new shopping center. It is hard to say if it would be exactly the same because what you have in this shopping center is a situation where the main drive isle runs continuously from Southern Blvd. to Green Village Rd. It lends itself to almost being a cut through. I would generally try to enter people into the site and make them turn rather than have a straight shot. That is really the only difference. This is an existing condition on this site and might have caused all the concern in the first place. I also don't know if this change is of a magnitude to make redesign that.

Mrs. Alcorn – in terms of signage, crosswalks...

Mr. Meth – I would design the same treatments.

For general information store/shopping center size and possible alternate uses was discussed.

Mr. Dalziel – re: raised crosswalk – this may be a question for Mr. Pavese – The detail shows a height of 3 inches above pavement, where this meets the two sidewalks coming from the building will the sidewalks be modified to meet flush with that 3 inches or will it be butted into the3 existing curb or will there be a 3 inch lip... what will you do.

Mr. Pavese – I think the intent would be to continue the cross walk up into the crosswalk across the sidewalk. We would marry it up to match – flush transition

Mr. Godwin – I am wondering if the water collects there and in the winter freezes what could you do.

Mr. Pavese said they would look at the grade. Obviously we will not create a dam in that area. If we have to catch the area beyond the crosswalk we will.

Mr. Meth - you may have to add you may have to add a cut through into the island to take the entrapped water out into the rest of the parking lot.

Mr. Ruschke – one of my comments regarding the plans is that it is lacking construction details. You don't know how thick the concrete is, type of steel if any, edging etc. These drawings are purely conceptual and elevations will be needed. For presentation purposes they are fine but for construction they need to be more detailed.

Mr. Delaney – we will do all the engineer requires.

Mr. Ruschke – there are 4 crosswalks you are proposing to. You didn't think there was a need to address the others.

Mr. Delaney – the two that we created are the gateways to enter the pedestrian zone, as it was. Adding two more would not add any more.

Mr. Ruschke – if you do address the other two I think the transition would be to close to one another. It could be problematic.

Mr. Delaney – those two are fairly close –

Mr. Dalziel asked for questions of the board/audience - there were none.

Mr. Ruschke if the Board is to consider a Resolution of approval we should mention the fact that there is going to be an increase in impervious coverage (157 sf) and we are already at 88.8% so it should identify that there will be an increase. There is also an increase in retail area, which impacts the parking requirements, and parking requirements is also a variance. It is a relatively minor increase but should be identified.

Mr. Dalziel – where does the parking stand now in terms of its ratio?

Mr. Ruschke – prior site plan approval it was deficient.

Mr. Godwin – the realignment of it has addressed some. They have added some.

Mrs. Hough thought that reconfiguration brought it up to compliance.

Mr. Delaney – I think we have had testimony that this will not generate any new customers.

Mr. Ruschke – I think it should be mentioned/addressed.

Mr. Banish- I don't think you can interpret this the same ..... nor can you discount the fact that some will make purchases at the time they do their grocery shopping. The thought that new trips will be generated just because of the plant area is not typically the way it is viewed. As a parking requirement it accrues to filled space not that it can't be argued that it is appropriate that you would need more parking for the outdoor display areas but I don't see this as generating substantial additional parking.

Mr. Godwin – you think this is more of an impulse buyer from seeing it rather than a destination.

Mr. Banish – it does a good job of catching your eye on the way to your car.

Parking requirement discussed. Mr Banish and Mr. Ruschke thought parking was not an issue.

Mr. Delaney – thanked the Board for their consideration. We filed this Application in February seeking a D1 variance to expand the outdoor sales. We came before the Board in May and the chair pointed out some deficiencies in our past approvals. We took very serious active steps in May and June to comply and I think we have reflected that it has been done. We had the June site visit. During the course of the ensuing meetings we made significant changes to comply with some of your concerns. We hired a traffic expert who has given excellent testimony and planning. I think this will be a great improvement to the site in terms of aesthetics. Right now if

you go there it's a vacant site. Your residents want this. It's your town and your residents patronize the store. They like what they see. We could have brought in hundreds of your residents who think this is a wonderful thing. I think the fact that we have good prices and available products is useful for the community. When you look at this I think, at the end of the day, it makes a lot of sense, it certainly is a benefit for the site, and we respectfully ask that you approve this application.

Mr. Dalziel – first of all are there any comments from the public – none heard.

Mr. Dalziel – said he appreciated what the applicants had done to take into consideration the Boards comments/concerns and working with the plan to create a better application. My overall concerns are with enforcement. You have had problems in the past, and although I can appreciate the availability of a cell number that I reach out to its not something I would as its not my place. Making sure this doesn't turn into what it was is a real concern to me. I don't know how to resolve that other than a promise, but track record has some weight here, in my mind.

Mr. Delaney – we have offered/requested a one-year approval. If this does not work than you have a right to turn us away.

Mr. Dalziel – we had that the last time and it lasted for a year and then they fell apart. I don't want to do that again. I am very serious about the way this looks. The aesthetics, safety issues, etc. are very serious to me. I like the plan I see, I think its an improvement to what is there now but I really have concerns about this temporary approval and what happens after we go forward after that. Its easy to maintain the good looks for a year and then you come back and we agree to go forward and we give final approval you are good to perpetuity and things fall apart. If you can address that concern for me then we go from there.

Mr. Dalziel – if you want to review the photos I took in April/May you will see what it looked like then which was in disregard to the spirit/nature of approval that you previously had. Other than slapping you with a fine, which is not the place of this board, we are powerless to do anything about it.

Mr. Dalziel - I have been shopping here for the last six months and I know they are in compliance because there is an application before the board. When this application was filed you were not in compliance and in fact, when we went to the site visit there was still some things there that should not have been. To me – enforcement is a problem and the stores ability to maintain order.

Mr. Delaney – we have offered to do this on a test basis for a year and if you want to extend that beyond that – if you want to have 2 year or come back periodically (1,2,3 years) and keep it at risk if we are not in compliance. I don't have the authority of the applicant but it is something you could consider.

Mr. Dalziel –. Do you want to put the previous approval at risk?

Mr. Bannish - I understand your suggestion re: previous approval but what risk would they be at?

Mr. Dalziel – losing their previous approvals. It may not be my right to ask but that what I feel.

Mr. Bannish – it is a viable offer but if you had 3 annual hearings, where they came back to you and said, “how are we doing” then at least for 3 full years you wouldn’t have a problem and you would be creating a pattern of behavior.

Mr. Delaney – Mr. Sumas is agreeable to the three-year review (yearly)

Mrs. Alcorn – re: safety – I do think you made great efforts in changing the plans but you cant change this straight away thru the shopping center and she felt this was problematic. You are adding to a traffic pattern for customer flow to an exterior area, which was never meant to be for sales. I still have concerns about that. I do feel there are things you really cannot control in this particular parking lot due to the existing nature.

Mr. Quinn - I was going to say the opposite. If we deny it and leave it, as it is I think it is more dangerous. The raised crosswalks are a great safety improvement. I don’t think there is anything in the new area that they are doing is making it unsafe.

Mr. Schmidt - I would take your comments even to the other areas. If we look at the 3 areas of concern, Larry the existing displays are already approved which we (if the application went away) we have no jurisdiction over. The enforcement part of the town has that. As it relates to the current area under the proposal and how that works, what it’s used for and the safety issues on all three I think we are starting with an imperfect situation. We cannot change the traffic flow, the existing area is as it is and the existing displays as they are. I think that in this imperfect situation we are significantly enhancing the safety, which is a primary concern. I do think that as proposed here, with the single displays/layouts in this manner as well as with the landscape, relative to what currently exists, and again, and outside of or jurisdiction, that this is an improvement as well. Likewise as it relates to enforcement the offer they have on the table for the enforcement of this area really gives us a lot more than what we see in any other situation. The homeowner gets approval we don’t look for assurances that it will be in compliance with the no paint-peeling ordinance. I do think we are getting a very good level of enforcement, whether you can reach back, or if its appropriate to reach back, or permissible to reach back the third part of this (the existing displays) is questionable. I think from the situation, from where we are starting, I see some very substantial improvements.

Mr. Bannish – if the old conditions were violated we have that list as well so if there is an enforcement element here that you think presently doesn’t exist we now have it for 3 years.

Mr. Dalziel – I would agree with all of the improvements, my wish is that it doesn’t turn into what it was before

Mrs. Hough – I understand the enforcement issue, I don’t know anyway we could enforce it more than having them come back, certainly next year and they have agreed to come back for 3 years. That would be acceptable.

Mr. Hough - I think that is an extraordinary way of enforcement.

Mr. Godwin – to some extent I am with Larry, I was on the board that approved the original application. I most appreciate the fact that he did not bring in 1-200 customers to testify before the board but I don’t know if there is a good way to guarantee it. The 3-year renewal may be the best option available.

Mr. Delaney – I am hoping we don't have to come back. I am hoping that a year from now we will receive a letter stating that we are in compliance. You have gotten our attention.

Mr. Nelson – the only recourse we have is to have them comeback each year for 3 years.

Mr. Bannish – can I make one observation – the significant traffic that we all share and we have talked about before the lot was modified means that the corbelling public benefit from this application doesn't come from better plant material but comes from the very strategically located opportunity to slow that traffic down. I think that commends this application on a pretty high level. When we talk about other things that might/might not be perfect that makes an improvement that rises to the level that merits real serious consideration.

Mr. Dalziel – and I agree with you.

Mr. Shaw - there are other enforcement mechanisms. The township has an act of zoning enforcement process. The zoning officer went out to inspect issues like this. It's not our problem but the Township responsibility thru the zoning officer to enforce all conditions. I would suggest that if after 3 year it then gets turn over to the zoning officer for enforcement I think incumbent upon the Township to have active zoning enforcement. It's a commercial property and that should be a responsibility of the zoning officer.

Mr. Dalziel – need to run over our conditions - 1) subject to submission of construction details for all of the site improvements; 2) annual review for 3 year period (starting 1 year from date of approval with applicant taking active role); 3) existing conditions will be incorporated in this; 4) the plans for the planting depicted on site plan w/b complied with as standard layouts – January/February plans/drawing to be submitted to Mr. Banish

A motion made by Mr. Quinn moved to approve this application with conditions as discussed, which was seconded by Mr. Nelson. Roll call vote: In favor - Nelson, Schmidt, Quinn, Hough, Alcorn, Dalziel Not in favor: Godwin

**Franklin Melnick**  
**16 Meyersville Rd.**  
**Block: 55, Lot: 15.**

**Calendar BOA 08-55-15**

Front yard setback/height variance

Mr. Dalziel explained the procedure noting that tonight was just an introduction to your application. Following this meeting there will be a site visit on January 3<sup>rd</sup> and then a follow up hearing next month.

Mr. Melnick - there is old say that an “attorney that has himself as a client has a fool for a client”. I was a foolish homeowner who tried to be his own architect and made some drastic mistakes. This started when Mr. Schmidt requested that I remove an existing shed that was unsightly on the property and I complied with his wishes (2006). At that time I was going through a career change, son was in college, finances were not at their best so having times on my hands I decided to build a garage to replace the shed on my own. I did my own drawings and submitted for permits. I got approval for the building of the garage. I would like to submit 2 of

the pages of the approved permit – A20-1, A20-2. At one point it states the maximum height and the distance from the property line (15 ft.min w/18 ft. max height).

Mrs. Hough – is the garage built... Mr. Melnick said it was.

Mr. Dalziel – is the garage in the northwest corner of the lot.... He was advised that it was.

Mr. Melnick – I had asked Mr. Schmidt to assist me somewhat to make sure I did not make any errors because I was doing it on my own. Everything was inspected as required; it was only after the structure was complete that I was informed that I was 2 close to the curb. Unfortunately I did not realize that my property line and the curb line were not one and the same. My error. At this point I built a structure is very nice. I built it because my intention for the property eventually is to demolish the existing structures on the property and put up a house that would be appropriate for what Chatham has become. I thought this would be a structure that would enhance the property for the future. I thought I was improving the neighborhood. At this point I can only ask that you can approve the variance. I had a stop order so there is building material around it – I intended to do a nice brick paver driveway w/flagging.

Mr. Dalziel – asked why it was so far away from the house.

Mr. Melnick – said that was where the shed (30 x 25) was. When I spoke to the zoning official (Schmidt) I told him I wanted to replace this, I need storage, etc. He suggests I build it here. When questioned where the driveway was he advised that it comes in from Chestnut. The garage will service the new house, which I propose to build in a more central location on the property. The garage is totally constructed and just needs final inspection. The permit for the Township was 500 sf. I later hired an architect and he looked over the plans and came up with the figure of 493.35 sf. I am not sure where the 535 sf. Came from. The present height of the building is 18 ft. 3 inches. I did not understand that the 18 ft was not from the slab (it is less from the slab) but 18' relative to an average height of ground around it. The ground does fall away on one side. Original plan that was approved was passed around (it had a visible plan approved stamp) I did not purchase an ordinance; I had asked for Mr. Schmidt's help and thought I was doing it correctly.

Mr. Banisch - need to clear by what we have been told. It sounded like the shed was 30 ft by 25. We have the old survey and it looks like it was smaller. If you say that Mr. Schmidt told you to build pretty much on the foundation of where it was that would have more closely conform to the ordinance. It looks like you built it between where the shed was and street line.

Mr. Melnick – the front of the garage is pretty much where the shed was. Now it's back further. The south side is where the shed had started. My house plans included a 3-car garage and this would be a separate structure used for additional cars, lawn mowers, etc. I was trying to look to the future.

Mr. Dalziel – you mentioned engaging an architect – for what purpose did you engage him for at this point.

Mr. Melnick – when everything started coming down I was required to have a surveyor and I then went with an architect. He has done some measurements for me.

Mr. Dalziel – questions from board/public. – Statement will be heard at the next meeting

Mrs. Martin from 20 Chestnut Road. The garage is close to Chestnut Road but it is raised up quite a bit. How do we measure the height? She was advised of the measuring process.

Mr. Martin – we received notice of this meeting yesterday so I am not sure that was adequate notice.

Mr. Shaw – the statute requires that the property owner to send out certified mail 10 days prior to meeting. If they have sent it 10 days before and have proof of same that is all that is required.

Mr. Dalziel said a site visit would be scheduled for January 3 around 10 am.

Motion to adjourn the meeting was made by Mrs. Alcorn seconded by Mr. Nelson.

Meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Mary Ann Fasano  
Transcribing Secretary