

CHESTER BOROUGH  
LAND USE BOARD  
February 13, 2020

The Regular meeting of the Chester Borough Land Use Board was held at the municipal building located at 50 North Road on February 13, 2020.

**Opening Statement**

Chairman Kenneth Kasper called the meeting to order at 7:03 p.m. Adequate notice of this meeting was given as required by the “Open Public Meetings Act” as follows: notice was sent to the Observer-Tribune and Daily Record, posted on the bulletin board in the Borough Municipal Building and filed with the Borough Clerk.

**SALUTE TO THE FLAG**

**ROLL CALL**

**Present:**

Mayor Janet Hoven, Class I  
Kerry Brown, Class II  
Kenneth Kasper, Class IV  
Anita Rhodes, Class IV  
Donald Storms, Class IV – late  
Chris Heil, Council Representative, Class III  
Edd Creter, Class IV  
Adam Sorchini, Alternate # 1  
Michael Ferrone, Alternate #2  
Stan Quintana, Alternate #3

**Absent:**

Stan Stevinson, Class IV  
Jennifer Cooper, Class IV  
Paul Ferriero, Board Engineer  
Steven Bolio, Board Engineer

**Also Present:**

Richard Marcickiewicz, Board Attorney  
David Banisch, Board Planner  
Jess Symonds, Engineer.  
Sarah Jane Noll, Recording Secretary

**Minutes** – The minutes of the January 9, 2020 meeting were not approved. They will be available at the next meeting.

**Larison’s Turkey Farm** – application for demolition of existing garage structure. Anthony Sposaro, Esq. was present on behalf of the applicant. A report dated February 4, 2020 from the Historic Preservation Committee had been received and it was noted in the report that the Committee takes no exception to the demolition of the garage.

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The following exhibits were entered into evidence:

**Exhibit A-1** – Photos of garage

**Exhibit A-2** – letter dated February 4, 2020 from the Historic Preservation Committee

**Exhibit A-3** - Report submitted by Planner David Banisch dated February 13, 2020.

Mr. Sposaro reviewed Mr. Banisch's report which set forth reasons which would support the demolition of the garage. Terry Chaffee was sworn in and testified that the photos had been taken a week ago and that they have not been touched up in any way.

There were no questions of the witness by the Board members or the Professionals.

Anita Rhodes moved to open the public portion for questions; Janet Hoven seconded the motion which was passed unanimously by the board. Since there were no questions from the public; the public portion was closed.

Mr. Sposaro asked that they be allowed to demolish the building now and not have to wait for further action.

Chris Heil moved to approve the request to demolish the garage; Donald Storms seconded the motion, which was approved by the following roll call vote:

**AYES:** Janet Hoven; Kenneth Kasper; Donald Storms; Chris Heil; Stan Quintana; Michael Ferrone; Edd Creter; Anita Rhodes; Adam Sorchini and Kerry Brown

**NAYS:** None

**#2019-05 – Seneca Development Group – 26 North Road, Block 115, Lot 8, R-HD Zone.** This application was carried from the December 12, 2019 meeting of the Land Use Board.

A report prepared by Paul Ferriero of Ferriero Engineering dated February 10, 2020 had been submitted.

Mr. Heymann, Esq. was present along with Nicholas Wunner engineer, who reviewed the plans and the revisions that had been made as a result of the December meeting.

Using the following exhibit which was entered into evidence at the December meeting, Mr. Wunner explained the revisions that had been made

**Exhibit A-6** – Plan dated 7-24-19, revised thru 1-7-20. It is a colorized version of the grading plan and it addresses the comments of the board at the December, 2019 meeting. The gravel driveway and sidewalk were removed and showed the existing driveway and the proposed berm on lots 8.01 and 10 and a series of drywells. Sheet 5 of the plan shows the driveway profile. There will be 2 sets of drywells; one by the house to handle roof runoff and the 2<sup>nd</sup> set of drywells near the driveway will handle the runoff from the site. Because of the construction of the berm, two trees will need to be removed. The driveway width will remain at 40' and the utilities can be installed under the driveway.

The Board members asked questions of the witness. It was explained to Mr. Storms that the proposed driveway location is so that they would not remove the trees.

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Paul Ferriero's report was addressed by Mr. Wunner. The applicant has agreed to # 3, 5, 6, 9, and 10. # 4 will be put in the deed; # 7 has been submitted; #8 lot numbers were approved by the Tax Assessor; # 11 is standard. # 12 – the applicant will show the 50' setback all around the property. Since the applicant is proposing a 50' rear setback and not the required 75' setback, a variance will be required.

Entered into evidence were the following exhibits:

**Exhibit A-7** – Photo of tree in the lawn and the buffer.

**Exhibit A-8** - Photo showing the thickness of the shrubbery.

The report dated February 13, 2020 prepared by Mr. Banisch was addressed.

Mr. Wunner objected to the word “**unusable**” in # 2 of Mr. Banisch's report. #3 can be addressed by the property owners. Mr. Banish explained #4 regarding the intersection of the water and his concern that there will be ponding. Mr. Wunner felt that the applicant only has to address the increase in runoff for the impervious. Mr. Symonds then addressed this issue. It was the opinion of Mr. Symonds that the storm water proposal is large enough to handle the small storms but there may be a problem addressing a 100 year storm. It is sized for the additional impervious with the exception of a 100 yr. storm. It does address the issue of today and that the soils are very sandy. Anita Rhodes asked Mr. Wunner to give the size of the proposed berm which he described as being a 5' wide x 180' long landscape berm. Mr. Wunner reviewed the reasons for the location of the berm. Mr. Banisch suggested a different location for the berm. Mr. Banisch advised that since this is a negative criteria case and that there have been complaints by the neighbor about water runoff, it is his opinion that what is proposed does not address the problem. He then went over both the negative and positive criteria. There was discussion about restricting structures within the dogleg portion of the lot. This was addressed in # 2 of Mr. Banisch's February 13, 2020 report. There was discussion on # 3 and the need to label the buffer on the plans and that supplemental landscaping should be located out on the site. The relocation of the berm was discussed with Mr. Symonds suggesting that the berm could go around the trees so that two trees would not have to be removed. # 4-d was discussed and there was agreement to have a field investigation. The applicant agreed to shield the lights which are to be directed downward.

The wording of #3 in Mr. Ferriero's report will be put into the deed word for word. The applicant agreed to have wording put in the resolution addressing the maximum impervious coverage as in #3 of Mr. Banisch's report. The rear yard setback was discussed. It was noted that the Borough of Chester owns the land to the rear of this property. If the board grants a 50' variance in accordance with the language of the flag lot ordinance, then no relief is necessary. Mr. Seneca commented that he is giving 50' on each side yard where only 40' is required; he doesn't feel that he is asking for much.

Board questions – Mr. Quintana questioned if the Borough property could be sold. Mayor Hoven advised that it was not purchased with green acres money so it could be sold. He had no questions of the witness.

### **Public portion**

Heather Hearon of 28 North Road questioned the absorbability of the drywells and commented that the proposed drywells are designed to take water from the proposed lot not from the Borough property. She advised that the water from the property is contaminated. She says it is from the

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ground level and Mr. Wunner said that it is in the ground water but he has not seen any DEP reports. Mayor Hoven advised that the water is monitored and that there has been no change. Ms. Hearon offered her opinion on the subdivision and asked that the board not approve the subdivision.

Kerry Brown moved to close the meeting to the public; Chris Heil seconded the motion which was approved by a voice vote.

Anita Rhodes moved to have the Board deliberate; Edd Creter seconded the motion which was passed unanimously by the Board.

Mr. Quintana asked for clarification on flag lots. Mr. Ferrone asked how many flag lots in the Borough and when one has been approved. Mayor Hoven said that the one on Seward was the last one and that there are 13. Mr. Banisch read the definition of a flag lot which was in his December 12, 2019 report. Mr. Banisch answered yes to Mr. Kasper's question asking if this could have been an application for a flag lot variance without senior housing. Mr. Creter had no questions. Mrs. Rhodes suggested using plant materials other than evergreens and suggested a condition or limitation on the use in the dogleg area. Mayor Hoven discussed the flag lot criteria which was used in the Cash application. Mr. Storms favored the application. Mr. Heil felt that the drainage is an improvement but is not concerned about the development of the dogleg. Kerry Brown agreed with Mr. Heil. Mr. Creter did not feel that the applicant should have to control water off of the other property and is in favor of the application. Chairman Kasper reviewed the conditions that should be put in the resolution if the subdivision is approved.

Chris Heil moved to approve the subdivision with the 50' rear setback and the conditions previously discussed; Kerry Brown seconded the motion which was approved by the following roll call vote:

**AYES:** Edd Creter; Janet Hoven; Kenneth Kasper; Donald Storms; Chris Heil and Kerry Brown  
**ABSTAIN:** Michael Ferrone and Anita Rhodes  
**NAYS:** None

**Boy Scout Resolution**

BOROUGH OF CHESTER  
LAND USE BOARD  
RESOLUTION GRANTING VARIANCE SITE PLAN WAIVER TO THE BOY SCOUTS

**APPLICANT:** BOY SCOUTS  
**PROPERTY LOCATION:** Main Street and Collis Lane Lot 12, Block 107(the "Property")  
**APPLICATION NO.** LUB SPW 2019-06  
**HEARING DATE:** January 9, 2020

**WHEREAS**, the Boy Scouts (hereinafter referred to as "Applicant") seek a site plan waiver to construct replace siding on the building known as Mel's Cabin at the property located at Main Street and Collis Lane in the in the Borough's RLD zone district and this application falls under the jurisdiction of the Land Use Board pursuant to NJSA 40: 55D-1 et. Seq. and,

**WHEREAS**, a hearing was held on January 9, 2020 during which time the Applicant presented its case, and the matter was opened for public hearing; and

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**WHEREAS**, the Land Use Board heard testimony, reviewed exhibits, and established a record, which may be characterized as follows: Derek Weippert, the finance chairman for the local Boy Scouts Troop No. 9, testified for the Applicant. He testified that it is the Boy Scouts desire to replace the existing siding on the building with Hardieplank. Based upon the recommendation of the Historic Preservation Committee, it is proposed that the color selected would "slate". It is also proposed that the windows be installed. After some discussion, the Applicant agreed to install Andersen 200 windows with 6 over 6 grills. The Applicant also agreed that the new trim would match the existing trim as closely as possible. Mr. Weippert also testified that the Boy Scouts are discontinuing the collection of newspapers and that new landscaping would be installed around the existing shed and that the doors of the shed would be replaced.

There was no member of the public present

The Board discussed the application and a motion was made to approve the application to waive formal site plan based upon the testimony presented.

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Use Board of the Borough of Chester, that it does hereby make the following findings of fact and conclusions of law:

The Board has considered the waiver of site plan sought and has determined that the proposed improvements are minor but will result in a significant aesthetic improvement but do not affect the use of the Property as proposed and therefore, the waiver may be granted.

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Use Board of the Borough of Chester, that it does hereby **GRANT** a site plan waiver to install the improvements on the Property in accordance with the testimony and agreement by the Applicant.

**BE IT FURTHER RESOLVED**, by the Land Use Board the following specific conditions incorporated herewith:

The Applicant shall comply with any and all representations made to the Board orally or in writing, whether contained in this resolution or not.

The Applicant shall pay any taxes, fees escrows, assessments or other monies to the Borough prior to the issuance of any permits.

The Applicant shall comply with the requirements of and obtain approval from such other Federal, State, County and Borough agencies as may have jurisdiction.

Chris Heil moved to approve the forgoing resolution; Edd Creter seconded the motion which was passed by the following vote:

**AYES:** Chris Heil; Janet Hoven; Anita Rhodes; Kenneth Kasper; Donald Storms; Kerry Brown; Edd Creter and Michael Ferrone.

**NAYS:** None

**Closed session to discuss matters of contract.**

Janet Hoven moved to go into closed session to discuss matters of contract; Anita Rhodes seconded the motion which was passed unanimously by the Board.

The board came out of closed session at 8:45 p.m.

Mayor Hoven moved to approve the hiring of Steven K. Warner, Esq. as Board attorney at the rate of \$175 per hour and that the Board require Brian Mason to prepare a resolution to be approved at the next meeting.

**COMMUNICATIONS/DISCUSSION ITEMS - NONE**

**PUBLIC COMMENT - None**

The Board thanked Mr. Marcickiewicz for his year of service and wished happiness in his retirement. He said that he was pleased to serve the Borough.

Adjourn – The meeting was adjourned at 8:55 p.m.

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Sarah Jane Noll  
Recording Secretary