

CHESTER BOROUGH  
LAND USE BOARD  
March 12, 2020

The Regular meeting of the Chester Borough Land Use Board was held at the municipal building located at 50 North Road on March 12, 2020.

**Opening Statement**

Chairman Kenneth Kasper called the meeting to order at 7:09 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  
Stan Stevinson, Class IV  
Adam Sorchini, Alternate # 1  
Michael Ferrone, Alternate #2

**Absent:**

Edd Creter, Class IV  
Stan Quintana, Alternate #3  
Paul Ferriero, Board Engineer  
Steven Bolio, Board Engineer

**Also Present:**

Steven K. Warner, Esq., Board Attorney  
David Banisch, Board Planner  
Sarah Jane Noll, Recording Secretary

**Minutes** – The minutes of the January 9, 2020 meeting were approved as read.

**Business:**

**Redevelopment Plan @ Larison’s Turkey Farm**

David Banisch discussed the redevelopment plan which must track the settlement agreement. It comes with non-residential tax ratables. The plan tracks the History of what has happened on the site. The Borough will have to live with this for 30 years. Mr. Banisch reviewed the Amendment to the Zoning Ordinance which will provide development standards for the comprehensive

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redevelopment of Block 101, Lots 13, 14, 15 & 16 in accordance with Chester Borough's Third Round Affordable Housing Settlement Agreement between the Borough of Chester and Larison's Corner LLC & Turkey Farms Acquisitions, LLC, dated 4 October, 2018 which will include (1) thirty-six affordable rental apartments), (2) a 20,000 sq. ft. medical office building, (3) a 5,000 sq. ft. office building, (4) an organic farm, (5) a 6,500 sq. ft. restaurant, (6) a 1,500 sq. ft. Pharmacy, and (7) an on-site sewage package treatment plant. This will be sent to the applicant. The Medical Facility was approved for 20,000 s.f. however they would like 25,000 s.f. Mr. Warner felt that this should not be a problem. Mr. Sorchini suggested that the CVS be changed to 'Pharmacy such as a CVS.' This was agreed to. The borough may not change the terms of the settlement agreement for 30 years.

E. Redevelopment Objectives was discussed by the Board.

**163-74.1.G. Development Standards, Design Requirements and Land Use Requirements.**

Items A- K were discussed by Mr. Banisch.

He discussed "Land Banking" and the reasons for it.

Donald storms talked about changing the lighting ordinance to allow for LED lighting. Mr. Banisch will work on this change to the ordinance. Mayor Hoven thought that the engineer may have a suitable substitute. Mr. Warner made some word changes in the General Administrative Requirements.

Mr. Banisch's memo dated March 12, 2020 was discussed by the Board. The memo addresses supplements to the 'draft' Redevelopment Plan Ordinance. Mr. Banisch will double check the bedroom distribution in f. and g. and make the appropriate changes. The bedroom distribution is dictated by UHAC.

Mr. Warner went over the procedure to be followed. He suggested a vote of the board to recommend to the Mayor and Council that they introduce the ordinance conditioned on the feedback from the other parties. He reminded the board that the Master Plan consistency is the responsibility of the Land Use Board.

Since there was no one in the public there was no need to open the meeting to the public.

Stanley Stevinson moved to recommend the introduction of the Ordinance to the Mayor and Council conditioned on feedback from the other party; Kerry Brown seconded the motion which was approved by the following roll call vote:

**AYES:** Mayor Janet Hoven; Kerry Brown; Kenneth Kasper; Anita Rhodes; Donald Storms; Chris Heil; Stanley Stevinson; Adam Sorchini and Michael Ferrone.

**NAYS:** None

**Resolutions:**

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**2019-05 Seneca Development Group, 26 North Road - Block 115, Lot 8, R-HD**

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RESOLUTION GRANTING SUBDIVISION AND VARIANCE APPROVAL TO SENECA DEVELOPMENT GROUP

APPLICANT: SENECA DEVELOPMENT GROUP

PROPERTY LOCATION: 26 NORTH ROAD, LOT 8, BLOCK 115 ("Property")

APPLICATION NO. LUB 2019-05

HEARING DATES: DECEMBER 12, 2019 AND FEBRUARY 13, 2020

**WHEREAS**, Seneca Development Group (hereinafter referred to as "Applicant") seeks minor subdivision approval with variances on an existing developed residential property located at 26 North Road, Lot 115, Block 8 in the Borough's Residential High Density District (R-DH) and this application falls under the jurisdiction of the Land Use Board pursuant to NJSA 40: 55D-1 et. seq. and,

**WHEREAS**, the Applicant seeks to subdivide the 3.146 acre Property to create two (2) lots with the new proposed lot 8.01 will appear to be a "flag lot" (although by definition it is not flag lot under Borough Ordinances) with variances for lot width for both lots and for an accessory side yard setback for the remainder lot 8; and

**WHEREAS**, Applicant was represented by the law firm of Heymann and Fletcher, Esq., Ronald Heymann, Esq. appearing on December 12, 2019 and February 13, 2020.

**WHEREAS**, the Applicant considered the comments of the Board at the hearing on December 12, 2019, and amended its application prior to the hearing on February 13, 2020; and

**WHEREAS**, hearings were held on December 12, 2019 and February 13, 2020 during which time the Applicant presented its case and the matter was opened for public hearing; and the Land Use Board heard testimony, reviewed exhibits, and established a record, which may be characterized as follows:

1. David Seneca, a principal of Seneca Development Group testified for the Applicant. He testified that the Applicant is a contract purchaser of the proposed lot 8.01. Exhibit A-1, a brochure was provided depicting the proposed vinyl siding and shake peaks for the dwelling to be constructed. He testified that the proposed new house on lot 8.01 would be 3,000 square feet with a 2-car garage, 4 bedrooms and 2.5 baths and would be serviced by public water and septic.
2. The meeting was opened to the public for questions, but there were none.
3. Nicholas Wunner, of Wunner Engineering Associates, a professional engineer and land surveyor, also testified on behalf of the Applicant. He offered Exhibit A-2 a colorized page of the plans. He testified regarding the surrounding properties including the municipal property adjacent to the subject Property. He indicated that the property would be serviced by public water and septic. Exhibit A-2 depicts the existing conditions on the Property and Exhibit A-3 detailed the overall layout.
4. The proposed subdivision would result in a new lot 8.01 consisting of 2 acres and the remainder lot 8 consisting of 1.112 acres. It is proposed that the new lot would gain access via the existing driveway. He further testified that in accordance with the report submitted by the County of Morris, the driveway entrance to the remainder lot would be removed and the Applicant would dedicate 8 feet of the frontage to the Property to the County. The driveway width is proposed at 35 feet rather than 40 feet.
5. The Board voted to approve the checklist waivers sought by the Applicant for completeness.
6. Mr. Wunner testified that the "flag lot" is the only configuration that will allow the subdivision. The Applicant agreed that it would provide an easement on proposed lot 8.01 between it and lot 8 for screening and an easement would be provided for the shared driveway access and maintenance.
7. The meeting was opened to the public for questions of Mr. Wunner. Heather Hearon, 30 North Road, the immediate neighbor to the east of the subject Property asked about precautions taken to avoid further runoff onto her property from the subject Property. Mr. Wunner testified regarding the drywells to be installed as well as the berm. The meeting was closed to the public for questions of Mr. Wunner.
8. Ellen McGraw, the current owner of the subject Property testified that she has owned the subject Property for 7 years. She acknowledged that the Property is the subject of a contract contingent upon the proposed subdivision approval and that she is in agreement that the westerly driveway will be removed as requested by the County.
9. Jessica Caldwell, a Professional Planner, also testified for the Applicant. She introduced Exhibits A-4 and A-5 which were the zoning Map and an aerial Photograph of the Property, respectively. She testified that the subject Property is an oversized lot but narrow. In the immediate vicinity most lots are less than 1 acre and proposed lot 8.01 will be larger than 75 % of the lots in the immediate area. Ms. Caldwell testified that the character along North Road won't change with the proposed subdivision as the proposed subdivision will continue with the same appearance from North Road; there will be a 25 foot buffer to protect the remainder lot 8; the character of the remaining home will remain the same; and the removal of the second driveway will conform to other homes in the area.
10. Ms. Caldwell further testified that the house on proposed lot 8.01 will not be visible from North Road and lot 8 will be larger than 35% of the other lots in the immediate vicinity. She opined that for all of the foregoing reasons, the proposed subdivision will remain in character with the zone.
11. She testified that variances are required for lot with for both lots. Specifically, lot 8 is proposed with a 121.42 width whereas 150 feet is required by ordinance and proposed lot 8.01 is 40 feet in width whereas, the ordinance requires 150 feet. It is also proposed that a variance for a side yard of 10.2 feet is required for lot 8 whereas 20 feet is required. However, Ms. Caldwell testified that the variance can be granted on the basis of the C-2 variance. She opined that the lot density and size are more important to the zone plan than is the lot width. The proposal will make the subject properties more consistent with the size of the properties in the zone. However, the subdivision will result in each of the lots having insufficient frontage in the zone.

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12. Ms. Caldwell testified that testified that a C-2 variance can be justified as there are special reasons. Specifically, she testified the positive criteria are satisfied by goals E., G. and I. of the Municipal Land Use law and the goals of the RHD zone will be satisfied, including health and safety. She further testified that proposed subdivision and proposed dwelling will compliment and preserve the character of the neighborhood; would provide a variety of housing; and the proposed size of the properties is consistent with those in the immediate neighborhood. She concluded that the proposed variances would not result in a detriment to the public good and would not substantially impair the zoning ordinance or zone plan in that the all of the set backs are satisfied for the new principal structure on lot 8.01, the stormwater drainage will be improved based upon the proposed improvements and the proposed buffers will mitigate any detriments.
13. The hearing was opened to the public and there were no questions of the witness.
14. The Board conferred on the application and the consensus of the Board was that details of the revisions to the plans discussed be submitted prior to the next hearing.
15. Ronald Heymann, Esq. appeared for the applicant at the continued hearing on February 13, 2020. He confirmed that the plans for the subdivision were revised to include certain details that the Board had requested at the prior meeting.
16. Mr. Wunner testified that the plans were revised to reflect changes that the Board had requested be shown on the plans. Exhibit A-6 was introduced. It is a revised grading plan dated January 7, 2020. The plan also depicts a smaller house with the proposed grading as well as the septic system. It also shows the driveway removed as requested by the County. It also depicts the proposed drywell system.
17. Mr. Wunner testified that there exits ample site distance exiting the Property looking down North Road. The plan is intended to preserve as many trees along the property line as possible. He further testified regarding the report prepared by Ferriero Engineering dated February 13, 2020. In particular, he testified that the utilities will now be located under the driveway to preserve the trees. Mr. Wunner testified that Exhibits A-7 and A-8 show the brush line and the density of the brush respectively. It is intended that the existing brush line will act as the buffer together with the proposed 25-foot easement.
18. The Applicant requests that the driveway remain 40 feet rather than 35 feet and that the proposed setback dimensions for the new dwelling will be 50 feet. Mr. Wunner testified that all other comments in the Ferriero report are acceptable and will be addressed including the language to be included in the subdivision deed regarding stormwater management specifically set forth in paragraph 3 of the report. The hearing was opened to the public but there were not questions of Mr. Wunner.
19. The Board's engineer opined that based upon the proposed drywells and berm, the stormwater conditions will improve over existing conditions.
20. The hearing was opened to the public and Heather Hearon, 30 North Road testified and expressed concerns regarding stormwater runoff and contaminated ground water.
21. The Board deliberated on the application and after some discussion, a motion was made to approve the application and grant the variances sought subject to the various conditions accepted by the Applicant on the record.

**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: 1. the minor subdivision and variances sought may be granted as the Board has determined that there are special reasons exist to permit variances for lot width that is less than required and for a side yard less than 20 feet for an accessory structure and based upon the testimony and proofs presented; 2. the Board has determined that the Applicant has satisfied the positive and negative criteria for the variances; and 3. the Board has determined that the variances can be granted without substantial impact on the zone plan or zoning ordinance, or substantial detriment to the public good.

**NOW, THEREFORE, BE IT RESOLVED**, by the Land Use Board of the Borough of Chester, that it does hereby grant the proposed minor subdivision a variance from the provisions of Chester Borough Ordinance 163-163 Schedule 1 - Part 1 to permit the proposed subdivision with the following variances:

- a. a variance for the minimum lot width of 150 feet for propose lot 8 whereas 121.42 feet is proposed;
- b. a variance for the minimum lot width of 150 feet for propose lot 8.01 whereas 40 feet is proposed; and
- c. a variance for a side yard setback for an accessory structure of 20 feet whereas 10.2 feet is proposed.

This approval is based upon plans prepared by Wunner Engineering Associates last revised January 7, 2020.

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

1. The Applicant shall comply with all of the comments and conditions contained in the reports of Ferriero Engineering Inc. dated February 10, 2020 and Banisch Associates Inc. dated February 13, 2020 except item No. 2 in the Banisch report as stipulated on the record.
2. The proposed berm shall include diverse planting as may be approved by the Board's professionals.
3. The Applicant shall use all reasonable efforts to maintain the spruce tree depicted in the plans along the driveway
4. Applicant shall comply with any and all representations made to the Board orally or in writing, whether contained in this resolution or not.
5. The Applicant shall pay any taxes, fees escrows, assessments or other monies to the Borough prior to the issuance of any permits.
6. The Applicant shall provide the Borough an as-built survey confirming that the project is constructed in accordance with the approval.
7. The Applicant shall comply with the requirements of and obtain approval from such other Federal, State, County and Borough agencies as may have jurisdiction.

Kerry Brown moved to adopt the forgoing resolution; Chris Heil seconded the motion which was approved by the following roll call vote:

**AYES:** Janet Hoven; Kenneth Kasper; Donald Storms; Chris Heil and Kerry Brown

**NAYS:** None

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**Larison's Turkey Farm – Application for demolition of existing garage structure**

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RESOLUTION REGARDING A DEMOLITION PERMIT TO TURKEY FARM ACQUISITION, LLC

**APPLICANT:** TURKEY FARM ACQUISITION, LLC  
**PROPERTY LOCATION:** 24 MAIN STREET, LOT 14, BLOCK 101 ("Property")  
**APPLICATION NO.** 2020-01 LUB  
**HEARING DATE:** February 13, 2020

WHEREAS, Turkey Farm Acquisition, LLC (hereinafter referred to as "Applicant") seeks approval for a demolition permit of an existing garage structure located at 24 West Main Street, Block 101, Lot 14, in the Borough's O-P zoning district with historic overlay; and

WHEREAS, Section 163-87.1.B., Demolition or moving of structure, of the Ordinances of the Borough of Chester provides that applications for demolition of a historically and/or architecturally significant structure or a structure located within the Historic District shall be referred to the Board for consideration; and

WHEREAS, the application was reviewed by the Historic Preservation Committee for architectural review pursuant to Chester Borough Ordinance 163-87; and

WHEREAS, Anthony Sposaro, Esq. represented the applicant at the hearing held on February 13, 2020; and

WHEREAS, at the hearing held on February 13, 2020, the Applicant presented its case and the matter was opened for public hearing; and

WHEREAS, the Land Use Board heard testimony, reviewed exhibits, and established a record, which may be characterized as follows:

1. The Board received the following Exhibits in connection with the application: Exhibit A-1, a package of photographs depicting the condition of the garage which is the subject of the demolition and a report from the Historic Preservation Committee of the Borough of Chester indicating that the committee approved the demolition of the structure as it had no historical significance.
2. Mr. Sposaro offered the photographic exhibits to demonstrate that the garage has no historical value or character and as such the demolition of the structure would not adversely affect the historic district. He further offered that given its dilapidated condition, there would be no detriment to the public good and no adverse impacts resulting from the demolition and in fact, offered that it would be beneficial given its condition.
3. Terry Chaffe, a principal of the Applicant also testified. He testified that he was present when the photographs were taken that the photographs depict the current condition of the garage.
4. The meeting was opened to the public for questions or comments and no members of the public responded. The meeting was closed to the public.
5. The Board deliberated on the application and after some discussion, the Board concluded that on the record presented, the demolition could be granted as the garage had no historical significance or value.

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 evidence presented demonstrated that the garage structure is in significant disrepair, the garage has no historical significance, its demolition would not have an adverse impact on the Historic District and would not otherwise be a detriment to the public good based upon the testimony and proofs presented;

NOW, THEREFORE, BE IT RESOLVED, by the Land Use Board of the Borough of Chester, that it does hereby grant the Applicant the demolition permit requested in accordance with Chester Borough Ordinance 163-87.1.B.;

Anita Rhodes moved to adopt the foregoing resolution; Donald Storms seconded the motion which was approved by the following roll call vote:

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

**NAYS:** None

**COMMUNICATIONS/DISCUSSION ITEMS –**

Chairman Kasper questioned number of carts that are on the outside of the Home Goods Store and the approval of the Board. There was also furniture that was outside which has now been removed.

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The temporary sign that was put up by Starbucks and which was not approved by the board was questioned by the members. Kerry Brown explained the situation. The board suggested that the approving resolutions be policed for compliance with the conditions that the board sets.

Mayor Hoven advised that the heating bill for the Cash Building was \$500 less this winter. This was the result of the purchase of new windows which was authorized by the Council.

Mayor Hoven advised that preparations are being made to close the Borough Hall if the schools are closed. There is a server in the town hall for use. The closure may be for an extended period of time.

Chairman Kasper noted the removal of the Cutlet Mall on Rt. 24 in Chester Township. Sarah Jane Noll advised that there will be 5 single family homes for adults 50 years and older being constructed. One will be designated as affordable.

Chairman Kasper also noted that the Home Goods Store is not in compliance with the ramp access that the Board approved.

**Closed Session:**

Donald Storms moved to close the meeting to the public for pending litigation; Chris Heil seconded the motion which was approved unanimously.

The Board came back into open session at 8:45 p.m.

Adjourn – The meeting was adjourned at 8:46 p.m.

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Sarah Jane Noll  
Recording Secretary