

CHESTER BOROUGH
LAND USE BOARD
August 13, 2020

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

Opening Statement

Chairman Kenneth Kasper called the meeting to order at 7:02 p.m. Adequate notice of this meeting of the Chester Borough Land Use Board was given as required by the “Open Public Meetings Act” as follows: notice was sent to the Observer Tribune and the Daily Record, posted on the bulletin board in the Borough Municipal Building and posted on the Borough website and filed with the Borough Clerk. The Land Use Board will hold a regular meeting by web-based platform providing remote access as the meeting will be open to the public remotely. Details for public participation have been posted on the website at chesterborough.org. Public can register at Zoom.us and to join:

[HTTPS://US02WEB.ZOOM.US/WEBINAR/REGISTER/WN_DVTLKCGVTBGXT_PXOHMOOW](https://us02web.zoom.us/webinar/register/wn_DVTLKCGVTBGXT_PXOHMOOW) **PASSWORD: 350482**

WEBINAR ID: 827 1946 6932

In the event any member of the public cannot access the public file documents or exhibits, and/or cannot access the Zoom web-based virtual meeting room, they may contact the Board Secretary at kbrown@chesterborough.org or 908-879-3660 x 2123 - 7 p.m.

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
Chris Heil, Council Representative, Class III
Stan Stevinson, Class IV
Edd Creter, Class IV

Absent:

Adam Sorchini, Alternate # 1
Steven Bolio, Board Engineer
Michael Ferrone, Alternate #2
Stan Quintana, Alternate #3
Paul Ferriero, Board Engineer
David Banisch, Board Planner

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Also Present:

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

Tack Veterinary Holdings, LLC., - 114 US Highway 206 North, Block 103, Lot 51- Amended Site Plan -Applicant Requested to be carried to September 10th meeting without further notice.

John & Christine King – 73 Collis Lane, Block 107 Lot 5 - Variance application for in-ground pool. Steve Warner, Board Attorney reviewed the notice and advised that it is timely, and the content is sufficient. It has now correctly identified the application before the board. He then swore in John and Christine King. John King testified that they had wanted an in-ground pool and found out that they would need a rear yard variance. Mr. King pointed out that the survey in front of the board is color coded. He testified that the lot consists of 24,800 s.f. and the permitted coverage is 7,350 s.f. They are significantly below that number, however the allowed rear setback is 50' and they are proposing 19.6'. He then reviewed the coverages as listed: driveway 1,572 s.f.; patio 778 s.f.; deck 79 s.f.; small square of pavers 96 s.f.; concrete walk 278 s.f.; house 2,543 s.f. The coverage of the pool and apron will increase the coverage by 990 s.f. bringing the total s.f. to 6,335 which satisfies the pervious coverage. They are seeking a variance for the rear yard setback of 50' and are requesting 19.6' as the rear yard setback. The congregational church cemetery is behind their house. They have a fence along that that property line for their privacy. The side yard opposite the driveway is 30' and they don't have visibility to that area from the house. Also locating it at the rear of the property would have less of an impact on the neighbors.

Mr. Warner questioned the witness regarding the shed at the rear that is shown on the survey. The applicants advised the board that the rear shed has been removed. A condition of approval would be the removal of the shed. Section 163-70-7 of the Borough ordinances addresses swimming pools which must be satisfied. The pool must be enclosed by a permanent fence which is approved by the construction office. The applicant advised that the entire backyard is currently enclosed by a fence. The fence is 6' high and is solid board. They will stipulate that they will maintain it. They will have no lighting for the pool other than that which is comes with the pool. If in the future there is to be lighting, they will make sure that it does not reflect onto adjoining neighbors. Mayor Janet Hoven asked that a condition of approval be that there will be a self-locking mechanism on the gate. Mr. King testified that the latch is set at a height of 52". Edd Creter asked that all the mechanical devises are also calculated in the coverage. The applicant will have them included. They said that they are still trying to determine where the pool equipment is to be located; they assured the board it will not be at the rear and will be within the allowed setbacks.

The Public Portion was opened and closed since there was no one in the public to question the witness.

Edd Creter moved to open the meeting to the deliberation of the board; Stan Stevinson seconded the motion which was passed unanimously by a voice vote.
The board had no further questions of the applicants.

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Chris Heil moved to approve the variance request with the conditions that the board had discussed; Edd Creter seconded the motion which was passed by the following roll call vote:

AYES: Mayor Janet Hoven; Kerry Brown; Kenneth Kasper; Anita Rhodes; Donald Storms; Chris Heil; Stan Stevinson; and Edd Creter

NAYS: None

Minutes of July 9th – The minutes were approved as corrected. Edd Creter abstained from voting.

Upcoming meeting:

Chester Village Square – Benito’s Trattoria – 50 Main Street, Block 129, Lot 3 –Amended site plan application/variance to construct a 163-sf addition to the rear of the building.

RESOLUTIONS

The Car Wash at Chester, LLC - 45 Maple Ave. Block 131, Lot 5

Kerry Brown moved to adopt the following resolution; Stanley Stevinson seconded the motion, which was approved by the following roll call vote.

AYES: Mayor Janet Hoven; Kerry Brown; Donald Storms; Chris Heil; Stanley Stevinson.

NAYS: None

THE CAR WASH AT CHESTER, LLC

Block 131, Lot 5

45 Maple Avenue

RESOLUTION

WHEREAS, **THE CAR WASH AT CHESTER, LLC** (the “Applicant”) has applied to the Borough of Chester Land Use Board (the “Board”), for amended preliminary and final major site plan approval and the following bulk variance and design waiver relief, in connection with the installation of new signage, two new canopies, a vacuum system, striping for two full service lanes and a wash only lane, and landscaping improvements to the existing car wash facility, on property identified as Block 131, Lot 5 on the Tax Map, more commonly known as 45 Maple Avenue (the “Property”):

1. A variance for four (4) signs, whereas only one (1) attached sign per business is permitted in nonresidential districts, pursuant to Section 163-89.B(2) of the Land Development and Procedures Ordinance of the Borough of Chester (the “Ordinance”);
2. A variance for two (2) building mounted signs having sign areas of 40 square feet and 32 square feet, whereas one such sign is permitted with an area that shall not exceed 15 square feet or 10% of the area of the face of the building to which it is attached, whichever is less, pursuant to Section 163.89B(2) of the Ordinance;
3. A variance for two (2) freestanding signs each having an area of 27 square feet (54 square feet total) and for four (4) “moveable” freestanding signs each having an area of 10 square feet (40 square feet total), whereas the total surface area may not exceed 15 square feet, pursuant to Section 163-89.B(3) of the Ordinance;
4. A variance for a principal building front-yard setback of 40.3 feet (to the proposed retractable awning), whereas the existing front-yard setback is 38.8 feet to the building, and the minimum required front-yard

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setback in the B-3 Regional Commercial Business ("B-3") Zone is 50 feet, pursuant to Section 163-72.D(4) and Schedule 1 of the Ordinance;

5. A variance for a rear-yard setback to the principal building (metal roof) of 27.1 feet, whereas a minimum required rear yard setback of 30 feet is required within the B-3 Zone, pursuant to Section 163-72.D(4) and Schedule 1 of the Ordinance;
6. A variance for a rear-yard setback to an accessory building (detail booth) of 25 feet, whereas the minimum required rear-yard setback to an accessory building in the B-3 Zone is 30 feet, pursuant to Section 163-72.D(4) and Schedule 1 of the Ordinance;
7. A variance for impervious coverage of 84.5%, whereas the existing impervious coverage is 84.8%, and the maximum permitted impervious coverage in the B-3 Zone is 65%, pursuant to Section 163-72.D(4) and Schedule 1 of the Ordinance;
8. A design waiver for the existing Weisbach Village Square type site light fixtures and poles, whereas the light fixture to be used on all site plans is the Sternberg 6590 Victorian Gaslight I, black finish, pursuant to Section 163-47.A(41)(a) of the Ordinance;
9. A design waiver for a lighting uniformity ratio of less than 20:1, whereas the required uniformity ratio is 20:1, pursuant to Section 163-47.A(41)(c) of the Ordinance;
10. A design waiver for a luminaire emitting more than 0% of the total initial lumens at an angle of 90° or higher from the nadir, whereas same is not permitted, pursuant to Section 163-47.A(41)(d) of the Ordinance; and
11. A design waiver for an illuminance at the property line greater than 0.01 foot-candles, whereas the maximum permitted illuminance at any property line is 0.01 foot-candles, pursuant to Section 163-47.A(41)(e) of the Ordinance; and

WHEREAS, virtual public hearings on notice were held on such application on June 11 and July 9, 2020, at which times interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

1. All of the application materials and hearing exhibits were posted on the municipal website, and made available to members of the public, within the requisite timeframe, in advance of the hearing. Members of the public were provided with instructions on how to access said materials and participate in the scheduled hearing both via the web-based meeting platform and telephonically, if necessary.

2. All Board Members and Board Professionals and staff participated in the hearing through the web-based platform and were able to perceive the Applicant and the Applicant's professionals, both visually and audibly, in real time.

3. The Property is located within the B-3 Zone and the Historic Preservation District Overlay. The existing car wash use received d (1) use variance relief and bulk variance relief for the nonconforming lot size and front-yard setback from the Chester Borough Zoning Board of Adjustment by Resolution dated September 13, 1983. The Property was also the subject of site plan approval and sign variance relief in 1983, and 1998, respectively. By Resolution dated May 12, 1998, the Chester Borough Zoning Board of Adjustment granted site plan approval and sign variance relief, and required the removal of an additional sign that was mounted facing Maple Avenue on the south side of the building, thus providing for a total of two attached signs, a canopy sign, and two freestanding signs having a total sign area of 118.68 square feet (the "1998 Approval").

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4. The Applicant proposes substantial improvements to the Property, including (a) three dedicated entry lanes, two of which will provide employee vacuuming while in the queue, (b) a retractable awning in the outdoor waiting area to shield patrons from the sun, (c) a canopy covered detail booth, (d) a new and upgraded signage array, and (e) substantial landscaping and related site improvements. As to the signage array, the Applicant proposes to (1) install/retain four signs, including two attached building-mounted signs (32 square feet on the west side of the building and 40 square feet on the south side of building) and two ground-mounted freestanding signs (27 square feet each), with a combined total area of 126 square feet, (2) retain four movable 10 square foot signs, and (3) remove certain existing signage. The signage being removed includes (a) the 40 square foot building-mounted identification sign on the easterly building wall, (b) a post mounted sign located off site at the southeast corner of the site, and (c) a 36 square foot hanging banner on the north side of the car wash. Four 2.5 foot by 4 foot movable signs (3 on the northeast side and 1 on the southwest side of the carwash building) were proposed to be removed at the June 11 hearing, but the Applicant requested at the July 9, 2020 hearing to retain these signs as movable signs that will be stored inside overnight. The existing sign on the westerly building wall will be replaced and the menu board sign in the rear landscape area adjacent to the entrance of the car wash tunnel will be relocated.

5. The Applicant's proposal is depicted on engineering plans prepared Candice J. Davis, P.E., of Yannaccone Villa & Aldrich, LLC, dated February 5, 2020, last revised June 25, 2020, same consisting of seven (7) sheets.

6. The requested variance relief is governed by the criteria of N.J.S.A. 40:55D-70(c).

7. Anthony J. Sposaro, Esq., entered his appearance on behalf of the Applicant. He advised that the Applicant is seeking variance relief for improvements that were made to the car wash by the prior owner without obtaining the necessary approvals.

8. David J. Banisch, A.I.C.P., P.P., the Board Planner, and Steven B. Bolio, P.E., C.M.E., the Board Engineer, both were duly sworn according to law.

9. The Board reviewed the Applicant's request for checklist waivers as set forth in Mr. Ferriero's June 9, 2020 Review Letter, and granted the requested relief in accordance with the advice received from Mr. Bolio, thereby deeming the application complete. A copy of Mr. Ferriero's June 9, 2020 Review Letter is attached hereto.

10. Candice Davis, P.E., having a business address of 460 Main Street, P.O. Box 459, Chester, New Jersey, was duly sworn according to law, provided her qualifications, and was accepted by the Board as an expert in the field of civil engineering. Ms. Davis provided an overview of the Property and the Applicant's proposal. She explained that the proposal will improve onsite circulation and the overall appearance of the Property and the improvements thereon. Ms. Davis further explained that the improvements proposed include awnings, equipment vacuums, and parking lot striping.

11. Ms. Davis provided a comparison of the existing conditions and the prior land use board approvals. As to the 1998 Approval, Ms. Davis testified that, while the existing conditions are similar to what had been approved, an existing shed was removed and a canopy at the rear of the building is larger than what had been approved and is covered with a metal roof. There have been no changes to the four (4) approved vacuums. As to the five (5) approved freestanding light fixtures, one had been removed and the Applicant is proposing to replace it. Ms. Davis conceded that the prior owner of the Property had made improvements without obtaining necessary approvals. Mr. Sposaro advised that he

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represented the prior owner of the Property and that said former owner had received notices of violation, which now have been assumed by the Applicant.

12. Ms. Davis introduced the following exhibits into evidence:

- **Exhibit A-1:** Engineering Plan set, dated May 15, 2020;
- **Exhibit A-2:** Approved Site Plan pursuant to November 8, 1983 Board of Adjustment Resolution of Approval;
- **Exhibit A-3:** Resolution of approval by the Board of Adjustment, dated September 13, 1983;
- **Exhibit A-4:** Approved Site Plan pursuant to May 12, 1998 Board of Adjustment Resolution of Approval;
- **Exhibit A-5:** Resolution of approval by the Board of Adjustment dated November 8, 1983; and
- **Exhibit A-6:** Brand Identity Guideline document.

13. Ms. Davis described the existing onsite circulation. She testified that, currently, customers queue such that some of the vehicles waiting for service encroach into Maple Avenue but that the Applicant's proposed improvements, including the creation of three lanes and the installation of striping, would reduce or eliminate this condition. She explained that two of the lanes would be used for full service car washes, including vacuuming, and the third lane would be used for exterior car wash service only. Ms. Davis further explained that there is also an area available for vehicles to pass by other vehicles (a bail out lane). She testified that the Applicant is also proposing to install a retractable awning over the outdoor waiting area to shield patrons from the sun, as well as requesting approval for a canopy covered detailing booth previously installed without local approvals. Ms. Davis explained that the canopy covered detailing booth will allow the Applicant to continue to provide customers with high end detailing services.

14. Ms. Davis testified that the Applicant will comply with the recommendation of the Shade Tree Commission regarding the installation of a trash enclosure in which the trash containers can be located.

15. On questioning as to the onsite circulation around the vacuum stations, Ms. Davis described the traffic flow and testified that seven (7) parking spaces have access to coin-operated vacuums. On questioning as to the need for three lanes, Ms. Davis testified that the additional lanes will allow more vehicles to fit on the Property, thereby reducing vehicular spillage onto Maple Avenue and improving onsite circulation overall. On questioning as to whether the location of all of the vacuums had been approved, Mr. Sposaro advised that only the vacuums on the west side of the Property had been approved. On discussion, the Applicant stipulated, as a condition of approval, to conducting post-construction sound level testing to ensure compliance with local and State noise regulations, same to be subject to the review and approval of the Borough Engineering Department.

16. Mr. Banisch, the Board Planner, advised that four (4) vacuum stations were approved as part of the 1998 Approval and that same included 12 foot by 18-foot parking spaces. He noted that the Applicant is now proposing additional vacuum stations with parking spaces having a width of only 9 feet, and he recommended that the width of the stalls be expanded to 12 feet to accommodate car doors. Mr. Bolio, the Board Engineer, concurred with Mr. Banisch's recommendation, and the Applicant stipulated to revising the plans accordingly. Mr. Banisch provided further recommendations as to the location and size of parking spaces on the Property, particularly the elimination of parking space number 7. Mr. Bolio suggested that the Applicant provide twin hairpin striping and install stop bars to help manage the vehicles waiting to be dried.

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17. Ms. Davis testified that no additional building mounted lighting fixtures are proposed, but that a new light pole is proposed on the right side of the building. She explained that the prior light pole in that location had been removed and the Applicant is seeking to replace it with a fixture that would be consistent with the other four pole mounted fixtures. Ms. Davis provided an overview of the requested waiver relief for the proposed lighting levels. She explained that the adjacent properties include the Chester Diner, the Wendy's fast food restaurant, a vacant lot, and the NitroFlex located across Maple Avenue, and that some of the excess lighting is generated by the aforementioned businesses. On questioning as to whether the Applicant intended to fix the broken light pole, Ms. Davis testified that the pole has been removed and the base is almost flush with the ground. Notwithstanding, the Applicant stipulated, as a condition of approval, to removing the base or making any repairs recommended by the Borough Engineer if the base is found to create safety issues.

18. Ms. Davis testified that there are two (2) existing building mounted signs, one of which will be removed. She explained that the Applicant proposes to increase the size of the existing building-mounted and ground-mounted signage on the site from the previously approved 118.68 square feet to 126 square feet. On questioning as to the necessity of signage on the front and both sides of the building, Ms. Davis opined that the existing signage on the east and west sides of the building are helpful for motorists on Maple Avenue and that having said identification and directional signage improves traffic safety. She further opined that the signage on the front of the building (south side) facilitates identification of the building and improves wayfinding. The 40 square foot building mounted sign is proposed to be removed as part of the application.

19. As to the June 9, 2020 Memo from the Chester Borough Shade Tree Commission, Ms. Davis testified that Sheet 5 of the Plans depicts the proposed landscaping and that the comments set forth in the March 7, 2020 Memo from the Shade Tree Commission are addressed thereon. The Applicant further stipulated, as a condition of approval, to working in good faith with the Shade Tree Commission to ensure that the proposed landscaping provides adequate buffering and screening, subject to the approval of the Shade Tree Commission in its reasonable discretion.

20. Ms. Davis testified that the Applicant is seeking variance relief for the proposed number of signs (4 signs [2-building mounted; and 2-ground-mounted], whereas 1 building mounted sign per building is permitted), the size of the signs (126 square feet, whereas 15 square feet is permitted), a front-yard setback deviation (44.7 feet¹ from Maple Avenue, whereas 50 feet required), excessive impervious coverage, and a rear-yard setback deviation.

21. Daniel Sourek, one of the owners of the Car Wash at Chester, having an address of 1134 Abbott Boulevard, Fort Lee, New Jersey, was duly sworn according to law. Mr. Sourek testified that he and his wife purchased the business on June 19, 2019 and, since purchasing the Property, have made improvements to the mechanical equipment, painted, installed new molding, and made other improvements to the site. He further testified that a door has been installed on the detail center. Mr. Sourek characterized the vehicles using the detailing services as "high end" vehicles. He explained that he provides the only high-end automobile detailing service within 20 miles. Mr. Sourek testified that he replaced some of the signage with new signs of the same size. He confirmed that the existing signage is not illuminated, nor is the proposed signage. Mr. Sourek explained that he was not aware when he installed the signage on the Property that it violated the ordinance requirements.

¹ The proposed front-yard setback from Maple Avenue was further reduced from 44.7 feet to 40.3 feet during the hearing.

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22. Mr. Sourek testified that the proposed improvements will allow him to provide better service in a more efficient fashion, while reducing the likelihood of vehicle collisions on the site. Mr. Sourek described the customer experience beginning with the customer exiting the vehicle and waiting in a lobby. He explained that the interior cleaning of the vehicles is done first and the exterior cleaning is done thereafter. Mr. Sourek clarified that, if the customer is only getting the exterior of his or her vehicle washed, the customer need not exit the vehicle. He testified that there is a professional vacuum system in place that is proposed as part of this site plan application (which received no prior local approval), and the system allows for service of four (4) vehicles at a time. On questioning, Mr. Sourek testified that his employees carpool or ride their bikes to work and that he has never had an issue with insufficient customer or employee parking. On discussion of the necessity of the existing number of vacuum stations, Mr. Sourek stipulated to removing two of the coin operated vacuum stations on the west side of the Property and replacing them with additional employee designated parking spaces. He further stipulated to installing a bicycle rack and revising the plans to depict same. Mr. Sourek further stipulated to revising the plans to provide the height of the supports for the vacuums. He testified that he was amenable to storing the equipment in the building if the Board prefers, and he stipulated to same.

23. Mr. Sourek testified that the car wash is open from 8:00 am to 6:00 pm on Monday through Saturday, and from 8:00 am to 5:00 pm on Sunday. He explained that he is requesting that the car wash be permitted to remain open until 7:00 pm every day. Mr. Sourek advised the Board that the adjacent businesses are open later than the Car Wash and that they have significant lighting, but he is not requesting additional lighting. Mr. Sourek stipulated that his proposed security level lighting would be subject to the review and approval of the Borough Engineering Department.

24. On discussion of the proposed awning, Mr. Sourek testified that the awning will provide shade for customers waiting for their vehicles to be cleaned, and that the awning will be retracted at night. He further testified that the proposed awning would be consistent in design with the existing awnings. On discussion of the onsite circulation pattern, Mr. Sourek explained that he intends to implement a one-way traffic pattern and he stipulated, as a condition of approval, to installing "DO NOT ENTER" signage near the front of the building on the west side of the car wash. Mr. Sourek confirmed that refuse will be removed prior to 8:00 am and, therefore, access to the refuse enclosure will not be negatively impacted by car wash operations. On questioning, he testified that refuse is removed from the Property before 5:00 am. However, Mr. Banisch advised that trash removal should not occur prior to 7:00 am in accordance with applicable Borough ordinance provisions, and Mr. Sourek stipulated to same.

25. On discussion of whether Mr. Sourek has implemented any additional measures to protect his customers from the spread of Covid-19, Mr. Sourek testified that he has done so and he described the new procedures. On discussion of the activities that take place, Mr. Sourek stipulated to revising the plans to include all car wash activity areas, including cleaning of automobile mats. Mr. Banisch requested that the Applicant extend the curb lines closer to the right-of-way and Mr. Sourek stipulated to same, as well as to submitting a new one-way circulation plan to be subject to the review and approval of the Borough Engineering Department.

26. At the July 9, 2020 hearing, Mr. Sposaro re-called Ms. Davis to explain the revisions made to the plans by the Applicant. Ms. Davis introduced into evidence, as Exhibit A-7, revised site plan set dated June 25, 2020, same consisting of seven (7) sheets. She testified that the revised plans (a) included updated signage and striping to provide a defined one-way circulation pattern, (b) modified the landscape islands at the front of the Property to alter the vehicle exit pattern, (c) included details as to the proposed equipment and the dimensions of

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same, (d) relocated the existing front right side light pole and fixture to the side of the building, (e) relocated the retractable awning to provide better sun protection, (f) shifted and expanded the proposed computer booth, (g) amended the landscaping plan in accordance with the recommendations from the Shade Tree Commission, (h) removed the previously proposed dumpster enclosure due to the proximity of an adjacent existing tree, and instead proposed landscaping improvements within the expanded islands that would help screen the dumpster area, and (i) changed the four movable signs from “to be removed” to “to be moved” with no new location on the plans.

27. The Board Planner introduced into evidence, as Exhibit LUB-1, a portion of Sheet 3 of 7 of the June 25, 2020 Plans with handwritten modifications. On discussion, further modifications of the landscape island and curbing were suggested by the Board and the Applicant stipulated, as a condition of approval, to working, in good faith, with the Borough Engineering Department and the Borough Planner, to ensure that the ultimate layout and proposed onsite circulation is safer and more efficient than what currently exists, subject to the reasonable discretion of the Borough Engineering Department and the Borough Planner. The Applicant further stipulated that the proposed landscaping would be subject to the review and approval of the Shade Tree Commission and the Borough Engineer, and that such landscaping would be maintained by the Applicant at its own expense for a period of two years and any plantings that do not survive during such period will be replaced at the Applicant’s expense.

28. Ms. Davis testified that four moveable freestanding signs would be replaced (the previously submitted plans indicated three moveable signs, all of which were to be removed). On questioning as to the location of this proposed signage, Ms. Davis testified that one sign would be located near the exit of the car wash building, two signs providing guidance and disclosures will remain at the location depicted on the plans, and one movable sign will provide information about special offers, also to remain at the location depicted on the plans. She testified that each of the aforementioned four signs are approximately 10 square feet in size. The Board Planner questioned whether the movable signs and overhead vacuum hoses could be stored inside overnight and the Applicant stipulated to doing so.

29. The Applicant stipulated that the colors used for the awnings, the building, the detail booth, and the vacuum cleaning equipment will be coordinated and match, same to be subject to the review and approval of the Borough Planner and/or the Historic Preservation Commission, in their reasonable discretion.

30. Board Member Quintana requested, and the Applicant stipulated, to providing two larger trees to screen the dumpster area from Maple Avenue.

31. No member of the public commented on, or objected to, the Applicant’s proposal.

DECISION

32. After reviewing the evidence submitted, the Board, by a vote of 7 to 2, finds that the Applicant has satisfied its burden of proving an entitlement to the requested amended preliminary and final site plan approval and bulk variance and design waiver relief.

Bulk Variance Relief:

33. The Board finds that the Applicant has satisfied the positive criteria for “c(2)” or “flexible c” variance relief for the requested number and size of the proposed signage, the front- and rear-yard setback deviations, and the impervious coverage deviation, by demonstrating that the purposes of the Municipal Land Use Law (“MLUL”) will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh the detriments associated therewith. In this regard, the Board concurs with the

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Applicant's expert that the proposal advances the purposes set forth in subsections (a), (c), (g), and (i) of Section 2 of the MLUL, in that it (a) promotes the public health, safety, morals and general welfare; (c) provides adequate light, air and open space; (g) provides sufficient space in appropriate locations for commercial uses; and (i) promotes a desirable visual environment, respectively. Here, the Applicant is reducing the number of signs from nine (9) to four (4) signs and is updating the existing signage such that it is more aesthetically pleasing, improves occupant identification and wayfinding, and facilitates safer onsite vehicular and pedestrian circulation.

34. As to the front-yard setback for the proposed retractable awning, the Board recognizes that the awning will not be extended after business hours and it will protect customers and staff from the elements. Moreover, the requested relief is relatively modest as the proposed front-yard setback is 40.3 feet, whereas the minimum required setback is 50 feet. As to the rear-yard setback deviations for both the accessory detail booth and the metal roof that is attached to the principal building, the Board recognizes that the booth and metal roof were previously constructed without local approvals. The Board finds, however, that the location of the detail booth is such that it is protected from vehicular traffic and will provide employees with a safe place to perform detailing work, while at the same time being situated in an appropriate location on the lot. Moreover, the requested relief is relatively modest as the proposed rear-yard setback is 25 feet to the detail booth, and 27.1 feet to the metal roof, whereas the required setback for each is 30 feet.

35. As to the requested impervious coverage exceedance, the Board recognizes that same actually is a slight reduction of the existing coverage from 84.8% to 84.54% and the proposed site improvements will aesthetically improve the site and facilitate safer onsite circulation. Finally, the Board anticipates that, overall, the proposed improvements will reduce vehicular backup onto Maple Avenue and provide much needed landscaping to beautify and screen the facility. Overall, the Board finds that the benefits of the Applicant's proposal substantially outweigh the detriments associated therewith. The Board also finds that the relatively modest detriments associated with granting the requested relief are mitigated by the conditions stipulated to by the Applicant, including the removal of the sign on the east wall and the modification of the onsite circulation so as to reduce vehicle queuing and backup onto Maple Avenue. Based on the aforementioned, the Board finds that the Applicant has demonstrated the positive criteria required for the requested bulk variance relief pursuant to subsection c (2) of N.J.S.A. 40:55D-70.

36. As to the negative criteria for the requested bulk variance relief, the Board finds that the Applicant has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan or the Zoning Ordinances. The Board considers, as to the first prong of the negative criteria that the proposed improvements will not be out of character with the commercial district in which the site is located, and, rather, it will render the Property more aesthetically pleasing and will improve the safety of motorists and pedestrians by improving onsite circulation. The Board further recognizes that no member of the public objected to the application, thus supporting the finding of no substantial detriment to the public good. As to the second prong of the negative criteria, the Board recognizes that the signage, the awning, the detail booth, and the other improvements are permitted accessory structures and uses, and that the magnitude of the bulk variance relief sought is relatively modest, such that it certainly does not rise to the level of constituting a rezoning of the Property or otherwise substantially impair the intent or purpose of the Master Plan or the Zoning Ordinance.

Design Waiver Relief:

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37. As to the requested design waivers for the number of lighting fixtures and the lighting intensity, the Board finds that, pursuant to Section 163-47 of the Ordinance, the literal enforcement of the applicable provisions of the Ordinance is impracticable or will exact undue hardship because of peculiar conditions pertaining to the land in question. Here, the Applicant is proposing to replace a lighting fixture with one that was previously approved by a predecessor land use board. Moreover, the Board recognizes that the lighting intensity exceedances are relatively modest and that requiring the Applicant to replace all of the existing lighting fixtures would exact an undue hardship upon the Applicant.

Amended Site Plan Approval:

38. As to the requested amended preliminary and final site plan approval, the Board finds that the Applicant has demonstrated compliance with the standards and regulations set forth in Sections 163-45 and 163-50 of the Ordinance. As such, the Board finds that the Applicant is entitled to the requested amended preliminary and final site plan approval relief.

WHEREAS, the Board took action on this application and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Chester, on the 13th day of August, 2020, that the application of **THE CAR WASH AT CHESTER, LLC**, for amended preliminary and final site plan approval and bulk variance and design waiver relief, as aforesaid, be, and is hereby, granted, subject to the following conditions:

1. Any and all outstanding escrow fees shall be paid in full and the escrow account shall be replenished to the level required by Ordinance within 30 days of the adoption of a Resolution, within 30 days of written notice that a deficiency exists in the escrow account, prior to signing the site plan and/or subdivision plat, prior to the issuance of a zoning permit, prior to the issuance of construction permits, and prior to the issuance of a temporary and/or permanent certificate of occupancy, completion or compliance (whichever is applicable);
2. The Applicant shall stripe, label and mark the three striped and labeled dedicated queuing lanes on the right (east) side of the car wash in accordance with the plans submitted to the Board, and same shall be subject to the review and approval of the Borough Engineer;
3. The Applicant shall submit a revised circulation plan, including, but not limited to, depicting the relocation and modification of the "bull nose", the proposed island extension, the extended striping/directional markings closer to Maple Avenue, the installation of an exit arrow at the westernmost exit lane, the relocation of the "DO NOT ENTER" sign further away from Maple Avenue, all of which shall be subject to the review and approval of the Borough Engineer and Planner;
4. The Applicant shall re-stripe the self-vacuum parking spaces, and same shall be subject to the review and approval of the Borough Engineer and Planner;
5. The Applicant shall prepare a plan demonstrating that the detail booth, proposed awnings, signs, overhead vacuum equipment shall be substantially similar in color, style, and overall appearance, and shall coordinate with the exterior colors of the car wash building, same to be submitted and subject to the review and approval of the Borough Planner and/or the Historic Preservation Commission;
6. The Applicant shall retract the proposed awnings at the close of business daily;
7. The Applicant shall retract the overhead vacuum hoses and store them inside the building overnight.
8. The Applicant shall submit a landscaping plan, same to be subject to the review and approval of the Borough Engineer and/or the Shade Tree Commission within their reasonable discretion;
9. The Applicant shall maintain the landscaping, at its sole expense, for a period of two years, and any plantings that do not survive during such period shall be replaced at the Applicant's sole expense;
10. The Applicant shall shut off all exterior lighting, except for necessary security level lighting, within 30 minutes of the close of business daily. Security lights shall be marked on the plans and shall be subject to approval by the Borough Engineer, within his reasonable discretion;
11. The Applicant shall coordinate an in-service lighting inspection by the Borough Engineering Department to determine whether site lighting (existing and proposed), including security level lighting, causes light spillage, undue glare or excessive amounts of light that are not needed for site lighting, and the Applicant shall make any adjustments, that may include fitting fixtures with shielding, that the Borough Engineer may require in his reasonable discretion;

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12. The Applicant shall submit an as-built survey, same to be subject to the review and approval of the Borough Engineering Department;
13. The Applicant shall revise the plans to show all car wash activity areas, including, but not limited to, the location where automobile mats are cleaned, same to be subject to the review and approval of the Borough Engineer and Borough Planner;
14. The Applicant shall not illuminate any of the existing or proposed signage;
15. The Applicant shall revise the lighting plans and details to remove the phrase "or approved equal" in the description of the proposed lighting fixtures because different lighting fixtures may require further approval. If the Applicant cannot install the fixtures set forth in the plans, the Applicant shall seek additional approval as necessary from the Board;
16. The Applicant shall remove the existing lighting fixture base (with a missing lighting pole) located at the entrance of the site, if the Borough Engineer determines that same constitutes a safety hazard;
17. The Applicant shall advise the entity providing refuse removal services that refuse removal cannot take place before 7:00 am or after 5:00 pm in accordance with the applicable Ordinance requirements, and such refuse removal shall take place prior to the opening of business if possible, or if not, as early as reasonably practicable;
18. The Applicant shall conduct post-construction sound level testing to ensure compliance with the local and State noise regulations, and shall remediate any noncompliant conditions, same to be subject to the review and approval of the Borough Engineer;
19. The Applicant shall install stop bars at the end of each of the proposed service lanes on the northeasterly side of the Property, as well as at the end of the exit lane on the southwest side of the Property that will include lane striping for vehicles exiting the site, same to be subject to the review and approval of the Borough Engineer;
20. The Applicant shall remove two of the coin operated vacuum stations on the west side of the building and shall replace same with employee parking spaces, same to be subject to the review and approval of the Borough Engineering Department.
21. The Applicant shall expand the proposed parking space width of the parking spaces located adjacent to the coin operated vacuums from 9 feet to 12 feet. Parking spaces shall be delineated with hairpin striping, same to be subject to the review and approval of the Borough Engineering Department;
22. The Applicant shall install noise shielding around the 3' by 6' vacuum pump located to the rear of the building, and same shall be subject to the review and approval of the Borough Engineer;
23. The Applicant shall install a bicycle rack and shall revise the plans to reflect same, all of which shall be subject to the review and approval of the Borough Engineer;
24. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, including, but not limited to, approvals from the Zoning Board of Adjustment in 1983 and 1998, to the extent same are not inconsistent with the terms and conditions set forth herein;
25. The aforementioned approval also shall be subject to all State, County and Borough statutes, ordinances, rules and regulations affecting development in the Borough, County and State, including but not limited to NJDEP regulations and permit requirements;
26. Pursuant to Section 163-77.E.8 of the Ordinance, any variance relief granted by the Land Use Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises shall expire by limitation unless construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within nine (9) months from the date of entry of the judgment or determination of the Land Use Board; and
27. All construction, use and development of the Property shall be in conformance with the Plans approved herein, all findings, conclusions, terms and conditions of this Resolution and, to the extent not inconsistent therewith, all representations of Applicant and its witnesses during the public hearing. Any deviation from the terms or conditions of the approved Plans, or the terms or conditions of this Resolution, shall be deemed a violation of the terms and conditions of site plan approval and a violation of the Zoning and Land Development Ordinances of the Borough of Chester;

Chipotle Mexican Grill, Inc. 141-205 Route 206, Block 128, Lot 4

Anita Rhodes moved to adopt the following resolution with corrections; Stanley Stevinson seconded the motion which was passed by the following roll call vote:

AYES: Mayor Hoven; Kerry Brown; Kenneth Kasper; Anita Rhodes; Donald Storms; Chris Heil; Stanley Stevinson

NAYS: None

CHIPOTLE MEXICAN GRILL, INC.
Block 128, Lot 4
141-205 Route 206
(Chester Springs Shopping Center)
RESOLUTION

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WHEREAS, **CHIPOTLE MEXICAN GRILL, INC.** (the “Applicant”) has applied to the Borough of Chester Land Use Board (the “Board”), for the following bulk variance relief in connection with the installation of new signage at the proposed Chipotle Mexican Grill located within the Chester Springs Shopping Center, on property identified as Block 128, Lot 4 on the Tax Map, more commonly known as 141-205 Route 206 (the “Property”):

1. A variance for three (3) signs, whereas only one (1) sign per business is permitted in nonresidential districts, pursuant to Section 163-89.B(2) of the Land Development and Procedures Ordinance of the Borough of Chester (the “Ordinance”); and
2. A variance for two signs attached to the side of the building, having a total sign area of 62.37 square feet (7.06 square feet and 55.31 square feet²), and one signed attached to the front of the building having a sign area of 35.27 square feet, whereas such sign area shall not exceed 15 square feet and the total sign area shall not exceed 10% of the area of the face of the building to which it is attached, pursuant to Section 163.B(2) of the Ordinance; and

WHEREAS, a virtual public hearing on notice was held on such application on July 9, 2020, at which time interested citizens were afforded an opportunity to appear and be heard; and

WHEREAS, the Board, after carefully considering the evidence presented by the Applicant and the reports from consultants and reviewing agencies, has made the following factual findings and conclusions:

All of the application materials and hearing exhibits were posted on the municipal website, and made available to members of the public, within the requisite timeframe, in advance of the hearing. Members of the public were provided with instructions on how to access said materials and participate in the scheduled hearing both via the web-based meeting platform and telephonically, if necessary.

All Board Members and Board Professionals and staff participated in the hearing through the web-based platform and were able to perceive the Applicant and the Applicant’s professionals, both visually and audibly, in real time.

The Property is located within the B-3 Regional Commercial Business Zone and the Historic Preservation District Overlay. The signage is for the proposed Chipotle restaurant that will occupy the former Starbucks location in the Chester Springs Shopping Center (the “Shopping Center”). In May of 2015, the Zoning Board, by Resolution No. 2015-01, approved signs on the side of the Shopping Center facing Route 206 for Starbucks (the “2015 Approval”). Specifically, the 2015 Approval allowed for the installation of two signs on the southwest side of the building, one of which consisted of 35.988 square feet (23-feet-2.25-inches by 18-and-five-eighth-inches) and the other of which was a 7.065 square foot round logo (3 foot diameter), for a total of 43.053 square feet. Starbucks also received approval for two perpendicular signs attached to the ceiling of the walkway along the front of the building.

The Applicant proposes to install one (1) 35.27 square foot sign on the front of the building facing the parking lot on the northwest side of the building and two (2) signs facing Route 206 on the southwest side of the building, including a 7.06 square foot round logo sign (3 foot diameter) and a 55.31 square foot (18-feet-0.5-inches by 3 feet 0 7/8 inches high)³ channel letter sign. Two four (4) square foot signs are to be hung above the walkway in front of the store. The existing two (2) Starbucks perpendicular signs attached to the ceiling of the walkway along the front of the building are proposed to remain, but will be updated to say ‘Chipotle’ rather than Starbucks. The proposed signs will occupy substantially similar locations on the front and side of the building where Starbucks’ signs were approved to identify the restaurant from within the Shopping Center.

The Applicant’s proposal is depicted on Plans prepared by Broadway National, dated March 30, 2020, unrevised, same consisting of nine (9) sheets.

The requested variance for the proposed signage is governed by the criteria of N.J.S.A. 40:55D-70(c).

Michael J. Lario, Jr., Esq., of Nehmad Perillo Davis & Goldstein, PC, entered his appearance on behalf of the Applicant. He explained that the Applicant is seeking bulk variance relief for the installation of three façade signs. Mr. Lario further explained that the proposed signage will replace the existing Starbucks signage and that the new signage will be located in substantially similar locations on the front and side of the subject building in accordance with the 2015 Approval.

David J. Banisch, A.I.C.P., P.P., the Board Planner, and Steven B. Bolio, P.E., C.M.E., the Board Engineer, both were duly sworn according to law.

The Board reviewed the Applicant’s request for checklist waivers as set forth in Mr. Ferriero’s June 16, 2020 Review Letter, and granted the requested relief in accordance with the advice received from the Mr. Bolio, thereby deeming the application complete. A copy of Mr. Ferriero’s June 16, 2020 Review Letter is attached hereto.

Tiffany A. Morrissey, P.P., A.I.C.P., having a business address of 7 Equestrian Drive, Galloway, New Jersey, was duly sworn according to law, provided her qualifications, and was accepted by the Board as an expert in the field of professional planning. Ms. Morrissey provided an overview of the Property and the Applicant’s proposal.

Ms. Morrissey testified that the Applicant had received the July 9, 2020 Review Memorandum prepared by Mr. Banisch, the Board Planner, and, based on the comments set forth therein, the Applicant reduced the size of the larger proposed side façade sign from 55.31 square feet to 23.42 square feet. Mr. Morrissey opined that the reduction of size of the signage would make the proposed signage more consistent with adjacent tenant signage in the Shopping Center. She reminded the Board that the Starbucks side façade signage was approved at 43.053⁴ square feet, whereas the Applicant is only proposing a total sign area of 30.48 feet – approximately 13 square feet less than what previously existed.

² The Applicant subsequently modified the proposal to reduce the sign area for one of the side signs from 55.31 square feet to 23.42 square feet, for a total side sign area of 30.48, rather than 62.37 as originally proposed.

³ The proposed 55.31 square foot sign was reduced to 23.42 square feet and will have dimensions of (11-feet-8.5-inches by 2 feet high)

⁴ Chester Borough Planning Board Resolution No. 2015-01, dated May 12, 2015, granted approval for two signs totaling 43.053 square feet including (1) a rectangular internally lit LED sign 23’-2-1/4” x 18.25” (paragraph #4) and (2) a round logo sign 36” diameter (paragraph #11).

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On questioning regarding whether the proposed signage would fit within the ivory band along the roof line of the westerly wall, Ms. Morrissey testified that the new signage would be centered within the ivory band. On discussion of whether the Applicant was also proposing to maintain the perpendicular signs attached to the ceiling above the walkway, Ms. Morrissey advised that the Applicant is keeping the same size signs in the same location, but changing the text to say "Chipotle" rather than "Starbucks".

Ms. Morrissey introduced into evidence, as Exhibit A-1, the plans prepared by Broadway National, same consisting of nine (9) sheets. She also introduced into evidence, as Exhibit A-2, the Applicant's revised plans prepared by Broadway National, depicting the smaller façade sign, same consisting of three (3) sheets (Sheet 2 of 3 replacing Sheet 5 of 9 in Exhibit A-1; and Sheet 3 of 3 replacing Sheet 6 of 9 in Exhibit A-1). Ms. Morrissey explained that Exhibit A-2 reflected the Applicant's amended proposal with the reduced sign area for the southwest building façade. Ms. Morrissey opined that the Applicant had demonstrated an entitlement to the request bulk variance relief for the number and size of the proposed signage pursuant to subsection c (2) of N.J.S.A. 40:55D-70. She opined that the proposal advances purposes (a) and (h) of Section 2 of the Municipal Land Use Law ("MLUL"). In this regard, she explained that the signage will facilitate safer on- and off-site traffic circulation and increase customer safety, because the signage assists traveling motorists to more easily identify the building as a Chipotle. Ms. Morrissey further opined that the Applicant had satisfied the negative criteria for the requested bulk variance relief, because granting the requested relief would not result in substantial detriment to the neighborhood or substantial impairment of the Master Plan and Ordinance, particularly given the Applicant's reduction of the size of one of the proposed façade signs. The Applicant stipulated, as a condition of approval, that the lighting for the signage would be turned on not earlier than 6:00 am and turned off at sunrise during the morning hours, and would be turned on at sunset and turned off not later than 10:00 pm during the evening hours.

Mr. Banisch opined that the amended proposal is appropriate and that a smaller sign will be more in character with the signage of other tenants within the Shopping Center, particularly since the ivory band along the roof line of the westerly wall of the building would not be completely obscured by the proposed sign. He further opined that the Applicant's proposal is very similar to the proposal that had been approved in 2015 for the Starbucks.

Mr. Bolio, the Board Engineer, confirmed that the comments set forth in the June 16, 2020 Review Letter to the Board had been addressed and reminded the Applicant to provide revised plans and full-scale drawings.

On discussion of the illumination of the proposed signage, Ms. Morrissey advised that the signage will be internally illuminated, but will not flash or blink and the text will not change intermittently, and thus will be consistent with the existing signage at the Shopping Center.

Valery Vargas, of Broadway National, having a business address of 100 David's Drive, Hauppauge, New York, was duly sworn according to law.

On questioning, Ms. Vargas testified that the proposed signage would be silent and confirmed that the illumination would not flash or blink, and the text will not change intermittently.

The Applicant stipulated, as a condition of approval, to repairing any damage to the building façade associated with the removal of the existing signage and/or the installation of the new signage.

No member of the public commented on, or objected to, the Applicant's proposal.

DECISION

After reviewing the evidence submitted, the Board, by a vote of 9 to 0, finds that the Applicant has satisfied its burden of proving an entitlement to the requested variance relief for the excessive number and size of proposed signs, pursuant to N.J.S.A. 40:55D-70(c)(2). The Board finds that the Applicant has satisfied the positive criteria for "c(2)" or "flexible c" variance relief for all of the bulk variances requested by demonstrating that the purposes of the MLUL will be advanced by the requested deviations from the zoning requirements, and that the benefits to be derived therefrom will substantially outweigh any detriments associated therewith. In this regard, the Board adopts the unrefuted expert testimony of Ms. Morrissey, the Applicant's Professional Planner, that the proposal advances the purposes set forth in subsections (a), (h), and (i) of Section 2 of the MLUL in that it promotes the public health, safety, morals and general welfare; encourages the free flow of traffic; and promotes a desirable visual environment, respectively. Here, the proposed signage contains less total sign area than the existing signage (30.48 square feet of proposed sign area on the southwest façade rather than 43.053 square feet of existing sign area approved for Starbucks in 2015), is aesthetically pleasing, improves tenant identification and wayfinding, and is more consistent with the existing signage in the Shopping Center, particularly since the signage will fit within the ivory band along the top of the wall. The Board finds that the relatively modest detriment associated with granting the requested relief is mitigated by the conditions stipulated to by the Applicant, including the overall reduction of the sign area.

As to the negative criteria for the subsection c (2) bulk variance relief, the Board finds that the Applicant has demonstrated that the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Master Plan or zoning ordinances. The Board considers, as to the first prong of the negative criteria, that the total sign area of the proposed signage will be less than the total sign area of the existing signage, and it will be more consistent with the existing signage at the Shopping Center, and that the relatively modest detriment is mitigated by the conditions stipulated to by the Applicant, as set forth below. The Board further recognizes that no member of the public objected to the application. As to the second prong of the negative criteria, the Board recognizes that the tenant identification signage is permitted, and that the magnitude of the bulk variance relief sought is relatively modest such that it certainly does not rise to the level of constituting a rezoning of the Property.

WHEREAS, the Board took action on this application and this Resolution constitutes a Resolution of Memorialization of the action taken in accordance with N.J.S.A. 40:55D-10(g);

NOW, THEREFORE, BE IT RESOLVED by the Land Use Board of the Borough of Chester, on the 13th day of August, 2020, that the application of **CHIPOTLE MEXICAN GRILL, INC.** for variance relief as aforesaid, be and is hereby granted, subject to the following conditions:

1. The Applicant shall post sufficient funds with the Borough to satisfy any deficiency in the Applicant's escrow account;
2. The lighting for the signage shall be turned on not earlier than 6:00 am and then turned off at sunrise during the morning hours and shall be turned on at sunset and turned off not later than 10:00 pm during evening hours;
3. The Applicant shall repair any damage to the building façade associated with the removal of the existing signage and/or the installation of the new signage, and same shall be subject to the review and approval of the Borough Engineer;
4. The Applicant shall install the signage in accordance with the details set forth on the plans and as testified to during the hearing, including that the proposed 55.31 square foot sign was reduced to 23.42 square feet and shall have dimensions of (11-feet-8.5-inches by 2 feet high) such that it will fit within the ivory cinderblock portion of the wall. The Applicant shall ensure that the signage is centered

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vertically and horizontally within said ivory cinderblock portion of the wall and all of the aforementioned shall be subject to the review and approval of the Borough Engineer;

5. The Applicant shall submit full scale drawings to the Board prior to the signing of the plans;
6. The Applicant shall revise the plans to include a signature block for the Chairman, Secretary and Borough Engineer on the cover sheet.
The Applicant shall also revise the plans to include clearly legible plan dates and any future revision dates, and same shall be subject to the review and approval of the Borough Engineer;
7. The aforementioned approval shall be subject to all requirements, conditions, restrictions and limitations set forth in all prior governmental approvals, to the extent same are not inconsistent with the terms and conditions set forth herein;
8. The aforementioned approval also shall be subject to all State, County and Borough statutes, ordinances, rules and regulations affecting development in the Borough, County and State, including but not limited to NJDEP regulations and permit requirements; and
9. Pursuant to Section 163-77.E.(8) of the Ordinance, any variance relief granted by the Land Use Board permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises shall expire by limitation unless construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced, within nine (9) months from the date of entry of the judgment or determination of the Land Use Board.

COMMUNICATION/DISCUSSION ITEMS - NONE

PUBLIC COMMENT – no one in the public

ADJOURNMENT - There being no further business, the meeting was adjourned at 7:46 p.m. by motion of Creter/storms moved

Sarah Jane Noll
Recording Secretary