

CHESTER BOROUGH

LAND USE BOARD

May 13, 2021

The Regular meeting of the Chester Borough Land Use Board was held remotely on May 13, 2021

Opening Statement

Chairman Kenneth Kasper called the meeting to order at 7:05 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 will be posted on the website at chesterborough.org. Public can register at [Zoom.us](https://zoom.us) and to join:

WEBINAR ID: 841 9544 6175

Password: 245941

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

SALUTE TO THE FLAG

ROLL CALL

Present:

Kerry Brown, Class II
Kenneth Kasper, Class IV
Anita Rhodes, Class IV
Michael Ferrone, Class IV
Donald Storms, Class IV
Edd Creter, Class IV
Stan Quintana, Alternate #1
Jasen Rothamel, Alternate # 2

Absent:

Mayor Janet Hoven, Class I
Chris Heil, Council Representative, Class III
Adam Sorchini, Class IV
Paul Ferriero, Board Engineer

Also Present:

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

PUBLIC HEARINGS:

Mill Ridge Lane Property LLC and Highpoint Development, LLC - (previously listed as Larison's Corner LLC), Block 101, Lots 12.07 - Preliminary and Final Subdivision and Preliminary and Final Major Site Plan

Subdivision and Site Plan applications to construct 20 townhouses with site improvements **TO BE CARRIED TO JUNE 10th, 2021 without further notice.**

Bajwa Management LLC 2021-04 - 92 West Main Street, Block 101, Lot 12.02 Amended Preliminary and Final Site Plan. Application to convert existing retail space and one apartment to commercial/retail/office/business space and three-2-bedroom apartments.

Mark Blount was present representing the applicant. Steven Warner, Board attorney advised that the notice was in order and the board has jurisdiction to go forward with the public hearing.

Mr. Bolio addressed his report of 4-19-21 which recommended that the waivers on page 2 be granted for completeness. Kerry Brown moved to grant the waivers requested and deem the application complete on the recommendations of the engineer; Donald Storms seconded the motion which was approved unanimously by the board.

Chairman Kasper turned the meeting over to Mark Blount, who advised that the new owner of the property is Bajwa Management of 92 West Main Street, and the existing use is 4,541 sq. ft. of retail toy store, 2,595 sq. ft. office use and a 610 sq. ft. 1-bedroom apartment. The applicant is requesting a mixed-use 2,800 sq. ft. commercial (retail/office/business) use on the first floor and multi-family use consisting of three (3) 2-bedroom apartments on the first and second floors of the building.

Michael Roth, P.E. of Roth Engineering LLC. was sworn in and accepted as an expert witness and testified.

The following exhibits were entered into evidence:

Exhibit A-1 -existing conditions shown on an aerial map dated 5-10-21. The property is located at 92 Main Street and consists of 4,515 sq. ft. specialty retail use (toy store) occupying the first floor; 2,595 sq. ft. office use occupying a portion of the second floor; a 610 sq. ft. 1-bedroom apartment on second floor and a previously approved free-standing sign measuring 2' x 7'3" which will remain in the same location and existing size with ground mounted shielded lighting. A 2' diameter sign on the front of the building and an existing sign on the west side of the building are to be removed.

Exhibit A-2 – Site plan rendering dated 5-10-21. The plans show a retail space and 3 – 2-bedroom apartments. There are no changes to the bldg. footprint proposed. The new parking demand is for 22 spaces. There is no change to impervious coverage. The

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removal of a parking space in the NW corner allows for the addition of the sidewalk to the apartment entry at the front of the building. There will be a slightly higher sewerage flow which has been approved by the Board of Health at their 4-14-21 meeting.

The Ferriero Engineering report dated 4-19-21 and the Banish Associates report dated 5-13-21 were both addressed. Testimony will be provided regarding the rental units and the 'd' variance being requested. Mr. Roth concluded his testimony.

Neither Mr. Bolio nor Mr. Banisch had questions of Mr. Roth. The Board members did not have questions of the witness. Mr. Warner questioned the sign and its mounting which will remain the same. The base stone is the same style as the foundation of the building. Chairman Kasper questioned the multiple commercial uses on the first floor. A detail of the sign is on sheet 3 of the site plan dated 3-26-21. Questions regarding the new walkway and landscaping were addressed and the suggestion that the landscaping be brought up to par was stipulated by the applicant.

Mr. Banisch was sworn in by Mr. Warner and he testified to the site being on a county highway and that the apartments face Main Street (Co. highway). He suggested that the board may want to see additional landscaping along the front of the property, i.e., shade trees and landscaping to soften the site and act as a buffer. Mr. Bolio advised that the trees would block the sight triangles. The applicant agreed to provide landscaping where feasible and the plan to be approved by the Borough Engineer.

Public Portion – Kerry Brown moved to open the questioning of the witness to the public; Anita Rhodes seconded the motion which was approved however since there was no one in the public, the public portion was closed.

William Byrne was called as the next witness. Because Mr. Byrne was unable to connect to the Zoom meeting, his daughter Jamie Byrne, who is not a licensed architect but has worked with him for 8 years was allowed to testify but not to give any opinions. She advised that she worked on this project. Ms. Byrne was sworn in by Mr. Warner. The following exhibit was entered into evidence:

Exhibit A-3 - Plans consisting of 3 sheets submitted with the application dated 2-11-21 and prepared by William Byrne. Ms. Byrne reviewed sheet 1 showing the front elevation and sheet 2 showing the floor plans for apartments A, B & C. All apartments have 2 bedrooms. One (1) 2-bedroom apartment with kitchen, dining and living room on the first floor and two bedrooms and "study" on the second floor with access on the west side of building. One (1) 2-bedroom apartment with study on the second floor with access from the north side of the building. One (1) 2-bedroom apartment with kitchen, dining and living room on the first floor and two bedrooms on the second floor with access on south side (West Main Street side) of building.

Ms. Byrne gave the s.f. of the studies in units b and c which do not have closets.

William Byrne came into the meeting and was sworn in and accepted as an expert witness. He had heard Ms. Byrne's testify and concurred that it is accurate. Mr. Byrne

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then testified to the three large apartments proposed. He revised the proposed 2 signs needing variances. He stipulated that one sign would be 15 s.f. and the second would be reduced to 6 s.f. which will follow the ordinance and thus remove the need for a variance which will be withdrawn. He does prefer the two signs of the same size but is willing to relinquish the size of the 2nd second sign. Mr. Warner reviewed the need for a variance for sign relief and suggested that the applicant state what they propose. Mr. Banish questioned the signs and goose neck lighting and hours of operation and suggested that since the use is now predominantly residential, the lighting time could be reduced. The lighting at the three apartment entries was questioned and the board suggested that the individual lighting should be controlled by the tenants themselves. Mr. Bolio questioned if the lighting currently along the sidewalks is sufficient. It was also suggested that this lighting be motion activated and low voltage for safety. The materials for the sign will be like what is currently there. The board members questioned the use of the study as a bedroom. Mr. Byrne suggested that the rental contract stipulate that each apartment is 2 bedrooms. The board agreed that the wording of the contract restricting them to 2 bedrooms be agreed to by Mr. Blount and Mr. Warner. It was noted that two apartments do not have washers and dryers. The DEP approval is based on the number of bedrooms. Mr. Byrne advised that other than the proposed lighting at the entries, there are no exterior changes to the old house. The testimony regarding the retail/office use will be deferred to the Planner. There is a dumpster enclosure at the northeast side of the property which will be relocated to accommodate the apartments and retail use. There was discussion on outdoor furniture and grills and Mr. Byrne advised that there are no patios proposed. Mr. Banisch suggested that some of the parking spaces that are not needed could be converted into a little gazebo area for a grill and picnic table. Mr. Blount advised that there is no proposal for converting any of the spaces for cooking and seating areas and the applicant stipulates that he will not allow outdoor storage of grills and propane tanks on the premises. If there is any thought of this, the plans would have to be revised to show the area and the reduction of the parking spaces and approved by the LUB.

There were no further questions of the witness and since there was no one in the public, the public portion was not opened.

Mr. Blount asked for a brief recess to confer with his client.

8:44 p.m. a brief recess was taken.

8:54 p.m. the board came back from recess.

Mr. Blount advised that there are no outdoor dining or cooking areas proposed. If in the future, they wish to provide this, they are aware that they must come back to the board for approval.

Paul Ricci, Planner was called as the next witness and sworn in by Mr. Warner. Mr. Ricci provided the board with his background and was accepted as an expert witness. Mr. Ricci testified to the scope of the project advising the board that he had reviewed the proposed plans, the proposed architecture, the Borough Master Plan, and pertinent sections of the ordinances. He noted the existing uses in the surrounding areas and reviewed the permitted uses in the zone. He explained that the decrease of the retail

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area to a residential use, requires approval of a 'use' variance. He advised that at some point the Borough did allow the mixed use without significant detriment to the area. He reviewed the 7 office spaces in the immediate area and that the current market is 22% office space. There is a need for housing for young adults and the proposed use is not out of character for the area. It is a good repurpose of use for an existing building.

Mr. Banisch questioned the office space statistics that Mr. Ricci testified to. Mr. Ricci advised that most of the information was gotten from **Luke.net** and it is **unoccupied, available to lease** statistics. Mr. Banisch commented on the commercial uses in the area. Mr. Ricci addressed the sign variances being sought and found the proposal of two signs rather than one large sign to be tastefully done. Mr. Banisch feels it does require a variance however he has no objection to the two signs. Mr. Ricci agreed with Mr. Banisch's suggestion that affordable housing would be appropriate in this project.

The board members had no questions of the witness.

Mr. Banisch suggested several types of retail uses that are currently in the Borough that could occupy the space pointing out that the prior use was a 'destination' use.

Mr. Bajwa was sworn in by Mr. Warner and he advised that he needs the apartments for financial reasons. One of the retail spaces is to be used for his office and he has someone interested in the other retail space.

As per the request of Mr. Blount, the board took a 10-minute recess at 9:40 and resumed the meeting at 9:50 p.m.

Mr. Blount advised that his client agrees to the following 1) provide a designated affordable unit and 2) the retail space will not include any food preparation, deli, or restaurant. His client requests that he be given broad flexibility to help fill the retail space.

The board members had no questions of the witness.

Mark Blount summarized his case.

Edd Creter moved to enter deliberation; Anita Rhodes seconded the motion which was approved by the board.

The board discussed the proposed apartments and that one of which would be an affordable unit; the mixed use proposed; the restrictions of hours for retail and concluded their discussion with the suggestion that the applicant come back to the board when the tenants for the retail space are known.

Mr. Blount asked that the board take a break so that he can confer with his client.

A break was taken at 10:10.

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During the recess and the absence of Mr. Blount and his client, the board addressed the following business:

Minutes – The April 8th minutes were approved as read.

AT 10:19 the applicant came back into the meeting.

Mr. Blount advised the board that his client wishes to relinquish his request for retail.

Chairman Kasper polled the Board and there was discussion on the application which included the following stipulations:

Withdraw the request for commercial retail space; provide one affordable unit; the approval includes preliminary and final site plan; approval of 2 – 15 s.f. signs; provide additional plantings as per the engineer's review and approval; provide entry lighting to the apartment units; preparation of a lease agreement restricting the study to be used as a bedroom; and the prohibition the outdoor storage of propane tanks and grills.

Edd Creter moved to approve the application with the above referenced stipulations; Stan Quintana seconded the motion which was approved by the following roll call vote:

AYES: Kerry Brown; Kenneth Kasper; Anita Rhodes; Michael Ferrone; Donald Storms; Edd Creter and Stan Quintana

NAYS: None

Public Comment – There was no one in the public.

ADJOURNMENT – There being no further business, the meeting was adjourned at 10:24 p.m. by a motion of Edd Creter and seconded by Donald Storms.

Sarah Jane Noll
Committee Secretary