

CHESTER BOROUGH
LAND USE BOARD
September 9, 2021

The Regular meeting of the Chester Borough Land Use Board was held on September 9, 2021.

Opening Statement

Chairman Kenneth Kasper called the meeting to order at 7 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.

SALUTE TO THE FLAG

Swear in New Member

Margaret Nordstrom, Class II member of the LUB was sworn into office by Steve Warner. Chairman Kenneth Kasper welcomed Ms. Nordstrom to the Board.

ROLL CALL

Present:

Janet Hoven, Class I
Margaret Nordstrom, Class II
Chris Heil, Class III
Kenneth Kasper, Class IV
Donald Storms, Class IV
Stan Quintana, Class IV
Adam Sorchini, Class IV
Anita Rhodes, Class IV
Michael Ferrone, Class IV
Jason Rothamel, Alternate # 1
Kyle Kopacz, Alternate # 2

Absent:

Paul Ferriero, Board Engineer

Also Present:

Lumarys Mendez, LUB Secretary
Sarah Jane Noll, Committee Secretary
Steven K. Warner, Esq., Board Attorney
Steve Bolio, Board Engineer
David Banisch, Board Planner

Minutes – By motion of Janet Hoven and seconded by Michael Ferrone, the minutes of the **June 10, 2021**, meeting were approved.

Abstained: Kyle Kopacz, Stanley Quintana, and Donald Storms

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By motion of Michael Ferrone and seconded by Jason Rothamel, the minutes of the **July 8, 2021**, meeting were approved.

Abstained: Adam Sorchini, Stanley Quintana, and Donald Storms

PUBLIC HEARING:

Chester Town Center (Former Larison's Turkey Farm) -Global Acquisitions Company LLC -2 West Main Street, Block 101, Lots 13, 14, 15, 16

Preliminary Major Subdivision and Site Plan application to construct multiple buildings including a restaurant, CVS Store, medical office building, general office, affordable housing units, cell tower and an organic farm.

Application deemed complete June 10, 2021. The application was Carried without further notice to September 9, 2021.

- Donald Storms recused himself from hearing this application since his property is located within 200' of the subject property.

Anthony Sposaro, Esq. representing the applicant, was present. Steve Warner, LUB Attorney advised that the application had been carried from the June 10th meeting and the applicant had granted an extension of tolling time to October 31, 2021, and that the Board has jurisdiction to act on this matter.

Stuart Krumholz, Esq. an attorney from the Wisniewski Law Firm advised that he is representing a property owner of a lot within 700' of the subject property. He declined to give the address of his client. Chairman Kasper advised him that it is the custom of this Board to require a person to identify themselves and give the address of the property that they own. Mr. Sposaro advised the Board that Mr. Krumholz is representing the owners of the Chester Springs Mall and asked that Mr. Krumholz be barred from these proceedings if he can't identify his client. Mr. Warner advised Mr. Krumholz that he should give the address and block and lot of the property. Mr. Warner suggested that the Board afford Mr. Krumholz the opportunity to state his objections. Mr. Krumholz questioned the August public notice and advised that he is representing DPF LLC, address unknown. Mr. Warner reviewed Mr. Krumholz's objections of the notice and explained in detail with statutory and case law citations how the content of the notice was sufficient and advised the Board that it had jurisdiction to hear the case. Upon the advice of Mr. Warner, a unanimous poll of the LUB members resulted in the Board continuing to hear the case.

Mr. Sposaro asked that a subpoena to appear at the October 14, 2021, hearing be issued to the owner of the property known as DPF, LLC. No decision regarding this request was made.

The following exhibit was entered into evidence:

Exhibit A-1 – Settlement Agreement dated October 4, 2018.

Mr. Sposaro reviewed the settlement agreement with the Board.

Mr. Sposaro advised the Board that the applicant's engineer needs to address a 20-page report that had just been received today from the Borough's engineer and that since there are several engineering details including stormwater regulations that need to be addressed, they will not present engineering testimony this evening. Since the architectural plans were submitted with the application, testimony this evening will be given by architects William Byrne and Robert Gehr. Mr. Gehr designed the CVS store.

William Byrne was called as a witness and was sworn in along with Borough Engineer Steve Bolio and Borough Planner David Banisch.

Mr. Byrne was accepted as an expert witness and advised that his license is in good standing.

Mr. Krumholtz had no objection to Mr. Byrne's qualifications as an expert in the field of architecture.

Exhibit A-2 – Architectural Renderings which includes 3 pages dated April 5, 2021, revised through August 25, 2021.

Sheet 1 is of the front and right side of the restaurant building. He reviewed the layout of the building and the elevations on the sides.

Sheet 2 shows the rear and west elevation of the restaurant. The main entrance will be from the west side of the building.

Sheet 3 includes the floor plan of the restaurant. A demolition permit for the kitchen area to the rear of the building and the bar area on the east side has been applied for. Mr. Byrne testified that these portions of the building are going to collapse, and it is prudent to remove them to retain the building. The applicant proposes to weatherize the building to help stabilize it.

Exhibit A-3 - sheet 8, Site Plan with a # 3 revision date of August 23, 2021. Mr. Byrne reviewed the proposed buildings on the site which includes the Affordable Housing to the rear of the property.

Exhibit A-4 – One 2 Story, 5,040 s.f. office building consisting of 2 floors each consisting of 2,497 s.f.

Exhibit A-5 – Affordable Housing complex dated May 19, 2021, no revisions and consisting of 5 sheets. Sheet 1 is a plan of the first floor. The apartment mix meets the settlement agreement. Sheet 2 is the two (2) - 2 - story apartment buildings consisting of 18 units. Sheet 3 is a plan of the 2nd floor. Sheet 5 is the club house building which is a one (1) story building. It is to contain the management offices and amenities for the residents of the apartments. There is a large common room which can accommodate 54 persons.

Exhibit A-6 – One 2-story, 19,768 s.f. medical office building located on the west side of the site along West Main Street. The revision dated is May 13, 2021. It replicates a dairy barn building.

- Councilman Heil came into the meeting.

Exhibit A-7 – Proposed Country Store, dated June 17, 2021, consisting of 2 sheets. The existing garage doors will be replaced. It will be used as a farm market and will be open seasonably. It is being relocated on the site. The siding on the building has been stripped and will be replaced with board and batten.

Mr. Byrne concluded his testimony. He did testify that the wings on the restaurant must be removed now before winter because heavy snows may cause them to collapse. The applicant will attempt to keep it tight from the weather. Mr. Sposaro asked that the Board address the demolition issue. Mr. Warner suggested that this be resolved before the next hearing. Mr. Banisch supports the demolishing of the two wings. Mr. Byrne will attend the October hearing.

Referring to sheet 1 of Exhibit A-2, the height of the restaurant was discussed by Mr. Sposaro and Mr. Byrne. The height is 37.5' which exceeds the allowable height of 35' however it is Mr. Sposaro's opinion that it is a pre-existing structure and that there is no change in the height by the proposed improvements. They wish to maintain and restore an historic building.

Mr. Banisch discussed the flexible c variance which promotes historic structures and properties. Mr. Byrne testified that there is no detriment to the zone plan. Mr. Banisch reviewed a redevelopment plan and the standards which allow the Board to grant these deviations. This is a deviation of the height and the testimony offered is sufficient to grant this deviation. Mr. Warner advised that it is a preexisting non-conforming structure and may not need a variance. Mr. Banisch explained that this project is being developed in phases and that the Board is being asked to approve the architecture. The applicant agrees to be bound by these architectural plans. Mr. Banisch had no further questions of the witness.

Mr. Bolio asked for measurements from the ridge to the eve of the building. Mr. Bolio addressed the stabilization of the restaurant and that the lighting can be deferred to the next meeting. Mr. Bolio had no further questions at this time. Mr. Warner advised that it is a c-2 variance.

The Board questioned the witness. There was discussion regarding the phasing and stipulations which will be consistent with the Court Settlement Agreement. Mr. Sposaro will address the phasing of the settlement agreement at the October meeting. The use of the second floor of the restaurant and the height of the office building were questioned. These will be addressed at the October meeting.

Public Portion – questioning of the witness

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Janet Hoven moved to open the public portion to questions of the witness; Stan Quintana seconded the motion which was passed unanimously by the Board.

Ed Ng, Chester President of the Historical Society, residing at 25 Ammerman Way explained that James Topping built the main section of the restaurant which measured 50' x 50' at that time. He advised that there was an American Survey done in the 1930's. Mr. Ng was sworn in by Mr. Warner. Mr. Ng entered into evidence the following exhibit:

Exhibit P-1 – An architectural drawing 'Isaac Corwin House' - Mr. Ng asked if the original portion is the area being preserved. Mr. Byrne advised that this is the portion of the building that they wish to preserve.

Barbara Hay, residing at 3 Cricket Lane asked where the traffic in the interior of the site will exit? She was asked to hold that question until the applicant's engineer is present. Mr. Sposaro hopes to have the engineer at the meeting on October 14th.

Peter Maddi, residing at 16 Benjamin Road, Chester Township questioned the use of the proposed vinyl siding on the Affordable Housing building. He was advised that there has been discussion on the siding on that building.

Chairman Kasper advised that there has been a Focus Group who has been meeting to review the architecture. This group are residents of the Borough and are Court approved and directed. Some of the members are Stanley Quintana, Mayor Hoven, David Banisch, Planner and Ed Hannington, representative of the Historic Committee. There has been input from Mr. Byrne. Mr. Byrne advised that it was agreed that the siding be of a vinyl nature.

Public Portion Closed.

Anita Rhodes moved to close the public portion; Margaret Nordstrom seconded the motion which was passed unanimously by the Board.

Robert Gehr, AIA, NCARB working for Larson Design Group, Williamsport, Pa. was sworn in by Mr. Warner. He testified that he has been a licensed architect since the early '90's and is licensed in New Jersey. He has represented CVS as their architect for many years. Mr. Gehr was accepted as a professional architect.

Mr. Krumholz, counsel for the objector had no objections to the qualification of this witness as an expert in the field of architecture.

Mr. Gehr testified that he had met with the Focus Group. He has colored elevations and a floor plan. The following exhibits were entered into evidence:

Exhibit A-8 – O1 – floor plan of the store. He testified that this is a standard CVS pharmacy footprint consisting of 15,000 s.f. He explained there is only one main entrance. There is a utility door and emergency door for egress only. This facility has a single drive-up window. He detailed the layout of the store which includes the store, manager's office, health clinics and bathrooms.

Exhibit A-9 - A5c – This is an exterior rendering of the building with elevations, and different siding textures.

Mr. Banisch questioned the depth of the canopy over the drive thru window which is 5'6" and questioned if it is sufficient in size. Mr. Gehr stated that this is the standard size on all the stores.

Mr. Bolio questioned the location of the electric meter.

Mr. Banisch and Mr. Bolio had no further questions of the architect.

The Board questioned the witness. Questions of the witness consisted of the use of the shutters under the gables; the use of shopping carts and where they would be kept. The applicant will stipulate that there will be no shopping carts on the outside of the building. The fence will be of PBC or cedar boards. There will be a cardboard compactor. The exterior color is sandstone and hunter green. The enclosures will be board on board cedar siding with matching gates and self-closing latches. It was suggested by the Board that Mr. Gehr and Mr. Byrne meet to coordinate colors. The red is CVS' color, but Mr. Gehr was asked if CVS would consider a different color. The 22" tall letters are internally illuminated. They turn off at the close of the business day. The hours of operation are currently unknown. Mr. Banisch will determine if the size of the letters will need a variance.

Public Portion – questioning of the witness

Margaret Nordstrom moved to open the public portion to questions of the witness; Chris Heil seconded the motion which was passed unanimously by the Board

John Pfaff, residing at 8 Chester Brook Road, Chester Township questioned whether this building fits architecturally with the other structures.

Ms. Gugliemini, residing at 3 Larch Drive questioned the landscaping. Mr. Sposaro will have the landscape plan at a future meeting.

Public Portion Closed.

Margaret Nordstrom moved to close the public portion; Chris Heil seconded the motion which was passed unanimously by the Board.

Mr. Gehr testified that he was the designer of the roof for the sewage treatment plant. The building is 24' x 48' and is to be located to the front and west of the restaurant. It is a rectangular building with the same color scheme. The following exhibit was entered into evidence.

Exhibit A-10 – This is a rendering of the proposed sewage treatment plant dated September 8, 2021.

The Board's professionals had no questions of the witness.

Public Portion – questioning of the witness

Anita Rhodes moved to open the public portion to questions of the witness; Adam Sorchini seconded the motion which was passed unanimously by the Board

Peter Maddi of Chester Township questioned the pipes on the roof and asked how noisy the plant will be. This will be addressed by the Design Engineer.

Public Portion Closed.

Margaret Nordstrom moved to close the public portion; Chris Heil seconded the motion which was passed unanimously by the Board.

Mr. Sposaro advised that they will address the concerns voiced at this meeting at the October meeting. They propose to have Gary Dean, traffic expert as a witness, and Mr. Sposaro will review the Settlement Agreement.

Mr. Sposaro asked that the Board issue a subpoena to the DPF LLC to appear at the next meeting. Mr. Krumholz will speak with his client about giving their address and block and lot numbers to the Board.

As per the request of Mr. Sposaro, the Board will consider having a second meeting in October.

The application was carried without further notice to October 14, 2021, at 7 p.m.

Communication/Discussion Items – none

Public Portion – There was no one in the public.

ADJOURNMENT – There being no further business, the meeting was adjourned at 10:15 p.m. on a motion by Anita Rhodes; seconded by Chris Heil and was passed unanimously.

Sarah Jane Noll
Committee Secretary