

CHESTER BOROUGH  
LAND USE BOARD  
May 14, 2020

The Regular meeting of the Chester Borough Land Use Board was held at the municipal building located at 50 North Road on May 14, 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. This meeting will be open to the public remotely. Details for public participation will be posted on the website at [chesterborough.org](http://chesterborough.org). Public can register at Zoom.us and to join:

<https://us02web.zoom.us/j/87626979893> Webinar ID: 876 2697 9893

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](mailto:kbrown@chesterborough.org) or 908-879-3660 x 2123

Kerry Brown advised that everyone has been able to access the meeting.

**SALUTE TO THE FLAG**

**ROLL CALL**

**Present:**

Mayor Janet Hoven, Class I  
Kerry Brown, Class II  
Kenneth Kasper, Class IV  
Anita Rhodes, Class IV  
Chris Heil, Council Representative, Class III  
Stan Stevinson, Class IV  
Michael Ferrone, Alternate #2  
Stan Quintana, Alternate #3

**Absent:**

Paul Ferriero, Board Engineer  
Donald Storms, Class IV – late  
Adam Sorchini, Alternate # 1  
Edd Creter, Class IV  
Steven Bolio, Board Engineer

**Also Present:**

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

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**Minutes** – April 9, 2020

Steven Warner and David Banisch had no problem with the minutes.

Stan Stevinson moved to accept the April 9<sup>th</sup> minutes; Anita Rhodes seconded the motion which passed unanimously by the board. Stan Quintana abstained.

**Business:**

Chairman Kasper carried the following applications to the meeting of June 11<sup>th</sup> without further notice:

**Tack Veterinary Holdings, LLC** – Amended Site Plan 114 US Highway 206 North Block 103, Lot 51 – ***CARRIED TO THE JUNE 11<sup>TH</sup> MEETING OF THE LAND USE BOARD.***

**The Car Wash at Chester, LLC** - Amended Preliminary and Final Major Site Plan and Variance Application 45 Maple Avenue Block 131, Lot 5 -***CARRIED TO THE JUNE MEETING OF THE LAND USE BOARD.***

**Ordinance for consideration:**

**2020-08 Emergent Provisions Ordinance** - Ordinance to allow for such prompt municipal action by way of resolutions of limited duration to provide for temporary relief from the requirements of certain existing ordinances such as outside dining.

Mr. Kasper explained the need for this ordinance during the Covid-19 pandemic and the opening of businesses in the Borough. Mayor Hoven explained the reasoning for the ordinance and to allow outdoor seating to help the business increase the number of patrons that they can serve. The businesses can have curbside pickup in the malls in the parking lot. Signage will be installed. The store must bring the food out to the person and put it in the back seat. Brian Mason, Borough Attorney crafted the ordinance and suggested that it be sent to the Land Use Board for their input. Steven Warner, Land Use Board attorney then explained that the ordinance was introduced on May 5, 2020 by the Mayor and Council and will have a public hearing on June 9<sup>th</sup>. It would be a Master Plan consistency review. Mr. Warner then asked Mr. Banisch if it is not inconsistent with the Master Plan. It touches on being a zoning ordinance issue. Mr. Warner then noted for the record that Mr. Banish does not have to be sworn in. Mr. Banisch then provided the board with his expert opinion. He reviewed the ordinance which in the first “Whereas”, summarizes that the municipalities are empowered to make, amend, repeal, and enforce its ordinances and is not inconsistent and he suggested that the zoning ordinance authorize the Zoning Officer and Engineer to make temporary changes which may include parking, circulation, outdoor retail sales, etc. so as to accommodate employment of the businesses as long as it needs to remain in effect. It needs to be found to not be inconsistent with the Master Plan. Chairman Kasper asked the Mayor how this would work. It is the responsibility of the council to issue an EO (executive order). Mayor Hoven explained that there is no other town that is doing this and that the Borough wanted to be more ‘buttoned up’. Mr. Quintana questioned why this is limited to a specific pandemic such as this one. He would like the ordinance to extend beyond this pandemic. Mr. Banisch advised that the governing body could at another time broaden it and asked Mr. Warner’s opinion. Mr. Warner advised that the governing

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body, could consider that but to leave it as is for now. Mr. Kasper did point out that it has a 'sunset' provision of 30 days of the rescission or expiration of the last Executive Order issued by the Governor of New Jersey. Mr. Warner felt it is alright. It is saying that there is no pending orders after 30 days. The governor continues to extend his Executive Orders which only last 30 days. Mr. Banisch included language in his suggestion. Kerry Brown who is the Zoning Officer, suggested that enforcement may be handled by the police on weekends as an enforcement agency on the basis of public safety. She is not there on weekends. The police and fire department have been involved. Mr. Quintana questioned the 4<sup>th</sup> 'whereas'. Mr. Warner will speak with Brian Mason to look at the names of the virus so as to be consistent with the Governor's order. This will be included in the recommendation to the governing body. Michael Ferrone pointed out that there is not a Section 190-2. This will be corrected. Mayor Hoven explained that a resolution expires at the end of the year. This should be an ordinance; not a resolution. Mayor Hoven explained that the council may move quicker by resolution and allow more specific things. They would have to refer to that portion of the ordinance that gives the authority to the zoning official and engineer. This would be a policing action by the zoning officer and engineer. Stan Stevinson suggested some corrections.

**PUBLIC** – Kerry Brown moved to open the meeting to the public; Stanley Stevinson seconded the motion. Since there was no one in the public as evidenced by the 'Zoom' participant tool, a motion was then made by Kerry Brown and seconded by Stanley Stevinson to close the public portion.

Chris Heil moved to recommend to the governing body to adopt ordinance 2020-08 subject to the recommendations of the board captured by Steven Warner, Esq. and David Banish, Planner and that it is not inconsistent with the Master Plan; Kerry Brown seconded the motion. Chairman Kasper commented that it is a temporary change; not permanent and it does sunset and therefore it is not inconsistent with the Master Plan. The motion was passed by the following roll call vote:

**AYES:** Janet Hoven; Chris Heil; Kerry Brown; Anita Rhodes; Stanley Stevinson; Michael Ferrone; Kenneth Kasper; Stan Quintana

**NAYS:** None

**PUBLIC COMMENT - NONE**

**Adjourn** – The meeting was adjourned at 7:54 p.m. by a motion made by Kerry Brown and seconded by Stanley Quintana.

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Sarah Jane Noll  
Recording Secretary