

CHESTER BOROUGH  
LAND USE BOARD  
December 10, 2020

The Regular meeting of the Chester Borough Land Use Board was held remotely on December 10, 2020.

**Opening Statement**

Chairman Kenneth Kasper called the meeting to order at 7:04 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 is holding this 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](http://chesterborough.org). Public can register at Zoom.us and to join: Public can register at Zoom.us and to join:

**Webinar ID 853 7726 2961**

In the event any member of the public was not able to 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

**SALUTE TO THE FLAG**

**ROLL CALL**

**Present:**

Mayor Janet Hoven, Class I - late  
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  
Adam Sorchini  
Michael Ferrone, Alternate #1  
Stan Quintana, Alternate #2

**Absent:**

Paul Ferriero, Board Engineer

**Also Present:**

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

**Minutes** – The minutes of the November 12, 2020 were approved as corrected. Adam Sorchini abstained from the vote.

**Resolutions:**

**CPP Streets of Chester, LLC - 160 US Hwy Route 206 South; Block 132, Lot 3, Zoning B-3 (historic overlay)**  
Amended site plan/variance application to erect two freestanding signs.

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Mr. Blount was present and reviewed the proposed resolution which Mr. Warner explained. Mr. Blount had no issues with the proposed changes. Mr. Warner will make the appropriate changes.

Mayor Hoven came into the meeting at 7:21 during the discussion of the resolution.

Kerry Brown moved to approve the amended draft resolution; Stanley Stevinson seconded the motion which was approved by the following roll call vote:

**AYES:** Janet Hoven, Kerry Brown, Chris Heil, Stanley Stevinson, Edd Creter and Michael Ferrone.

**NAYS:** None

**PUBLIC HEARING – LAND DEVELOPMENT APPLICATION:**

**Manjit Bajwa - 128 Main Street Block 123, Lots 1 & 2 Application for Preliminary and Final Major Site Plan Approval with Variances - B-1 Zone**

Mark Blount, Esq. was present representing the applicant. The property has closed and Manjit Bajwa is the owner. Mr. Blount advised that the applicant and two witnesses Michael Roth, Engineer/Planner and William Byrne, Architect were also present. Mr. Werner advised that the notices are in order and that the board has jurisdiction to hear and decide on the application.

Mr. Bolio issued a report dated 11-24-20 which was reviewed. The waivers for completeness #'s 22, 24, 25, 26, 34, 36, 40, 42, 47, 48, 54, 56, 61, 62 were reviewed by the Board. Mr. Bolio recommended waiving these checklist items. The Board had no problem, and the application was found to be complete for review.

The witnesses were sworn in by Mr. Werner.

The application is for substantial building renovations and site improvements at 128 Main Street (Pleasant Pools). Lots 1 & 2 together form a triangular shape with reverse frontage on Main Street and Budd Avenue. The applicant proposes a first floor 3,592 sq. ft. general store/market; and 3 (three) second floor apartments (two 2-BR units and one 3-BR unit). Both uses are permitted uses in the B-1 Zone. The building is nonconforming for a variety of setback conditions and will be enlarged on the second floor. The proposed change is an expansion of a non-conforming structure (variance). The two existing lots will be merged into one lot.

Mark Blount introduced William Byrne who was accepted as an expert witness. Mr. Byrne described the current condition of the building and testified that vinyl siding and clapboard covers the building. The goal is to bring the building back to its former use as a grocery store. The building is to be retained in its physical size and shape. Sheet #1 of the plans submitted shows the proposed design of the building which reflects the addition of a dormer and a change in the pitch of the roof. There is an addition of a doorway into the building. Sheet # 2 depicts the rear elevation. There will be an addition of a shed dormer to the shed roof and a cupola and a shed roof over the doorway. He proceeded to describe the changes to the Budd Ave. side of the building adding a shed roof and faux barn doors. The colors shown on the plans accurately represent the color of the original building. There is no construction within the right of way. The dormer is set back from the right

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of way. The existing signage is to be retained as they exist. Sheet # 3 depicts the retail space. There is no change to the footprint. Two (2) new bathrooms are being added to the existing shop storage area along with the access to the 2-bedroom rear upstairs apartment. This area previously was used as Pleasant Pool storage area. Sheet # 4 shows the apartments on the second floor which consist of two (2) 2-bedroom apartments in the center and rear and one (1) 3-bedroom apartment in the front. The hours of operation are proposed from 5 a.m. to 12 a.m. A patio to provide an area for tables and chairs for patrons to have ice cream and food products available from a bar area at the rear of the building is proposed. There will be no food service. No commercial kitchen is proposed. It is a keystone building in the center of Chester and will make an attractive impact to the town according to Mr. Byrne.

The professionals questioned the witness. Mr. Banisch asked that the plans reflect the dimensions and s.f. of the apartments on the second floor. He questioned the # of exterior doors in the retail area and if they will always be operational. The answer was yes to the question. It was noted that the building has been empty for about 6 weeks.

Mr. Bolio commented on the existing speakers on the side of the building which were used during holiday times to play Christmas music and which will be removed. Mr. Byrne will provide a detail and lighting information on the existing goose neck lights which will remain with a low level of light. He will also provide the dimensions of the retail and building area.

The board members questioned the witness. Mr. Quintana's question about the front parking spaces will be addressed by the engineer. The mechanicals will remain in the basement where they are currently located. The apartments may have their own mechanicals in the attic area. The current vinyl and clapboard siding will be replaced with hardie plank as is used in the area. The access to the apartments was explained advising that there is no connection from the store to the 2<sup>nd</sup> floor apartments. Access is from the side door on the the Budd Ave. roadside. Mr. Byrne explained that the building code requires 2 means of access to the retail area. The doors will swing inward. There is no issue with them swinging inward. Mr. Byrne explained that the current structure can take the load of the apartments. The residential use is 50% less that the current load. Once everything is exposed, it will be evaluated. The entire building will be sprinkled. It is not currently sprinkled. Code will be met for the ceiling height. The maximum occupancy is no more than 14 people and 7 bedrooms. Mayor Hoven advised of the trash pickup and commented on the proposed hours of operation pointing out that no other stores in the town are open until midnight. Mr. Byrne pointed out that the Public House when it was operational may have stayed open to that time. There is no prohibition on the use of the bathrooms by the public according to Mr. Byrne's testimony. The delivers and loading zone will be addressed by the engineer. There will be large coolers which more than likely will be located along the walls; this has not been formalized yet. There are historic photos that may indicate where things will go. The building height is currently 25' high and with the addition of the copula, it will reach 31'. Chairman Kasper was concerned about the width of the sidewalk and a door being located along that side of the building along Main Street. Mr. Banisch advised that the current zoning allows multifamily apartments, and the town encourages apartments along Main Street. The applicant is proposing the operation to be for 7 days from 5 a.m. to 12 midnight. Revised plans were submitted earlier this week but had not been forwarded to the board members. The plans were then entered into evidence as the following exhibits:

**Exhibit A-1** Plan revised thru 12-8-20 removal of roof extension over new entry doors.

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**Exhibit A-2** Plan for Sign 'A' for front porch roof sign and Sign 'B' at rear of building on rear wall measuring 4' wide from side to side. Photo of sign on front and the rear.

Jaime Byrne is working with William Byrne and put the signs up on the computer so that the board could see. The signs are not illuminated. Sign B at the rear has a light that shines on it. There are no changes proposed to either existing sign.

**Public Portion** – The meeting was opened and closed to the public for questions of the witness. There was no one from the public at the meeting.

There was a person on the phone, but that person was interested in the prior application not the current one.

Michael Roth, Engineer and Planner was introduced and accepted as an expert witness by the Board. The following exhibits were entered into evidence:

**Exhibit A-3** – Existing conditions Aerial Map dated 12-1-20. Lots 1 and 2 in Block 123.

**Exhibit A-4** – Site plan Rendering Aerial Map dated 12-1-20.

Mr. Roth commenced his testimony advising that the building is within 1.1' of the road right of way. The loading was from the front yard which is not permitted. There is 94% impervious coverage. An aerial titled Site plan Rendering was reviewed. This was part of the original submission. He reviewed the plan explaining the proposed changes to the site which includes a 3' high picket fence which replaces the existing chain link fence along Main Street. The lights will be turned off 1 hour after closure according to the lighting plan. The variances being sought are all c-1 and c-2 variances. It is a corner lot with 2 frontages. The requested variances were listed. They had proposed 22 parking spaces in the parking lot but one space because it is within 10' of the Main Street right-of-way, has been removed as per the Morris County Planning Board report dated November 20, 2020. There will be a new curb opening on Budd Ave. for ingress and egress. The existing depressed curb at the western portion of the Main Street frontage will be removed and replaced with full faced granite block curbing. The sidewalk along Main Street is being extended and there is a proposed sidewalk from the patio at the rear of the building out to Main Street. They are proposing 22 parking spaces where 26 are required. The following exhibits were entered into evidence:

**Exhibit A-5** – 12-1-20 Truck Turning Plan

**Exhibit A-6** – Roadway improvements dated 5-11-20 as per the plan referenced in Mr. Bolio's review letter.

Mr. Roth testifying now as a planner addressed the proposed changes. He concluded his testimony.

The board professionals questioned the witness. Steve Bolio asked that the proposed security lighting with a motion sensor be noted on the site plan. Mr. Roth will provide a copy of Board of Health approval. The applicant agreed to increase the height of the picket fence to 4' which will address the drop in grade. They testified that there would possibly be 2 employees per shift. He agreed to provide information on items # 12, 14, 17, 19, and 20 to Mr. Bolio and they agreed to comply with items # 21-24. There were no other questions by Mr. Bolio.

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Mr. Banisch questioned the witness as to how they can represent the use of the public bathrooms by the public since a tenant for the store has not been determined and the board does not know what he wants. It was the opinion of Mr. Banisch that the hours of operation are too long and should not be dependent on the operation of the Public House. He also advised that 15 minutes after closure is long enough for the lights to remain turned on.

He pointed out that signs over the roof in the front of the building is prohibited according to Section 163-95 of the Sign Ordinance. The ordinance also requires that prior signage shall be removed within 90 days of vacancy. It was noted that the roof mounted sign is illuminated from below. Mr. Banisch has no exception to Mr. Roth's planning testimony. Mr. Banisch asked that a detail of both the brick walkway and patio be shown on the plans. He also advised that the trees on Budd Avenue which were pruned by the Utility Company should be removed and replaced with shrub plantings. Item # 6 in Mr. Banisch's report was discussed regarding encroachments in the right of way. Discussion on the signage should be addressed by the board.

Mr. Blount discussed the inconsistency of the Borough's ordinances and pointed out that nonconformity runs with the land and that abandonment must be intentional. He pointed out that the Borough ordinance goes to abandonment of use, not the abandonment of the structure. There is no intention to abandon the sign but to replace it. The comments about the lighting and the use of the public bathroom were deferred to Mr. Byrne and Mr. Bajwa. Mr. Bajwa agreed to reduce the hours for the lights and suggested that Friday and Saturday go to midnight and the other nights go off at 11 p.m. Mr. Blount deferred the sidewalk and landscaping discussion to Mr. Roth who agreed to work with the board landscape architect and planner. A report dated December 1, 2020 prepared by John A. Olivo, LLA, ASLA from the Shade Tree Commission was reviewed by the Board. The vacation of the public right of way will be worked out with the Borough.

Board members questioned the witness. Answering Mr. Stevinson's questioning of parking spaces dedicated for the residents and the possible reduction in the number for customers, Mr. Roth advised that this will be worked out when they have tenants and prepare the leases. The total number of occupants of the building will be addressed by Mr. Byrne. The board members also questioned the width of the ingress and egress off Budd Ave and the ability for cars to enter and leave the parking area. The applicant will investigate the location of the ingress and egress and the lights from cars leaving the facility shining into the windows of the house directly across from that driveway. The County will not allow access into or leaving the parking area from Main Street. The Mayor pointed out that cars are not permitted to be parked on the street during certain months of the year. There was discussion on the parking area in front of the store. Mr. Byrne again advised that the mechanicals would be contained in the attic, but condensers are not usually in an attic. The board asked that the location of the airtrak be shown on the plans. Mr. Byrne advised that there will be no window units. The hours of operation were a concern of the board members and it was pointed out that the Shop Rite is not open after 10 p.m. The building is not currently air conditioned. Questions regarding the future tenant; the evergreen hedge located between this property and the Weichert Building to the east, the provision of a buffer between these properties and along Budd Ave., possible movement of the parking area, the reduction of the use, other parking provisions, and the lights of cars shining into the residence were addressed by the board members. The board and the professionals voiced their pleasure on the use of the building. Mr. Bolio verified that the septic capacity goes by the number of bedrooms.

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Mr. Blount asked that the board take a 10-minute break so he can confer with his client.

A break was taken at 9:44 p.m. The board addressed the following items:

**Resolution:**

**Chester EWC, LLC, 173 Route 206 North, Block 128, Lot 4, Zoning B-3 (historic overlay) – Sign variance approval.**

Mr. Warner reviewed the resolution.

Mr. Stevinson moved to adopt the resolution granting approval of the sign for this business; Donald Storms seconded the motion which was approved by the following roll call vote:

**AYES:** Janet Hoven, Kerry Brown, Chris Heil, Stanley Stevinson, Edd Creter, Michael Ferrone, Kenneth Kasper, Anita Rhodes, and Donald Storms

**NAYS:** None

**Proposed ordinance amendment regarding Shade Tree Commission** – This discussion was carried to the January 2021.

**Information about Chester:**

Mayor Hoven informed the board of the oil leak on Elm street consisting of 400 gallons being spilled but thanks to our fire company it was stopped in the manholes before it got to the retention basin.

**Larison Turkey Farm property** – There is a permit to demolish the interior of the building but they have to apply to the Land Use Board for a demolition permit to remove the restaurant.

The applicant came back into the meeting at 9:55 pm.

Mr. Blount said that they have taken into consideration the comments of the board and asked that they be carried without further notice to the next meeting of the Board which is January 14, 2021. The request was granted.

**Public Portion** – A motion to open and close the meeting to the public was made and seconded. There were no questions from the public.

**Adjournment** - There being no further business, the meeting was adjourned at **10 p.m.** by motion of Kerry Brown and seconded by Anita Rhodes.

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Sarah Jane Noll  
Recording Secretary