

Village of Chester Planning Board
47 Main Street
Chester, NY 10918

COPY

January 8, 2017

To the Village of Chester Planning Board and Code Enforcement Officer,

I am writing to express my dismay with the Response to Public Comments document submitted by the applicant in the Elmwood Apartments project, specifically the issue of the proposed "use" of the lot at 8 Elm Street which would provide access to the complex. This issue of usage is actually the central issue in this case, strikes at the very core of this project, and deserves closer scrutiny rather than being brushed aside by the applicant.

As we all know, the 8 Elm Street lot is zoned RS (and sits in the middle of an entirely RS street of single family houses) but is being proposed for use for a project that lies primarily in a B1 zone. The applicant is further proposing to combine the 8 Elm Street lot with the adjacent B1 lot into a single lot which would continue to straddle the two usage zones. Finally, the applicant seeks to justify this usage by claiming that the 30-foot-wide two lane access road would not be considered a "use" and is not prohibited by the Zoning Code.

This type of circular reasoning is specious at best, and flat out wrong at worst. The definition of "Use" in the Village Code is: "The purpose for which LAND or a building is arranged, designed or intended or for which either LAND or a building is or may be occupied or MAINTAINED." It is clear from this definition that the land does not necessarily need to have a building on it to still be considered a "use." Further, the proposed road will certainly be arranged, designed and maintained, qualifying it as "usage."

Now let us look at the word "purpose" in the above definition. The purpose of this access road is intimately tied to the housing project it supports. They are not mutually exclusive. The road would not exist without the apartments, and the apartments could not exist (in this application) without the access road. To suggest that the access road is not a part of the project would be akin to saying the entrance drive to the Chester Mall is not really a part of the entire Mall project. This is plainly absurd. A project must be evaluated in its entirety. Access roads receive just as much scrutiny by the Planning Board and are rightly conscribed by specific regulations in our Code because they are an important component to any project. In fact, in Elmwood's situation, it could be argued that this access road would actually be the MOST used portion of the entire project, enduring moving traffic at all hours of the day.

The applicant's contention that an access road situated on an RS lot is not prohibited by the Zoning Code and therefore allowed is also fraught with misinformation. Our Code does indeed have sections where certain activities are prohibited. But it is also true that the Code has sections where it is very specific as to what activities are ALLOWED (The Schedule of District Regulations bulk tables). Something that is not on the list of allowed activities would, by exclusion, be prohibited. After reviewing our Code thoroughly, I have found no areas where an access road on an RS lot for usage by a B1 project is allowed. Most likely this omission is due to the fact that if it WERE allowed, it would undermine the very reason for having a Zoning Code at all, namely the orderly sequestering of specific types of activity to certain areas of the Village meant to ensure harmonious development of the municipality. The current Elmwood proposal would most certainly NOT pass this litmus test.

I don't know if the final decision resides with the Planning Board or the Code Enforcement Officer but I implore both parties to evaluate the impact this project would have on the neighborhood, the realistic and common sense assessment of this "usage," and rightly deny this application.

Thank you in advance for your time and consideration.

Sincerely,



David Stevenson
16 Elm Street
Chester, NY 10918

