

MINUTES

VILLAGE OF CHESTER PLANNING BOARD

MARCH 22, 2011

REGULAR MEETING

PRESENT: Richard RAMSDELL, Chairman
Anthony LA SPINA, Member
John REILLY, Member
Gene WINTERS, Member
Robert JANKELEUNAS, Member
John ORR, Code Enforcement Officer
Mark EDSALL, Engineer
Harold PRESSBERG, Attorney

REGULAR MEETING

Chairman Ramsdell opened the Regular Meeting at 7:30 P.M. He thanked Member Reilly for acting as Chairman at the February meeting.

1. MINUTES

Chairman Ramsdell asked for a Motion to accept the draft Minutes of the December 2010, January 2011 and February 2011 Planning Board Meeting Minutes as amended. A Motion was made by Member Winters and seconded by Member LaSpina. All in favor and none opposed. Motion Carries.

2. CORRESPONDENCE

From: Town of Chester Planning Board

Date: March 7, 2011

Re: Town of Chester Referral to VOC, OCDP Reply to TOC, Events Letter, Parking Formula, and Site Plan for Project #11-04 BAZS,LLC/The Castle

From: Village of Chester Board of Trustees

Date: March 14, 2011

Re: Referral from the VB for Project #10-10 One Sanford Avenue - Zone Change from RMH to M1

From: Orange County Department of Planning

Date: March 15, 2011

Re: County Reply for Project #11-03 26 Academy Ave - Local Determination

3. CODE ENFORCEMENT OFFICER REPORT

Presented by John Orr and dated March 22, 2011.

Current projects that were inspected during the last month:

Lowe's:

1. No change from last month.

Nexans:

1. No change from last month.

Palumbo - 2 School Street:

1. No change from last month.

DePaulis:

1. No change from last month.

Sutherland:

1. No change from last month.

C&S:

1. Just about complete.

Holly Hill Church - 62 Main Street:

1. Work underway.

Gorman - 14 Miller Drive:

1. Work just about complete.

C&M Mechanical - 49 Lehigh Avenue:

1. Work underway.

Briggs - 24 Walnut Street

1. Issued building permit for addition.

Respectfully Submitted,
John S. Orr
Code Enforcement Officer

4. Chester PBA Carnival Temporary Site Plan Project #11-02
Applicant/Owner: Village of Chester PBA
Location: 78 Brookside Avenue (Chester Mall) SBL 107-3-3 B2 Zone
Re: Carnival 06/14/11 through 06/19/11
Presented By: John Courtenay

Chairman Ramsdell introduced Officer Courtenay from the Chester PBA. Officer Courtenay attended the last Work Session on March 3rd. Chairman Ramsdell asked for comments from Engineer Mark Edsall. Mr. Edsall's comments are attached at the end of the minutes.

Mr. Edsall said this year the application includes temporary outside sales and display for a five foot strip along the mall storefronts. The dates of the carnival, which are June 14th to June 19th, will need to be changed on the Site Plan. The Board should advise the applicant to obtain the necessary permit and to coordinate any temporary utility services with the applicable Village Departments. The application should be classified as a minor temporary use of land and classified as a Type II action under SEQRA and no further action is required.

Member Winters asked if the store owners liked the idea of the outside sales and display.

Officer Courtenay said the store owners did like the idea of the outside sales and display.

Mr. Edsall asked Officer Courtenay what time frame he was considering for the outside sales.

After some discussion, it was decided that the outside sales and displays would begin at 12pm each day of the carnival.

Chairman Ramsdell asked for a Motion to type the Chester PBA Carnival Temporary Site Plan as a Type II Action under SEQRA and no further action is required. A Motion was made by Member La Spina and seconded by Member Reilly. All in favor and none opposed. Motion Carries.

Chairman Ramsdell asked for a Motion for the conditional approval of the Chester PBA Carnival Temporary Site Plan pending the following: 1) a note on the Site Plan that temporary outside sales of Chester Mall tenants may begin at 12pm from June 14th to June 19th and extend five feet from the face of the storefront; 2) the correction of the dates of the carnival on the Site Plan to show June 14th to June 19th; 3) the applicant must apply for the necessary permit and coordinate with the Village Departments for water and sewer and; 4) payment of all final fees. A Motion was made by Member Jankelunas and seconded by Member Reilly. All in favor and none opposed. Motion Carries.

5. 26 Academy Avenue Change of Special Permitted Use Project #11-03
Applicant/Owner: The Lord's House of Prayer
Location: 32 Leone Lane SBL 111-7-2.2 RS Zone
Re: Change of special permitted use.
Presented By: Gwendolyn Glover

Dr. Gwendolyn Glover, Reverend of the Lord's House of Prayer, was at the meeting. Dr. Glover has requested for a change of special permitted use for the existing structure from professional office to church or other place of worship.

Chairman Ramsdell read the response letter from the Orange County Department of Planning. This project was referred to the county because it is within a 500 foot distance from NYS Route 94. The County reply to the application was for local determination. Chairman Ramsdell asked for comments from Engineer Mark Edsall. Mr. Edsall's comments are attached at the end of the minutes.

Mr. Edsall said the Federal Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) may be applicable to this project. RLUIPA prevents local governments from imposing land use regulations that substantially burden religious exercise, unless such regulations further a compelling governmental interest and are the least restrictive means of do so. Mr. Edsall said the Board may require a revised Site Plan to include an approval box with a Village Project Number, a project completion date and revised notes to reflect the changes in special permitted use, or the Board may approve this

application without changes to the existing Site Plan through the Village of Chester Code § 98-24G, which applies to special use permits. In this case the Board would approve the change of special permitted use through discussion and narrative reflected in the Minutes and a Resolution. The Board would also have to decide if a Public Hearing would be required.

Chairman Ramsdell asked Dr. Glover if there would be any changes to the exterior of the building.

Dr. Glover said no.

Chairman Ramsdell said the existing approved Site Plan from 1999 would seem to comply with the change of use.

Mr. Pressberg said that the change of use would not fit into the guidelines of the Schedule of District Regulations (Bulk Table). This includes the minimum lot size and the minimum yard setback.

Chairman Ramsdell said the Bulk requirements are the only existing question regarding the change of use. He asked Mr. Pressberg if it was his recommendation that this application apply for a variance from the Zoning Board of Appeals.

Mr. Orr said the application could go to the Zoning Board of Appeals and will likely be approved because this is an existing building and a temporary use of the space.

Mr. Edsall said that according to RLUIPA there is some flexibility in the way the law is written.

Chairman Ramsdell asked if the parking was adequately provided based on the seating.

Mr. Edsall said that the parking was adequately provided based on the seating.

Chairman Ramsdell asked Dr. Glover how many days a week they would be there.

Dr. Glover said two or three days.

Chairman Ramsdell said that they are dealing with existing conditions and the proposed use is clearly less intensive than the previous use and the people attending the house of worship would be unlikely to cause a disturbance.

Mr. Edsall said that one special use permit would be replacing another special use permit. The Board needs to determine if there is need for a Public Hearing.

Chairman Ramsdell said the Board has the authority to waive the Public Hearing. The approved Site Plan does not require any changes for the change in special permitted use. The use would not draw a significant public interest. The Board could waive the Public Hearing.

Chairman Ramsdell requested a Motion to waive holding a Public Hearing for this application. A **Motion** was made by Member La Spina and seconded by Member Winters. All in favor and none opposed. Motion Carries.

Chairman Ramsdell asked for a Motion to type the 26 Academy Avenue Change of Special Permitted Use as a Type II Action under SEQRA and no further action is required. A **Motion** was made by Member Reilly and seconded by Member Jankelunas. All in favor and none opposed. Motion Carries.

Chairman Ramsdell asked for a Motion to approve Special Permit No. 13 for church use for the application of 26 Academy Avenue Change of Special Permitted Use. A **Motion** was made by Member La Spina and seconded by Member Winters. All in favor and none opposed. Motion Carries.

6. General Discussion

Project #11-04 The Castle Site Plan Amendment

Brian Leentjes, the owner of The Castle Fun Center was in attendance during the general discussion.

Chairman Ramsdell said that Mr. Leentjes had attended the last Work Session and there was discussion regarding a new Go-Kart Track at The Castle. Since the Work Session the Planning Board had received a referral from the Town of Chester regarding the application by Brian and Allison Leentjes for additional parking and an outdoor recreation facility.

The Board Members reviewed the referral, supplemental documents and Site Plan from the Town of Chester. Mr. Leentjes answered the Board Members' questions regarding the application

The Board Members reviewed the Village of Chester Site Plan presented by Mr. Leentjes for his application to the Village Planning Board.

Mr. Edsall said there are various issues pertaining to the parking to consider. There are seasonal changes in parking requirements for the Village of Chester. But, there also exists shared parking between the Town and the Village of Chester property, where parking requirements change seasonally as well. For the Town of Chester, Mr. Edsall requested the Site Plan include the parking requirements for the seasonal use of the outdoor recreation facility. Mr. Edsall commented that there must be proper clearance for fire trucks, ambulances and buses through the existing parking area to the new parking area. Mr. Edsall also recommended the Town and Village Site Plans be deed tied.

After review of the Village of Chester Site Plan and the Town of Chester Site Plan, the Board determined there would be shared parking. Therefore, both the Town and Village of Chester should jointly review the Site Plans.

The Board decided to coordinate a review session with the Town of Chester Planning Board Chairman, Mr. Donald Serotta and the Village of Chester.

Chairman Ramsdell requested a Motion for the Village Engineer to prepare a two letters for the Town of Chester. The first letter will be a response to the Town of Chester for the application of The Castle Site Plan for the 4000 Sq. Ft. seasonal canopy with 55 parking spaces for an outdoor recreation facility. The second letter will be a referral to the Town of Chester for the application of the Castle Site Plan Amendment. A Motion was made by Member Jankelunas and seconded by Member Reilly. All in favor and none opposed. Motion Carries.

Project #10-10 One Sanford Avenue - Zone Change from RMH to M1

Chairman Ramsdell read the referral from the Village Board for Project #10-10 One Sanford Avenue - Zone Change from RMH to M1. Bruedan Corp. has re-submitted their application to the Village Board for a zone change from RMH to M1. The Village Board denied the original application from Bruedan Corp. for a zone change from RMH to M2, at the Village Board meeting on February 14th 2011.

Chairman Ramsdell said the Village Board will be holding a Public Hearing on May 9th for the new application. It will be necessary for the Planning Board to formalize a report to the Village Board at the next Planning Board Meeting. He also read the letter from Jay Myrow, Esq., an attorney with Blustein, Shapiro, Rich & Barone, LLP, representing Bruedan Corp.

Chairman Ramsdell said that he and Mr. Pressberg would prepare a draft of the Planning Board report and distribute it to the Members before the next meeting.

Mr. Pressberg said the Members should inform him of any comments they have in regards to the report.

BT Holdings

Chairman Ramsdell said the next matter for discussion is BT Holdings, and it is not on the agenda. The annexation application is for the property behind the Chester Mall for 350 housing units.

Chairman Ramsdell had received an eleven page summary of the changes of the Village Zoning Law which is incorporated in BT Holdings' plan.

After discussion between the Board Members and the Village Engineer and Attorney, Chairman Ramsdell asked if the Planning Board will be required to make a report to the Village Board on the zone change.

Mr. Pressberg said that if the annexation is approved the Planning Board will be required to comment on the proposed zone change for the property.

Mr. Edsall said the Village Board is looking to close the SEQRA document or the Final Environmental Impact Statement (FEIS). The FEIS includes the annexation of the property, the impact of the Site Plan, and the zoning of the property that is being annexed.

Mr. Edsall said that perhaps the Board Members should meet with Turner Miller Group LLC, the planning consultants hired by the Village, to review the plan.

Chairman Ramsdell asked if there were any other questions. There were none.

Chairman Ramsdell requested a Motion to adjourn the meeting. A Motion was made by Member Jankelunas and seconded by Member Winters. All in favor and none opposed. Motion carries. Meeting adjourned at 9:55 PM.

Respectfully Submitted,

Joanne Rittendale

Joanne Rittendale

Planning Board Secretary



**McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.**

RICHARD D. McGOEY, P.E. (NY & PA)
WILLIAM J. HAUSER, P.E. (NY & NJ)
MARK J. EDSALL, P.E. (NY, NJ & PA)
JAMES M. FARR, P.E. (NY & PA)

MAIN OFFICE
33 AIRPORT CENTER DRIVE
SUITE 202
NEW WINDSOR, NEW YORK 12553
(845) 567-3100
FAX: (845) 567-3232
E-MAIL: MHENY@MHEPC.COM

**VILLAGE OF CHESTER
PLANNING BOARD
REVIEW COMMENTS**

PROJECT NAME: CHESTER P.B.A. CARNIVAL (TEMPORARY SITE PLAN)
(INCLUDING OUTSIDE RETAIL DISPLAY / SALES)
PROJECT LOCATION: CHESTER MALL (NEAR GREENHOUSE)
PROJECT NUMBER: 11-02
DATE: 22 MARCH 2011
DESCRIPTION: THE APPLICATION PROPOSES A TEMPORARY CARNIVAL USE AT
THE EXISTING CHESTER MALL FACILITY.

1. I have reviewed the plan relative to the current standard list for temporary site plans. This appears to be the same layout as discussed during 2003, 2004, 2005, 2006, 2007, 2009 and 2010 (applications 03-08, 04-07, 05-04, 06-01, 07-05, 09-03 & 10-4). *This year, the application also includes temporary outside sales/display for a five foot strip along the mall storefronts.* The items and their status are as follows:

- *Dates of Activity* – Shown on plan (dates appear to need update)
- *Hours of Operation* – Shown on plan
- *Off-street Parking* – Area depicted on plans
- *On-site office or trailer* – previous application information noted that any such trailers would be within the “carnival area” shown on the plan.
- *Setback of Activity from Property Line or Roadway* – previous application information advised that a sloped grassed area separates the carnival area from the roadway.
- *Signs* – none proposed
- *Lighting* – applications indicates that existing parking lot lighting is to be utilized. It also indicates “Carnival will supply lighting”. The board may wish to discuss this aspect further.
- *Barriers (Vehicle to Pedestrian)* – barrier or fencing is delineated on the plan.
- *Vendors Permit* – the applicant should be advised that they must obtain the necessary permit.


2. The Board should advise the applicant that they must coordinate any temporary utility services with the applicable departments (ie contact Tom Becker re water, etc.).

REGIONAL OFFICES

• 111 WHEATFIELD DRIVE • SUITE 1 • MILFORD, PENNSYLVANIA 18337 • 570-296-2765 •
• 540 BROADWAY • MONTICELLO, NEW YORK 12701 • 845-794-3399 •

3. The Planning Board may wish to classify this application/action as a minor temporary use of land having negligible or no permanent impact on the environment, which would classify it as a Type II action under SEQRA. If so classified, no further action is needed.
4. I am not aware of any reason why the board could not consider this temporary use application for site plan approval.

Respectfully Submitted,



Mark J. Edsall, P.E., P.P.
Engineer for the Village

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**McGOEY, HAUSER and EDSALL
CONSULTING ENGINEERS P.C.**

RICHARD D. MCGOEY, P.E. (NY & PA)
WILLIAM J. HAUSER, P.E. (NY & NJ)
MARK J. EDSALL, P.E. (NY, NJ & PA)
JAMES M. FARR, P.E. (NY & PA)

MAIN OFFICE
33 AIRPORT CENTER DRIVE
SUITE 202
NEW WINDSOR, NEW YORK 12553
(845) 567-3100
FAX: (845) 567-3232
E-MAIL: MHENY@MHEPC.COM
WRITERS EMAIL: MJE@MHEPC.COM

VILLAGE OF CHESTER
PLANNING BOARD
REVIEW COMMENTS

PROJECT NAME: THE LORD’S HOUSE OF PRAYER SITE PLAN & SPECIAL PERMIT
(PROPOSED CHANGE OF USE FOR EXISTING BUILDING)
PROJECT LOCATION: 26 ACADEMY AVENUE (NEAR MOFFATT LN.)
SECTION 111 – BLOCK 7 – LOTS 1 & 2
PROJECT NUMBER: 11-03
DATE: 22 MARCH 2011
DESCRIPTION: THE APPLICATION PROPOSES A CHANGE IN USE FROM AN
OFFICE TO A HOUSE OF WORSHIP. THE PLAN WAS REVIEWED ON
A CONCEPT BASIS ONLY.

1. The property is located on the corner of Academy Ave. and Moffatt Lane and is located in the RS zoning district of the Village. The use is Special Permit No. 13 of the zone, and is subject to somewhat increased bulk values than the Special Permit use of a professional office.

The Attorney for the Planning Board will need to advise of the applicability of these criteria with respect to the provisions of the Federal Religious Land Use and Institutionalized Persons Act (RLUIPA). This law, enacted in 2000, prevents local governments from imposing land use regulations that substantially burden religious exercise, unless such regulations further a compelling governmental interest and are the least restrictive means of doing so.

The applicant has submitted a narrative which outlines the proposed change in use from an office to a place of worship with a maximum of 25 chairs. Hours of operation and accessory uses (bible class, church school, etc.) are outlined.

2. The applicant has submitted a copy of the site plan from 1999 for the accessory professional doctors office. At this time I am not aware of any proposed exterior site modifications. The Board should verify the applicant’s intent in this regard, and determine if an actual plan will be required (in addition to the narrative).

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3. If a plan is submitted, it should include an approval box, with the Village Project Number (noted above) included in the box. The box should be in the bottom right hand fold of the plans, on each sheet. As well, as per Section 98-30.2 of the Village Zoning Code, the Applicant should indicate a reasonable anticipated completion date for the project on the plan.
4. It is my understanding the application Special Permit is subject to a Public Hearing, unless the Board determines that the change is so minor that some procedural requirements may be waived (see Section 98-24G of code). The Board may wish to discuss this alternative with the Attorney for the Planning Board.
5. This project is within a 500-foot distance from NYS Route 94 and, as such, must be referred to the Orange County Planning Department as per New York State General Municipal Law (GML 239).

Respectfully Submitted,



Mark J. Edsall, P.E., P.P.
Engineer for the Village

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