

**ZONING BOARD OF APPEALS
TOWN OF CHESTER**

1786 Kings Highway
Chester, New York 10918
February 10, 2022

PRESENT: Gregg FEIGELSON: Chairman
Dan DOELLINGER, Member
Tom ATKIN, Member
Julie BELL, Member

ABSENT: Walter POPAILO, Member
Giuseppe CASSARA, Alternate Member

ALSO PRESENT: Melissa FOOTE, Secretary
Rob DICKOVER, Counsel

Chairman FEIGELSON: called the meeting to order at 7:00 PM and opened with the Pledge of Allegiance

Chairman FEIGELSON: Welcome everybody. We have the meeting minutes that were circulated for January 13, 2022. Anybody on the Board have some questions or concerns about the meeting minutes? Hopefully everyone had a chance to review them. No questions or concerns, so I'll make a motion to adopt the minutes from the January 13th meeting. Can I get a 2nd?

Member ATKIN: I'll 2nd

Chairman FEIGELSON: Let's do a roll call vote.

Member DOELLINGER: Yes

Member BELL: Yes

Member Tom ATKIN: Yes

Chairman FEIGELSON: And I say yes, so the **January 13, 2022 minutes are adopted.**

Chairman FEIGELSON: We only have one item on the agenda. We have a Public Hearing For 193 BMD LLC Application. We discussed this at the last meeting. This was a referral from the Planning Board. This is about expanding a warehouse. We discussed the fact that three Variances would be needed. A front yard setback, this is a pre-existing non-conforming with 86.6ft front yard, where a 100ft is required. We also need a side yard setback variance. They have a 70.4ft where 90ft is required. Since the extension is going to expand the nonconformance. Then we have the final one, which was a request to have less parking that is required. The code requires based on square footage to have 120 parking spots and the applicant is seeking 51 fewer which would be 69 parking spots. We also discussed SEQRA last time and this was a unusual application because we determined we had two different types of SEQRAS in play here.

The setbacks we established were Type II Actions and no further action was necessary on our part. We identified the Parking Variance as an Unlisted Action, further we declared ourselves as Lead Agency and our assessment would be part of an uncoordinated review. We didn't make a determination on that second SEQRA, that Unlisted Action. We are obligated to determine whether there will be any environmental impact. The next step is to move on to the Public Hearing. Any questions from the Board or the Applicant before we move ahead?

Member ATKIN: Yes, I have a couple of questions.

Chairman FEIGELSON: Go ahead Thom.

Member ATKIN: The Village of Chester has a Water Main near this. They want to put this addition on, the run off could go to where the Well is.

Chairman FEIGELSON: Yes, so we'll discuss that when we open the Public Hearing. Thanks for bringing that up, we will get to that. Any other questions or concerns? I'm not hearing anything from anyone so we'll open the Public Hearing but first Melissa I need to confirm that the notice was published in the Times Herald Record, no sooner than 5 days before the date of this Public Hearing.

Melissa FOOTE: Yes, it was. We received the Affidavit and the Certified Mailings.

Chairman FEIGELSON: Those were all sent out in the appropriate time?

Melissa FOOTE: Yes

Chairman FEIGELSON: OK. I'll make a motion to open the Public Hearing.

Member ATKIN: I'll Second that.

Chairman FEIGELSON: Roll call vote.

Member DOELLINGER: Yes

Member BELL: Yes

Member Tom ATKIN: Yes

Chairman FEIGELSON: And I say yes as well. The Public Hearing is officially open. Is there anybody here to speak regarding 193 BMD LLC application before us. It doesn't appear that there is anyone here to speak for or against the application. Now Thom let's get back to the point that you brought up before. We did receive a letter from the Mayor of the Village of Chester expressing concern about the fact that their Well Site is near by the expansion and that they be given time, 14 days to be specific to provide the board with some comments. Is there anybody on the board that has some concerns with that request? Are there any concerns why we might not want to grant the Village of Chester this opportunity to provide some feedback?

Member ATKIN: Gary, do you have anything to say?

Gary GREEN: Hello, this is Gary Green, the Water Commissioner for the Village of Chester. I had a couple of questions. We didn't get a chance to go over the plans yet. We had a question about the run off, and what the Warehouse would be storing, chemicals, etc.

(inaudible).

Chairman FEIGELSON: You were breaking up a little bit on us, so you're concerned with what the operation entails?

Gary GREEN: Our Engineer wanted a little more time to review everything, and to formally address the board. *(inaudible)*

Chairman FEIGELSON: You have requested some extra time to evaluate the possible impact?

Gary GREEN: Yes.

Chairman FEIGELSON: I don't know if you had a specific question that the applicant, who's present this evening could answer for you at this point and time that would help you with that assessment. I guess you asked if there were any water intensive activities that were taking place.

Stephanie TUNIC: This is the Attorney from Blustein, Shapiro, Fran & Barone, LLP for the applicant. The basic premise in Superio warehouse, is that they don't do any manufacturing or assembly at this site. What they do is they import goods. A large variety of house whole goods ranging from hampers, through supplies you'd need for babies.

Gary GREEN: *(inaudible)*

Stephanie TUNIC: Sorry Mr. Green, I think you're cutting out.

Gary GREEN: I will dial back in; I'm having issues with my internet.

Stephanie TUNIC: No problem, I can wait to make sure I fully answer your question if the board wishes.

Chairman FEIGELSON: No problem.

Member ATKIN: I have another question. The addition is going to be in the back, and I found out today there are two oil tanks to heat the building that are buried in the back. We have wells close by and this is where the addition is going to be. They're going to have to do something with the tanks. If they could possibly put the tanks above ground, it would be a safe thing so it wouldn't affect the water supply. The tanks are going to have to be moved. You can't put the building on top of the tanks. So, what's going to happen there?

Stephanie TUNIC: So, I do have Larry Torro that's on, who's the Engineer for the project. Larry if you're prepared to answer the question that's fine. It's a little outside of the scope of the Parking question, but we're happy to address anything that we have knowledge of at this time.

Larry TORRO: Yes, good evening. Larry Torro, Civil-Tech Engineering. Unfortunately, I wasn't aware that there were buried tanks out in the back. We'll look into that. But of course, you are correct, the building can't go on top of them. They would have to come out. Maybe we can talk to the applicant about having a space in the building where they could be placed.

Stephanie TUNIC: I would like to just preface that with this is still in the preliminary stages of review. The Planning Board did refer us here first because the variances determine the future of the site plan. Anything with regards to the actual structure and the addition would then be reviewed by the Planning Board during their own SEQRA review because this is uncoordinated. This SEQRA's review main focus would be two pre-existing non conformity variances, as well as the parking variances. With time we'll have a more detailed plan, but that's why there's not those details yet on the site plan. That would be at the Planning Board level.

Chairman FEIGELSON: Thom are you satisfied with that?

Member ATKIN: I'm just concerned because I just found out about it and I've lived in the Village all of my life. I don't want my water supply to be ruined.

Chairman FEIGELSON: Gary, you're back. Since you have a better connection now would you like to add something?

Gary GREEN: Yes, I have two things going on. I didn't know that the oil tanks existed either. That's good that's going to be addressed and taken care of. The Attorney answered my question about the Warehouse being used for home goods that are coming and going. It's not like they're doing cleaning products, etc. that could pose a threat to the water supply. I'm not sure proximity wise, I didn't get a chance to measure yet. John emailed me on Monday about this information. We weren't aware of this process even in the Planning Board stage.

Chairman FEIGELSON: I guess the question is do you still need 14 days to evaluate this situation?

Gary GREEN: Yes, if you could our Engineer would be able to just look it over. If you could wait, I'd appreciate it.

Chairman FEIGELSON: Yes, that's certainly possible. I think it would be in the boards interest to know what the findings are from part of the public input. Does any member of the board have any objection to permitting the Village of Chester to have 14 days to provide written comments?

Member ATKIN: No

Member BELL: No

Chairman FEIGELSON: Is there anybody here to speak in the Public, the Oral Public Comment Section.

Stephanie TUNIC: If I may, I would just like to go back to what Mr. Green was saying. There's a wide variety of household supplies that come through Superio. Everything is prepackaged however so there may be house hold cleaning supplies but it would only come pre-packaged on the pallets. Nothing would be assembled. No pouring of liquids into any other containers. I just wanted to be forthcoming and correct that.

Gary GREEN: I appreciate that, thank you.

Chairman FEIGELSON: I'm not hearing anybody here to speak regarding the application in the Public Hearing, and not hearing an objection from the Board in providing the Village with 2 weeks, 14 days of extra time to review the application. I will make a motion to close the Oral portion of the Public Hearing with us accepting written comments from 14 days from today.

Counsel DICKOVER: Mr. Chairman, if you don't mind, I'd like to comment on this proposal. The letter from the Village asked that they be allowed for 14 days after the Public Hearing for the Engineer to comment. I think that from this Boards standpoint that if the Engineers comments raise an environmental concern and you close the Public Hearing, it may be the type of concerns that the public would want to hear about and perhaps then comment upon. I would suggest that rather than close the Public Hearing the Board keep it open.

Chairman FEIGELSON: That's a fair point, we wouldn't be addressing this until our next meeting anyway. Thank you.

Larry TORRO: Mr. Chairman, I would just like to mention if the Village Engineer needs any materials to please get a hold of my office and we'll get him whatever he needs.

Gary GREEN: Thank you Larry, I'll let him know.

Chairman FEIGELSON: I'll make the motion to adjourn the meeting. Can I get a Second?

Member ATKIN: I'll Second.

Chairman FEIGELSON: Roll call vote

Member BELL: Yes

Member DOELLINGER: Yes

Member ATKIN: Yes

Chairman FEIGELSON: Yes

Meeting adjourned at 7:23 pm

Respectfully submitted,

Melissa FOOTE
Zoning Board of Appeals Secretary