

AGENDA

Smart Growth Committee

October 12th, 2016 – 7:30 pm

Committee Members: Diane LeBold (Chair)
Bill Scott
Michael Galey

Department Head: Mike Perrone

1. Comments, suggestions, petitions by residents in attendance regarding items not on the agenda.
2. Discuss filling open position in Building and Housing Department
3. Discuss Sketch Plans – 400 South Church – “Claude Rains House”
4. Discuss 147; 151-55 W. Gay Street – Reverse Subdivision
5. Discuss 632 S. Matlack Street – 5-unit townhouse development
6. Review BMP’s and Conveyances Operation Maintenance Agreement
7. WCU Overlay Update
8. Discuss Certificates of Appropriateness:
 - a. 120 N. Church St. – Grind Athletics
Hanging sign on front façade’
Approved as proposed with the changes that the background be off-white and the height consistent with existing signs on the building
 - b. 135 E. Gay St. – Zukin, Scott
1st floor addition; 2nd and 3rd floor balcony addition.
Approved as presented with the change that the windows will be 6 over 6 instead of 2 over 2 and windows and doors be wood.
 - c. 106 W. Market St. – Zukin, Scott
Replace damaged shingled pent roof
Approve as presented
 - d. 15 S. Church St. – Milks Law LLC
Install hanging sign on front façade’
Approve with conditions: sign to be mounted so that the bottom is 8 feet above sidewalk and door sign is not included in this motion

- e. 134-36 E. Gay St. – Zukin, Scott
Renovations to rear of building including installation of full view glass door, stucco knee wall will be constructed to separate tenant space from business space.
Approved as presented
- f. 200 N. High St. – Sutton Walters
Building mounted sign on front façade'
Approve as presented
- g. 1 S. Church St. – Cee Jay Frederick
Install gate on Market Street entrance.
Approve with conditions; detailing on top and bottom of gates will flow consistently through all parts, 2 side panels will include flat top and have same detailing as what exists on the High Street gate
- h. 9 N. Church St. – Giannaccari, Alfredo
1st floor façade renovation
Approve with conditions; front door will be in the same plane as main façade with single pane glass and raised panel below, pilaster on left hand side door will extend to grade, panels below the picture window will be reconfigured from submission to allow for full height pilaster to left of the door, detailed arch trim match in design to 121 E. Gay St and drawing matching this description be provided to Board before October Council meeting
- i. 225 N. Church St. – Zukin, Scott
Rear façade bedroom addition
Approve with conditions; new dormer will mimic dormer previous constructed at 227 N. Church St. with exception that the windows be one over one and windows at 227 N. Church St. be changed to one over one, applicant will resubmit accurate plan elevation views before the October Council meeting

9. Discuss September minutes

10. Zoning Appeals:

- a. Appeal #922 – Douglas Milbourne – 127 E. Miner St.
- b. Appeal #923 – Kurt Martin – 508 S. Walnut St.



MEMORANDUM

TO: Michael A. Cotter, Borough Manager
FROM: Michael A. Perrone, C.B.O.
DATE: October 3, 2016
RE: Sketch Plans – 400 South Church “Claude Rains House”

Recommendation

N/A

Motion

N/A

Background

Presently an existing single family detached dwelling.

Developer is requesting comments and feedback to add six single family attached townhouses.



MEMORANDUM

TO: Michael A. Cotter, Borough Manager
FROM: Michael A. Perrone, C.B.O.
DATE: October 3, 2016
RE: 147; 151-55 West Gay Street – Reverse Subdivision

Recommendation

The West Chester Borough Planning Commission voted unanimously to recommend approval of the reverse subdivision.

Motion

Background

Applicant requested a reverse subdivision to consolidate three lots into one. The plan was reviewed by both the Chester County Planning and West Chester Borough Planning Commissions.

No new construction is planned as a result of the lot consolidation.



Planning Commission
Borough of West Chester

September 28, 2016

Borough Council
430 East Gay Street
West Chester, Pennsylvania 19380

RE: Reverse Subdivision: 147, 151-55 West Gay Street
Gay Street Development Company

Dear Council Members,

At its last meeting on September 27, 2016, the Planning Commission discussed this reverse subdivision application and voted unanimously to recommend approval.

The discussions are reflected in the minutes of the Planning Commission. Should Council have any questions, please do not hesitate to contact us.

Sincerely,

Allen Burke, Chair
Planning Commission



MEMORANDUM

TO: Michael A. Cotter, Borough Manager
FROM: Michael A. Perrone, C.B.O.
DATE: October 3, 2016
RE: 632 South Matlack Street – Five Unit Townhouse Development

Recommendation

The Borough of West Chester Planning Commission voted unanimously to recommend approval of the preliminary/final land development plan.

Motion

Borough Council approve the preliminary/final five unit land development plan, granting a waiver from Chapter 94, 94-311.B, as recommended by the Borough engineer.

Note: § 94-311 - Other conveyance and system design standards.

Storm sewers shall have a minimum diameter of 15 inches and a minimum grade of 1/2 of 1%.

Background

Proposed owner/developer is seeking land development approval to combine two existing lots, raze an existing single family dwelling and demolish the existing nonconforming garage building.

The newly created lot will have five new single family townhouse units. Three units facing Matlack Street, two units facing Mechanics Alley.

Applicant was granted a zoning variance on May 9th from Section 112-73.Q(2) to allow the vehicles to back up into Mechanics Alley.



Planning Commission
Borough of West Chester

September 28, 2016

Borough Council
430 East Gay Street
West Chester, Pennsylvania 19380

RE: Preliminary/Final Land Development: 632 & 634 South Matlack Street
Borough of West Chester

Dear Council Members,

At its last meeting on September 27, 2016, the Planning Commission discussed this land development application and voted unanimously to recommend granting the required waiver to 94-311.B and approval of the preliminary/final land development provided that the applicant complies with all of the comments from the Borough Engineer.

The discussions are reflected in the minutes of the Planning Commission. Should Council have any questions, please do not hesitate to contact us.

Sincerely,

Allen Burke, Chair
Planning Commission

IN RE: APPEAL OF : **BEFORE THE**
CHRISTOPHER DULIN : **ZONING HEARING BOARD OF THE**
632 & 634 S. MATLACK STREET : **BOROUGH OF WEST CHESTER**
: **APPEAL NO. 913**

DECISION

On Monday, May 9, 2016 at 5:30 PM, the Zoning Hearing Board of the Borough of West Chester, having given proper notice, held a hearing ("Hearing") at West Chester Borough Hall on the appeal of Christopher Dulin for variance relief in order to construct and use 8 off-street parking spaces to be used for two properties located 632 and 634 S. Matlack Street. Zoning Hearing Board members David Sweet, Charles Swope, James Doyle, Michael Galey and Anne Carroll attended the hearing.

The Board was represented by its solicitor, Thomas F. Oeste. Tom Mohr, Esquire represented the Applicant. The testimony was recorded by Melissa Bailey, RPR. The notes of testimony and following documents constitute the record in this case.

- A-1 Zoning application
- A-2 Existing conditions plan
- A-3 JLOC assessment records
- A-4 Deed into JLOC
- A-5 Agreement of sale with JLOC
- A-6 Zoning plan

At the conclusion of the Hearing, the Board voted to grant the requested variance (Members Swope, Doyle and Galey voted in favor; Members Sweet and Carroll voted against granting the variance). The Board notified the Applicant of its decision by electronic mail of the Board solicitor dated May 10, 2016, a copy of which is attached hereto. The Board enters the following Findings of Fact and Conclusions of Law in support of its decision.

FINDINGS OF FACT

1. Christopher Dulin is the equitable owner of two parcels of property located at 632 and 634 S. Matlack Street, West Chester Borough (collectively the "Property").

2. The Property is improved with a dilapidated single family detached dwelling and garages.

3. The Property is located in the NC-2 Neighborhood Conservation District, Block Class B.

4. Applicant intends to demolish the existing structures, merge the two parcels and construct five townhomes as depicted on Exhibit A-6.

5. The access driveway for the townhomes will connect to S. Matlack Street and the required off-street parking will be provided by a two-car garage and outdoor spaces for each unit, as depicted on Exhibit A-6.

6. The Property can also front on Mechanic's Alley, a Borough public Street, as depicted on Exhibit A-6.

7. Applicant proposes to construct 8 off-street parking spaces which would be accessed from Mechanic's Alley; there would be no vehicular connection between the Mechanic's Alley spaces and the driveway connecting the townhouses to S. Matlack Street.

8. The Mechanic's Alley spaces are proposed for guest and additional off-street parking for the townhouse units only.

9. The Mechanic's Alley spaces may result in the availability of additional on-street parking which would otherwise be used by residents and guests of the townhouse units.

10. Vehicles using the Alley spaces would be required to back into Mechanic's Alley when leaving the space.

11. Zoning Ordinance Section 112-73.Q(2) prohibits parking areas to "be built or maintained to permit parked vehicles to back into a public street in order to leave a parking space, except in the case of a single-family or two-family dwelling".

CONCLUSIONS OF LAW

1. Applicant has standing.
2. The provision of additional off-street parking beyond the minimum required justifies granting the requested variance.
3. The requested variance relief will not alter the essential character of the neighborhood, will not impair the appropriate use or development of adjacent property and will not be detrimental to the public welfare.

ORDER

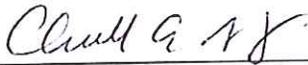
The Zoning Hearing Board grants a variance from Section 112-73.Q(2) of the Borough of West Chester Zoning Ordinance to enable the construction of 8 off-street parking spaces on the Property (632 and 634 S. Matlack Street) along Mechanic's Alley, as depicted on Exhibit A-6. The Board grants a variance to allow vehicles to leave the spaces by backing onto Mechanic's Alley, subject to compliance with the following conditions:

1. The use of the spaces shall be limited to vehicles operated by the owners, occupants and guests of the owners and occupants of the 5 dwellings to be constructed on the Property. Signs shall be erected and continuously maintained in the parking area providing notification of the foregoing restrictions.
2. The Applicant, the development of the Property and the construction and use of the parking spaces shall comply with all the representations and commitments made in the testimony and exhibits presented at the Hearing.

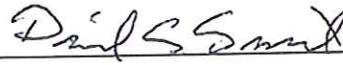
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3. Except as modified by this decision, the Applicant, the development of the Property and the construction and use of the parking spaces shall comply with all other applicable statutes, ordinances and regulations of the Borough of West Chester and any municipal or governmental entity having jurisdiction over the Property.

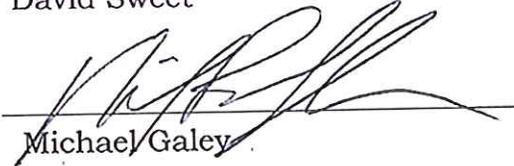
ZONING HEARING BOARD
BOROUGH OF WEST CHESTER



Charles Swope



David Sweet*



Michael Galey

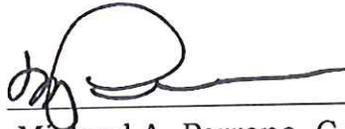


Anne Carroll*

* Member Sweet voted against granting the variance because the parking lot would create new and unnecessary impervious surface.

* Member Carroll voted against granting the variance because of safety concerns and no assurance that the spaces would result in more on-street parking for the neighborhood.

I certify that a copy of this Decision was mailed by first class mail properly addressed to Christopher Dulin on 6/21, 2016.



Michael A. Perrone, C.B.O
Zoning Officer



MEMORANDUM

TO: Michael A. Cotter, Borough Manager
FROM: Michael A. Perrone, C.B.O. *MAP*
DATE: October 3, 2016
RE: Review BMPs and Conveyances Operation Maintenance Agreement

Recommendation

N/A

Motion

N/A

Background

This Stormwater Best Management Practices and Conveyances Operation Maintenance Agreement has been made between the Hickman Friends Senior Community of West Chester and the Borough of West Chester in regard to the recently approved land development project "The Hickman." The attached agreement has been reviewed and approved by Solicitor Camp.

Prepared by/Return to:
Kristin S. Camp, Esquire
118 W. Market Street, Suite 300
West Chester, PA 19382

UPI No. 1-5-82

**STORMWATER BEST MANAGEMENT PRACTICES (BMPs) AND CONVEYANCES
OPERATION AND MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into this _____ day of _____, 20____, by and between **THE HICKMAN FRIENDS SENIOR COMMUNITY OF WEST CHESTER, d/b/a THE HICKMAN**, with an address of 400 N. Walnut Street, West Chester Borough, Chester County, Pennsylvania 19380 (hereinafter the “Landowner”), and the **BOROUGH OF WEST CHESTER**, a political subdivision of the Commonwealth of Pennsylvania with an address of 401 East Gay Street, West Chester Borough, Chester County, Pennsylvania 19380 (hereinafter the “Borough”);

WITNESSETH:

WHEREAS, the Landowner is the owner of certain real property located at 444 N. Walnut Street, West Chester Borough, Chester County, Pennsylvania, being UPI No. of 1-5-82 (hereinafter “Property”); and

WHEREAS, the Landowner is proceeding to build and develop the Property; and

WHEREAS, the stormwater Best Management Practices (herein after BMP(s)) And Conveyances Operations and Maintenance Plan approved by the Borough (hereinafter referred to as the “O&M Plan”) for the Property, which is attached hereto as Exhibit “A” and made part hereof, provides for management of stormwater within the confines of the Property through the use of BMP(s) and conveyances; and

WHEREAS, the Borough and the Landowner, for itself and its administrators, executors, successors, heirs, and assigns, agree that the health, safety, and welfare of the residents of the Borough and the protection and maintenance of water quality require that stormwater BMP(s) and conveyances be constructed and maintained on the Property; and

WHEREAS, for the purposes of this Agreement, the following definitions shall apply:

BMP – “Best Management Practice” –Those activities, facilities, designs, measures, or procedures as specifically identified in the O&M Plan, used to manage stormwater impacts from land development, to meet state water quality requirements, to promote groundwater recharge, and to otherwise meet the purposes of the Borough’s Stormwater Management Ordinance. BMPs may include, but are not limited to, a wide variety of practices and devices, from large-scale retention ponds and constructed wetlands to small-scale underground

treatment systems, infiltration facilities, filter strips, low impact design, bioretention, wet ponds, permeable paving, grassed swales, riparian or forested buffers, sand filters, detention basins, manufactured devices, and operational and/or behavior-related practices that attempt to minimize the contact of pollutants with stormwater runoff. The BMPs identified in the O&M Plan are permanent appurtenances to the Property; and

Conveyance – As specifically identified in the O&M Plan, a man-made, existing or proposed facility, structure or channel used for the transportation or transmission of stormwater from one place to another, including pipes, drainage ditches, channels and swales (vegetated and other), gutters, stream channels, and like facilities or features. The conveyances identified in the O&M Plan are permanent appurtenances to the Property; and

WHEREAS, the Borough requires, through the implementation of the O&M Plan, that stormwater management BMPs and conveyances, as required by said O&M Plan and the Borough's Stormwater Management Ordinance, be constructed and adequately inspected, operated and maintained by the Landowner, its administrators, executors, successors in interest, heirs, and assigns.

NOW, THEREFORE, in consideration of the foregoing promises, the mutual covenants contained herein, and the following terms and conditions, the parties hereto, intending to be legally bound hereby, agree as follows:

1. The foregoing recitals to this Agreement are incorporated as terms of this Agreement as if fully set forth in the body of this Agreement.

2. The Landowner shall construct the BMP(s) and conveyance(s) in accordance with the final design plans and specifications as approved by the Borough which are identified as follows:

Titled Final Land Development Plan for Sharpless Hall Redevelopment,
prepared by Advanced GeoServices

Dated June 1, 2015 Last revised August 18, 2016.

3. The Landowner shall inspect, operate and maintain the BMP(s) and Conveyance(s) as shown on the O&M Plan in good working order acceptable to the Borough and in accordance with the specific inspection and maintenance requirements in the approved O&M Plan. The notes from the O & M Plan which establish the specific instruction and maintenance requirements are attached hereto as Exhibit "B" and made a part hereof.

4. The Landowner hereby grants permission to the Borough, its authorized agents and employees, to enter upon the Property from a public right-of-way or roadway, at reasonable times and upon presentation of proper identification, to inspect the BMP(s) and Conveyance(s) whenever it deems necessary for compliance with this Agreement, the O&M Plan and the Borough's Stormwater Management Ordinance. Whenever possible, the Borough shall notify the Landowner prior to entering the Property.

5. The Borough intends to inspect the BMP(s) and Conveyance(s) a minimum of once every two (2) years to determine if they continue to function as required and designed. The Landowner shall reimburse the Borough for the cost of the inspection which cost shall be established by resolution of the Board of Supervisors.

6. The Landowner acknowledges that, per the Borough's Stormwater Ordinance, it is unlawful, without written approval of the Borough, to:

- a. Modify, remove, fill, landscape, alter or impair the effectiveness of any BMP or Conveyance that is constructed as part of the approved O&M Plan;
- b. Place any structure, fill, landscaping, additional vegetation, yard waste, brush cuttings, or other waste or debris into a BMP or conveyance that would limit or alter the functioning of the BMP or Conveyance;
- c. Allow the BMP or Conveyance to exist in a condition which does not conform to the approved O&M Plan or this Agreement; and
- d. Dispose of, discharge, place or otherwise allow pollutants including, but not limited to, deicers, swimming pool additives, household chemicals, and automotive fluids to directly or indirectly enter any BMP or Conveyance.

7. In the event that the Landowner fails to operate and maintain the BMP(s) and conveyance(s) as shown on the O&M Plan in good working order acceptable to the Borough, the Landowner shall be in violation of this Agreement and the Stormwater Ordinance, and the Landowner agrees that the Borough or its representatives may, in addition to and not in derogation or diminution of any remedies available to it under the Stormwater Ordinance or other statutes, codes, rules or regulations, or this Agreement, enter upon the Property and take whatever action is deemed necessary to maintain said BMP(s) and Conveyance(s). It is expressly understood and agreed that the Borough is under no obligation to maintain or repair said facilities, and in no event shall this Agreement be construed to impose any such obligation on the Borough.

8. In the event that the Borough, pursuant to this Agreement, performs work of any nature or expends any funds in performance of said work for labor, use of equipment, supplies, materials, and the like, the Landowner shall reimburse the Borough for all expenses (direct and indirect) incurred within thirty (30) days of delivery of an invoice from the Borough. Failure of the Landowner to make prompt payment to the Borough may result in enforcement proceedings, which may include the filing of a lien against the Property, which filing is expressly authorized by the Landowner.

9. The intent and purpose of this Agreement is to ensure the proper maintenance of the on-site BMP(s) and Conveyance(s) by the Landowner; provided, however, that this Agreement shall not be deemed to create or affect any additional liability on any party for damage alleged to result from or be caused by stormwater runoff.

10. The Landowner, for itself and its executors, administrators, assigns, heirs, and other successors in interest, hereby releases and shall release the Borough's employees, its agents and designated representatives from all damages, accidents, casualties, occurrences, or claims which might arise or be asserted against said employees, agents or representatives arising out of the construction, presence, existence, or maintenance of the BMP(s) and Conveyance(s) either by the Landowner or Borough. In the event that a claim is asserted or threatened against the Borough, its employees, agents or designated representatives, the Borough shall notify the Landowner, and the Landowner shall defend, at his own expense, any claim, suit, action or proceeding, or any threatened claim, suit, action or proceeding against the Borough, or, at the request of the Borough, pay the cost, including attorneys' fees, of defense of the same undertaken on behalf of the Borough. If any judgment or claims against the Borough's employees, agents or designated representatives shall be allowed, the Landowner shall pay all damages, judgments or claims and any costs and expenses incurred by the Borough, including attorneys, regarding said damages, judgments or claims.

11. The Borough may enforce this Agreement in accordance with its Stormwater Ordinance, at law or in equity, against the Landowner for breach of this Agreement. Remedies may include fines, penalties, damages or such equitable relief as the parties may agree upon or as may be determined by a court of competent jurisdiction. Recovery by the Borough shall include its reasonable attorney's fees and costs incurred in seeking relief under this Agreement.

12. Failure or delay in enforcing any provision of this Agreement shall not constitute a waiver by the Borough of its rights of enforcement hereunder.

13. The Landowner shall inform future buyers of the Property about the function of, operation, inspection and maintenance requirements of the BMP(s) prior to the purchase of the Property by said future buyer, and upon purchase of the Property the future buyer assumes all responsibilities as Landowner and must comply with all components of this Agreement.

14. This Agreement shall inure to the benefit of and be binding upon, the Borough and the Landowner, as well as their heirs, administrators, executors, assigns and successors in interest.

15. This Agreement shall be recorded at the Office of the Recorder of Deeds of Chester County, Pennsylvania, and shall constitute a covenant running with the Property, in perpetuity.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement as of the day and year first above written.

**THE HICKMAN FRIENDS SENIOR
COMMUNITY OF WEST CHESTER**

Witness

BY: _____
Name: Mark J. Snyder,
Chairman, Board of Directors

BOROUGH OF WEST CHESTER

Attest:

Secretary

BY: _____
Name: Ellen B. Koopman
President, Borough Council

COMMONWEALTH OF PENNSYLVANIA:

SS

COUNTY OF CHESTER

:

On this, the _____ day of _____, 201____, before me, the undersigned officer, personally appeared Ellen B. Koopman, who acknowledged to be President of Borough Council of the Borough of West Chester, and that she as such officer, being authorized to do so, executed the foregoing instrument for the purposes therein contained by signing the name of the Borough of West Chester by herself as President of Borough Council.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:

COMMONWEALTH OF PENNSYLVANIA :
 : SS
COUNTY OF CHESTER :

On this _____ day of _____, 20____, before me, the undersigned notary public, personally, appeared Mark J. Snyder known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

Notary Public

My Commission Expires:



MEMORANDUM

TO: West Chester Borough Council
Mayor Carolyn Comitta
West Goshen Township Board of Supervisors

FROM: Michael A. Cotter, Borough Manager

DATE: 4 October 2017

RE: **WCU Overlay Update**

The purpose of the meeting is:

1. Review of existing conditions (see attached);
2. Identify issues of concern to address;
3. Gain consensus on the purpose the working group has identified relative to establishing a joint University Overlay District;
4. Agree upon models to inform the discussion; and
5. Identify next steps

The staff working group is comprised of:

- Casey LaLonde, Manager, West Goshen
- Derek Davis, Asst. Manager, West Goshen
- Bill Webb, Zoning Officer, West Goshen
- Mike Perrone, Director of Building & Housing, West Chester
- Kristin Camp, Solicitor
- Tim Cassidy, planning consultant
- Michael Cotter, Manager, West Chester

The working group has met four times to discuss the concept of creating the overlay. We have focused on the issues and purpose, and have begun examining the array of outcomes and potential solutions available to the communities and to the University to address the following:

Issues Identified:

1. Uncertainty regarding growth/change of University
2. University planning approach to its growth
3. Inconsistent regulations (WCU Perspective) in communities
4. Student housing externalities
5. Multi-modal circulation and safety
6. Parking on and off campus

7. Campus encroachment into neighborhoods
8. Connecting campus to Borough Town Center
9. Management of environment impacts of WCU (e.g. SWM)
10. Community and economic development opportunities

Purpose for Overlay

- Establish boundaries for future development of the University campus which crosses municipal boundaries and recognizes the existing areas of development;
- Plan for orderly, coordinated, unified development of the University campus with common standards and continuity of regulations in both affected municipalities;
- Strengthen and preserve neighborhoods and uses which surround or are immediately outside of the Campus boundaries;
- Establish standards for size, height, bulk, location and use of buildings, structures and land within the defined Campus District;
- Regulate the siting, density and design of development within the defined Campus District;
- Preserve, maintain and improve the existing housing stock in neighborhoods which surround the Campus District;
- Prevent overcrowding of land and congestion in vehicular and pedestrian travel and transportation;
- Promote safe and efficient movement of people on Campus;
- Require adequate planning and transportation improvements to improve vehicular and pedestrian circulation and avoid congestion and safety hazards;
- Require sufficient off street parking for all Campus uses and buildings;
- Streamline the procedure for approval of new buildings and additions to existing facilities on the Campus by providing clearly defined development standards

The working group is looking at two model town/gown communities for guidance on solutions and regulations:

1. Lancaster and Franklin & Marshall University
2. Newark, DE and University of Delaware

Next Steps

1. Meet informally with WCU at BUOG to review this memo
2. Meet with full elected bodies in WGT, EBT(?) and the Borough regarding this memo
3. Elected official consensus (public meeting) on moving forward with overlay concept relative to identifying outcomes and actions to support the purpose statement
4. Create broader working group (add elected officials, citizens, WCU rep)
5. Working Group to meet to develop outcomes and actions
6. Public meetings to review outcomes and actions
7. Draft formal overlay ordinance
8. Action on draft ordinance



Area Vicinity Map

BERNARDON

ARCHITECTURE
INTERIOR DESIGN
LANDSCAPE ARCHITECTURE

WCU CAMPUS ZONING

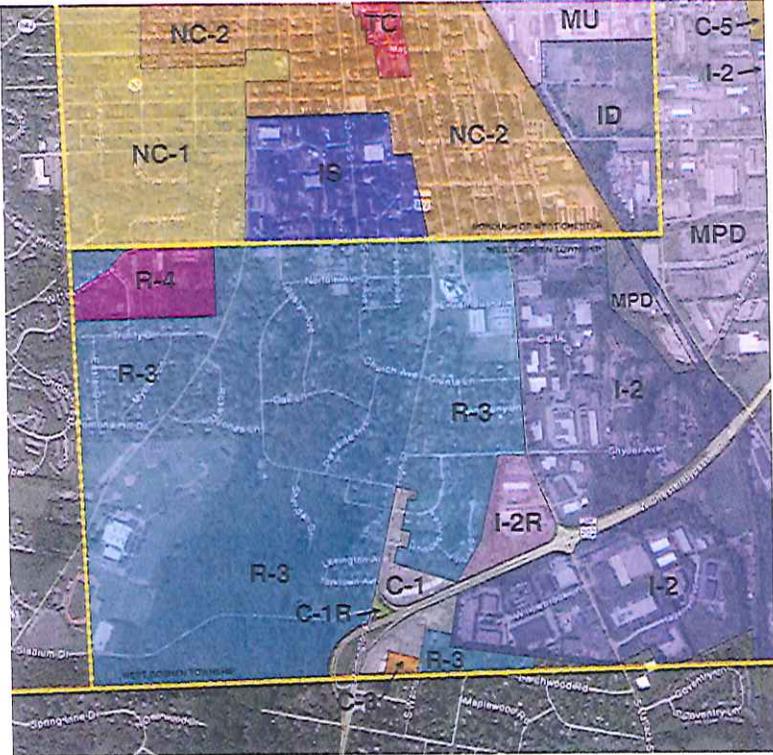
August 31, 2016



BOROUGH OF WEST CHESTER
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA



Existing Zoning Districts

BERNARDON

CONSULTING ENGINEERS
PLANNERS & ARCHITECTS
www.bernardon.com

WCU CAMPUS ZONING

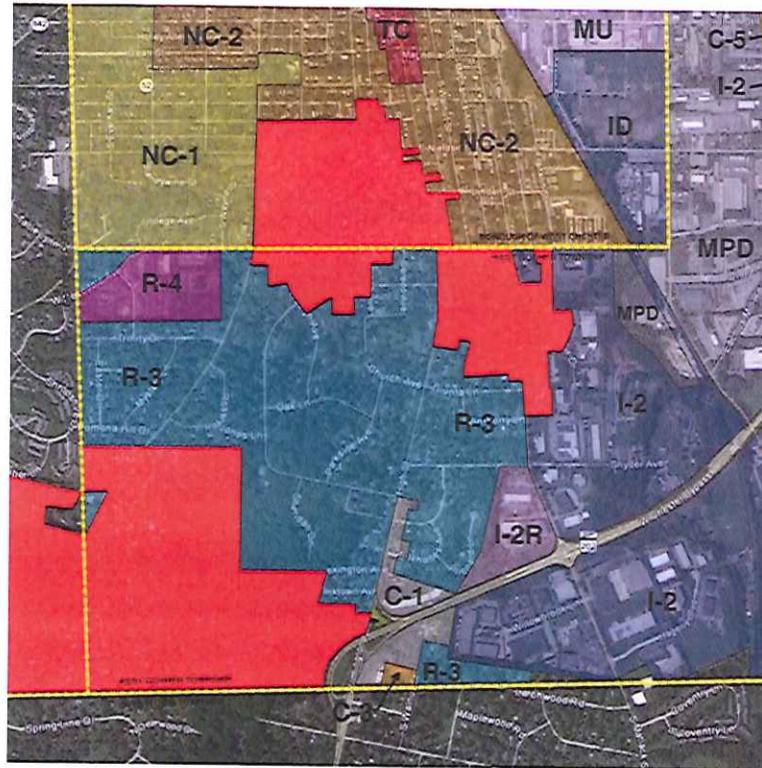
August 31, 2016



BOROUGH OF WEST CHESTER
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA



Existing WCU Properties

BERNARDON

ARCHITECTURE
INTERIOR DESIGN
LANDSCAPE ARCHITECTURE

WCU CAMPUS ZONING

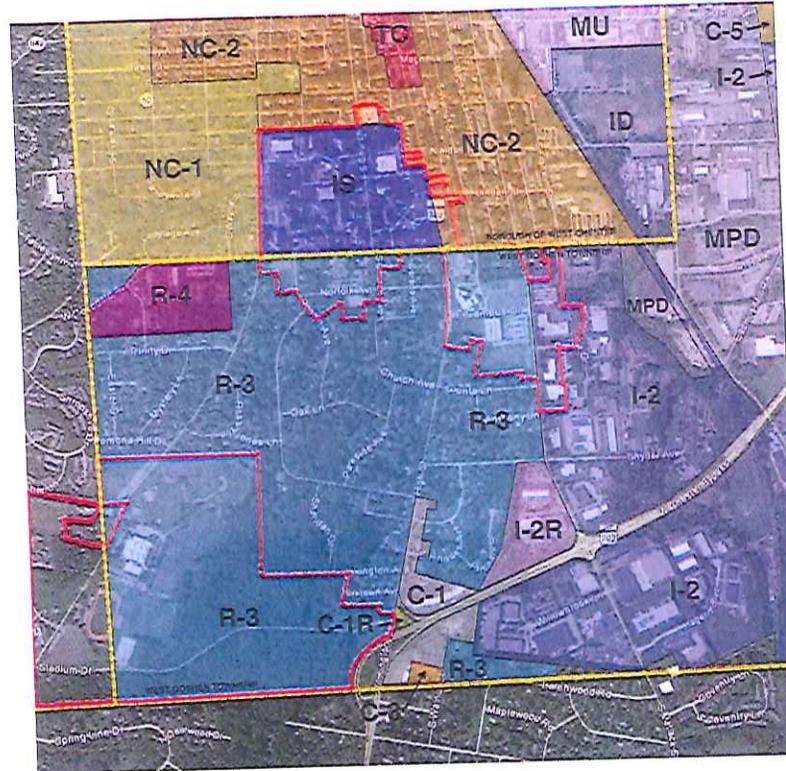
August 31, 2016



BOROUGH OF WEST CHESTER
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA



Existing WCU Properties & Zoning

BERNARDON

PLANNING
CONSULTANTS

WCU CAMPUS ZONING

August 31, 2016



BOROUGH OF WEST CHESTER
CHESTER COUNTY PENNSYLVANIA



WEST GOSHEN TOWNSHIP
CHESTER COUNTY, PENNSYLVANIA



Department of Building, Housing & Codes Enforcement

Regulations for the Protection of Public Health, Safety and Welfare

401 East Gay Street ▪ West Chester, Pennsylvania 19380
610-696-1773 ▪ Fax: 610-692-7958 ▪ web: www.west-chester.com

October 4, 2016

NOTICE IS HEREBY GIVEN that the Zoning Hearing Board of the Borough of West Chester, Pennsylvania has scheduled a Meeting at **5:30 pm, November 14, 2016** to be held in Room 240, 401 East Gay Street, West Chester, Pennsylvania. The purpose of this meeting is to hear the following appeal(s).

APPEAL #922	<i>Applicant:</i>	Douglas Milbourne
	<i>Property Address:</i>	127 East Miner St
	<i>Zoning District:</i>	NC-2(C)

Applicant is seeking approval to operate an automotive detailing shop at this property. Previous zoning hearing board appeals #534 and #874 allowed nonconforming uses.

APPEAL #923	<i>Applicant:</i>	Kurt Martin
	<i>Property Address:</i>	508 South Walnut St
	<i>Zoning District:</i>	NC-2(B)

Applicant is appealing the determination that the code official has found that the property is being used as a student home without the required Special Exception as per Section 112-19;C(7).

The application(s) are available for public review at the Department of Building & Housing at 401 East Gay Street, West Chester, Pennsylvania. The above appeal(s) will not necessarily be heard in the order listed. All interested persons will be given an opportunity to be heard at this Public Meeting.

Respectfully,

Michael A. Perrone, C.B.O
Zoning Officer

MAP/dcd

Timothy H. Knauer, Esquire
218 West Miner Street
West Chester, PA 19382
610-431-6801
I.D. #04925

Attorney for Applicant



IN RE: APPLICATION OF : BEFORE THE ZONING HEARING BOARD
DOUGLAS MILBOURNE : BOROUGH OF WEST CHESTER
D/B/A DOUG'S DETAIL : CHESTER COUNTY, PENNSYLVANIA

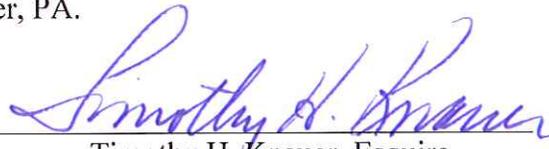
Application for Zoning Relief

1. Applicant is Douglas Milbourne who resides at 315 Lumber Street, Coatesville, PA 19320.
2. Applicant owns and operates an automobile detailing business known as Doug's Detail.
3. Applicant has entered into a lease agreement whereby he will be renting the ground level "first" floor of an existing building located at 127 East Miner Street, West Chester, PA 19382 (hereinafter the "Building").
4. The Building is two-story and has approximately 12,000 square feet of gross floor area; the first floor has approximately 6000 square feet of gross floor area.
5. The Building is located in the NC-2 Neighborhood Conservation District.
6. The Building was formerly owned by M.S. Yearsley and was used by Yearsley for storage and the repair of agricultural and lawn and garden equipment.
7. Yearsley's use of the Building was found by the Zoning Hearing Board to be a nonconforming use. See ZHB's Decision in Appeal NO. 534 dated August 5, 1997, which is attached hereto as Exhibit "A".
8. By its Decision in Appeal NO. 534 the ZHB granted approval for another nonconforming use to be placed in the first floor of the Building; the Board approved Applicant's automotive detailing business as a permitted nonconforming use.
9. The automotive detailing business was then owned and operated by the Applicant herein as Doug's Detail.
10. In December 2005, the Building was purchased by McCool Properties.

11. In 2009 McCool was found to be illegally operating an automotive repair shop in the Building, along with a legal nonconforming storage use and car detailing business.
12. In October 2011 Brent Morgan Properties, LLC purchased the Building and thereafter was granted a building permit to renovate the first floor of the building for an auto storage use.
13. Matthew T. McGeever, owner of Brent Morgan, used the first floor for both car storage and for the repair of antique and collector cars.
14. In 2012 the repair of antique and collector cars was found by Code Enforcement to be an illegal use, but the storage use was deemed a legal nonconforming use.
15. In 2013 the ZHB rendered a Decision on the Appeal of Brent Morgan Properties, LLC to the decision of Code Enforcement. See ZHB's Decision in Appeal NO. 874, a copy of which is attached hereto as Exhibit "B".
16. The Board held that an unlimited automotive repair facility was not a permitted use in the Building, but that a limited automotive repair facility, as conditioned, could be permitted in the Building as a less intensive nonconforming use to that which existed.
17. The Board held that the nonconforming use of the entire Property was limited to storage and the approved limited automotive repair facility use, which as of the date of this application are the existing uses in the Building.
18. The Board's Order extinguished any other prior or present use of the Property not conforming to the present Zoning Ordinance; this meant that automobile detailing is not an approved use in the Building.
19. In its 2013 Order, the Board stated that "any change of use or any part of the use must be approved by the Zoning Hearing Board, after application and hearing, to be granted or denied in the Board's sole discretion". See Exhibit "B".
20. Accordingly, Applicant seeks the Board's approval to place in and operate his automotive detailing business out of the renovated first floor of the Building.
21. Applicant seeks the Board's approval based on Section 112-96.O, which states that a lawful nonconforming use of a building may be changed to another nonconforming use which is less intense than the prior use.

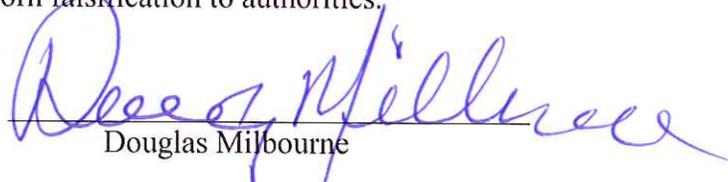
22. Applicant's automotive detailing business is less intense than the existing prior use, which is a limited automotive repair facility.
23. The current owner of 127 East Miner Street is Matthew T. McGeever.
24. It is McGeever's intention to cease using the Building as the location for his automotive repair business, if Applicant's request is approved by the Board.

Wherefore, Applicant, Douglas Milbourne, requests approval to place an automotive detailing business, known as Doug's Detail in the first floor of the property located at 127 East Miner Street, West Chester, PA.



Timothy H. Knauer, Esquire
Attorney for Applicant
Douglas Milbourne

I verify that the statements made in this Application are true
and correct. I understand that false statements herein are made subject to the penalties of
18 Pa. C.S.A. section 4904 relating to unsworn falsification to authorities.


Douglas Milbourne

Timothy H. Knauer, Esquire
218 West Miner Street
West Chester, PA 19382
610-431-6801
#04925

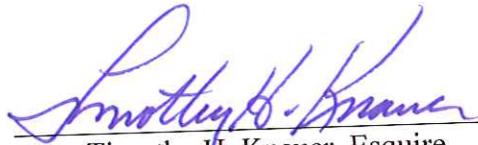
Attorney for Applicant

IN RE: APPLICATION OF : BEFORE THE ZONING HEARING BOARD
DOUGLAS MILBOURNE : BOROUGH OF WEST CHESTER
D/B/A DOUG'S DETAIL : CHESTER COUNTY, PENNSYLVANIA

PRAECIPE FOR ENTRY OF APPEARANCE

TO: ZONING HEARING BOARD
OF WEST CHESTER

Please enter my appearance on behalf of Applicant, DOUGLAS
MILBOURNE, in the above captioned matter.



Timothy H. Knauer, Esquire
218 West Miner Street
West Chester, PA 19382
610-431-6801
ID #04925

EXHIBIT "A"

IN RE: APPLICATION OF : BEFORE THE
DOUGLAS A. MILBOURNE : ZONING HEARING BOARD OF THE
: BOROUGH OF WEST CHESTER
: APPEAL NO. 534

DECISION

On Monday, July 7, 1997, at 7:00 p.m., the Zoning Hearing Board of the Borough of West Chester held a hearing, pursuant to proper notice, at West Chester Borough Hall on the application of Douglas A. Milbourne for permission to use property located at 127 East Miner Street as an automotive detail shop. All members of the Zoning Hearing Board attended the hearing. At the conclusion of the testimony, the Zoning Hearing Board deliberated and voted unanimously to grant the application subject to certain conditions hereinbelow stated, and to enter the following Findings of Fact and Conclusions of Law in support of their decision.

FINDINGS OF FACT

1. Applicant has entered into a lease agreement with the owners of the property located at 127 East Miner Street (Yearsleys) to use a certain portion of the subject building which fronts on East Miner Street as an automotive detail shop.

2. The front portion of the building which Applicant has leased from the Yearleys (hereinafter referred to as "the leased subject parcel") is

approximately 150 feet by 40 feet, or a total of approximately 6,000 square feet in area.

3. The remaining portion of the building will continue to be utilized by the Yearsleys for its present nonconforming use as a lawn and garden equipment repair shop.

4. The leased subject parcel contains space to accommodate four automobiles.

5. Applicant's automotive detail shop business will be conducted entirely inside the building, and will entail the cleaning and buffing of automobiles, the shampooing of car rugs and the like, but will not include any repair of vehicles, nor any painting or pin-striping of vehicles.

CONCLUSIONS OF LAW

1. The Applicant has standing.

2. The leased subject parcel is located in the NC-2 Block Class C Zoning District. Zoning Ordinance, Section 112-18.

3. The present use of 127 East Miner Street is nonconforming, and Applicant seeks to change the use of the front portion of the building (the leased subject parcel) to another nonconforming use (automotive detail shop).

4. Pursuant to the provisions of Section 112-96.0 of the Zoning Ordinance, a lawful nonconforming use of land or of a building may be changed to another nonconforming use which is less intense than the prior use.

5. The automotive detail shop use, as testified to by Applicant, is less intense than an equipment repair shop use.

6. No change in use has been requested, nor is any granted herein, for the remaining portion of the subject building which will continue to be occupied by the property owners.

ORDER

Applicant is hereby granted permission to use the leased subject parcel (that exact location of approximately 150 feet by 40 feet of the front portion of the building located at 127 East Miner Street) as an automotive detail shop, subject to the conditions that the use be restricted only to the type of indoor automotive detail operation as testified to by Applicant, and that no change in use has been granted for that portion of the subject building which will continue to be occupied by the property owner.

Lawrence A. Goldberg

Nancy Wilkinson

John A. Saling

Fred Gusz

David Sweet

I certify that a copy of this Decision was mailed by first class mail properly addressed to Douglas A. Milbourne, on _____.

Michael A. Perrone
Zoning Officer

EXHIBIT "B"

IN RE: APPEAL OF : BEFORE THE ZONING HEARING BOARD
BRENT MORGAN : OF THE BOROUGH OF WEST CHESTER
PROPERTIES, LLC : APPEAL NO. 874

DECISION

BACKGROUND

On February 11, 2013, March 4, 2013 and March 11, 2013, the Zoning Hearing Board of the Borough of West Chester, having given proper notice held a hearing (“Hearing”) at the West Chester Borough Hall on the Appeal of Brent Morgan Properties, LLC (“Appellant” or “Brent Morgan”) appealing from an enforcement notice and requesting permission to change one nonconforming use to another nonconforming use for a property at 127 East Miner Street. Zoning Hearing Board members Kevin Ansley, Dawn L’heureux, David Sweet, Michael Pastino and Charles Swope attended the Hearing. (Mr. Pastino did not attend the Hearing on February 11, 2013 but the parties agreed that he could participate in the Decision). Brian L. Nagle, Esquire represented the Appellant. The Borough of West Chester was recognized as a party, and its solicitor, Kristin S. Camp, Esquire appeared on behalf of the Borough. The following individuals were granted party status: Carla Jebson, Gabe Ginervo, Ruby Lawson, William Little, Edith Chambers, Kimberly McMullin, Steve Woodruff and Shawn Baxter.

The testimony was recorded by Melissa Bailey, RPR. The notes of testimony and following documents constitute the record in this case.

- A-1 Notice of Appeal
- A-2 Deed
- A-3 – A-16 Photographs
- A-17 Enforcement Notice – March 10, 2009
- A-18 (Exhibit withdrawn by Mr. Nagle)
- A-19 Draft Conditions of Approval
- BC-1 Application for Building Permit dated October 6, 2011
- BC-1A Marked-up floor plan
- BC-2 Tax Map and list of adjacent property owners
- BC-3 Zoning Decision dated July 7, 1997

The Board reconvened the Hearing on Monday, March 11, 2013 and received into the record stipulated conditions agreed to by the Borough and the Appellant as amended by the Board Solicitor. The Board then voted to deny the appeal from the enforcement notice and authorize a change of nonconforming use subject to the amended conditions, and in support of its decision, enters the following Findings of Facts and Conclusions of Law.

FINDINGS OF FACT

1. Brent Morgan owns a property located at 127 East Miner Street (the "Property")

2. The Property is located in the NC-2 Neighborhood Conservation District.

3. A two-story building is constructed on the Property, approximately 12,000 square feet in gross floor area, which covers the entire Property.

4. For approximately 40 years, the Property was owned by M.S. Yearsley and used for storage and the repair of agricultural and lawn and garden equipment.

5. In December 2005, the Property was purchased by McCool Properties.

6. At the time of McCool's purchase, the first floor front of the building, adjacent to East Miner Street, was occupied by Doug's Detailing, an automobile detailing business.

7. Doug's Detailing washed, waxed and cleaned automobiles.

8. Yearsley and a successor company who operated a business similar to Yearsley occupied the first floor rear and the second floor of the building, until the business ceased operation in approximately 2010.

9. In about 2009, McCool leased a part of the building to a concrete and masonry business; and a computer business.

10. In Appeal # 534, by Decision dated August 5, 1997, the Zoning Hearing Board found as fact that the Property was being used by Yearsley for a nonconforming use, a "lawn and garden equipment repair shop."

11. In Appeal # 534, the Board permitted part of the building to be used by Doug's Detailing as a nonconforming automobile detail shop.

12. By notice dated March 10, 2009, the Borough cited McCool Properties for using the Property as an illegal automotive repair shop; this notice of violation was not appealed.

13. The March 10, 2009 notice of violation also established that the Property, at the time, was a "legal, nonconforming storage use and car detailing business."

14. Brent Morgan purchased the Property in October 2011.

15. None of the businesses that occupied the Property prior to Brent Morgan's purchase was an automotive repair facility.

16. On October 6, 2011, Brent Morgan applied for a building permit to renovate the first floor of the building for a storage use.

17. In the spring of 2012, Brent Morgan had completed the renovations of the first floor.

18. Brent Morgan intended to use the first floor of the building to store antique and collector cars owned by others who did not have storage space.

19. Matthew McGeever, the owner of Brent Morgan, testified that the storage business was unprofitable so he began using the Property for repair of antique and collector cars, without seeking approval from the Borough.

20. By correspondence dated August 20, 2012, the Borough Director of Building Housing and Codes Enforcement issued a violation notice to Brent Morgan indicating that the Property was being used as an illegal nonconforming automotive repair business; and further stating that the existing storage use is a legal nonconforming use.

21. Brent Morgan asserts that the automotive repair business is either a lawful nonconforming use; or a nonconforming use which is less intense than the prior nonconforming uses.

22. An automotive repair facility, as defined by the Borough Zoning Ordinance, does not limit the types of services that may be offered; therefore the automotive repair facility use may include all types of repairs, including engine and transmission rebuilding and body and fender repair and painting.

23. An automotive repair use is not less intensive than the prior nonconforming uses of the Property.

DISCUSSION

The Director of Building and Zoning correctly concluded that the Property is being used illegally by Brent Morgan as an automotive repair facility. The Property was never used as such a facility; the unappealed 2009 enforcement notice confirmed that automotive repair is not a legal use of the Property.

The Zoning Ordinance does not restrict the services that may be provided in an automotive repair facility; and therefore we can not

conclude that such a use is less intensive than the prior nonconforming uses, storage and automotive detailing. This Property is in a residential zoning district surrounded by residential uses in close proximity. A general automotive repair business is not compatible with the neighborhood.

However, the Board concludes that a limited automotive repair facility, restricted by the conditions set forth in the following Order, can be permitted on the Property. Brent Morgan must operate its business in strict conformity with the conditions to mitigate the impact on the neighborhood.

CONCLUSIONS OF LAW

1. Appellant has standing.
2. The Property is located in the NC-2 Neighborhood Conservation District.
3. The prior nonconforming uses of the Property were lawn and garden equipment repair; light storage and automotive detailing.
4. An automotive repair facility is not a less intensive use than the prior nonconforming uses.
5. An automotive repair facility is not a permitted use in the NC-2 District.

ORDER

The Appeal of the August 20, 2012 Enforcement Notice for 127 East Miner Street determining that the Property is being used illegally as an automotive repair facility is denied and the Enforcement Notice is affirmed.

The Zoning Hearing Board authorizes the nonconforming use of the Property to be changed to another nonconforming use pursuant to Zoning Ordinance Section 112-96.O subject to compliance with the following conditions:

1. The change of nonconforming use permitted in accordance with Zoning Ordinance Section 112-96.O is an automotive repair facility restricted to maintenance and repair of antique, collector and classic automobiles and light trucks and limited to minor engine repair, and maintenance and repair of minor engine components, electrical systems, mechanical systems, suspension systems, brake systems and tire mounting and balancing. Any change of use or any part of the use must be approved by the Zoning Hearing Board, after application and hearing, to be granted or denied in the Board's sole discretion.
2. Hours of operation for the limited automobile repair facility approved by this Decision shall be limited to 9 a.m.-6 p.m. Monday through Friday; the first floor of the building depicted in Exhibit A attached hereto shall not be used for any purpose except storage between 6 p.m and 9 a.m. the following day, Monday through Friday, or at any time on

Saturday or Sunday, except for office use related to automobile repair facility involving no noise.

3. The overhead door, and all windows and doors shall be kept closed at all times when any noise producing activity is engaged in relating to the automobile repair facility or any other activity occurring on the first floor of the building, with the exception of times when vehicles are actively entering and exiting the facility.

4. No more than 2 vehicles shall be actively worked on at any one time and all activity related to the automobile repair facility shall be conducted inside the building;

5. Employees shall be limited to two mechanics plus one assistant/administrator (this shall not preclude the owner from working at the facility); except for occasional customer visits, delivery personnel and service personnel (e.g., HVAC contractors), no other individuals shall be present on the first floor of the building depicted in Exhibit A attached hereto.

6. The automobile maintenance and repair area shall be limited to the 1,466 square foot area on the East side of the building, as generally shown on the sketch prepared by Mr. McGeever, which is attached hereto as Exhibit "A", provided that cars that are being staged before or after repairs may be stored in the indoor storage area and also provided that the entrance will be utilized for all permitted uses at the Property.

7. No sign will be maintained other than the existing door decal on the Miner Street man-door.

8. Without limiting the restrictions of Condition 1 above, the limited automobile repair shall not include any of the following, consistent with Mr. McGeever's testimony,

- a. Body work;
- b. Automobile painting;
- c. Transmission rebuilding;
- d. Engine rebuilding.

9. Due to the specialty nature of the business based upon Mr. McGeever's testimony, in the event that the business is transferred to an individual or to an entity that is controlled by someone other than Mr. McGeever, the change of use approved by this decision may only be continued by a new owner after application to, hearing and approval by the Zoning Hearing Board (which approval the Board has no obligation to give) to ensure substantial similarity to the nonconforming use hereby approved and adherence to the conditions of this approval and such other conditions as the Board may impose.

10. In the event that the Borough Zoning Officer determines that an exhaust fan or system is necessary, Appellant will install same in accordance with all applicable Borough Codes after approval of the proposed system by the Zoning Officer or his designee;

11. In the event that any of the conditions of this Decision and Order are violated, the Borough, in its sole discretion, may terminate Appellant's right to continue the automobile repair use. While a determination of a violation shall be appealable, any subsequent decision of the Borough to terminate the automobile repair use shall not be appealable.

12. The Appellant will not request and will not be issued more than 2 parking permits for the Property while it is being utilized for limited automobile repair.

13. The nonconforming use of the entire Property is limited to storage and the use approved by this Decision. Any other prior or present use of the Property not conforming to the present Zoning Ordinance is extinguished.

14. The conditions of this approval shall be incorporated into a memorandum of decision, in form and substance satisfactory to the Borough solicitor, recorded in the chain of title of the Property in the office of the Recorder of Deeds of Chester County.

15. Except as may be inconsistent with the preceding conditions, the Appellant and the use of the Property shall comply with the representations and commitments made in the testimony and exhibits presented at the Hearing.

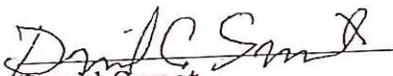
16. Except as modified by this Decision and Order, the use of the Property shall comply with all applicable Borough ordinances and regulations and with all applicable provisions of any statute, ordinance or regulation of any municipal or governmental entity having jurisdiction over the Property.

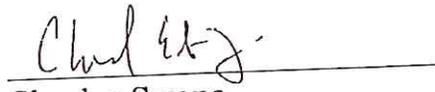
ZONING HEARING BOARD

BOROUGH OF WEST CHESTER

Kevin Ansley


Dawn L'heureux


David Sweet


Charles Swope

Michael Pastino

I certify that a copy of this Decision was mailed by first class mail properly addressed to Brian L. Nagle, Esquire, Kristin S. Camp, Esquire, Carla Jebson, Gabe Ginervo, Ruby Lawson, William Little, Edith Chambers, Kimberly McMullin, Steve Woodruff and Shawn Baxter on APRIL 4, 2013 which is the date of this Decision and Order



Michael A. Perrone, CBO
Zoning Officer

LOHR & ASSOCIATES, LTD.

ATTORNEYS-AT-LAW

1246 WEST CHESTER PIKE, SUITE 312

WEST CHESTER, PA 19382

TELEPHONE NO.: (610) 701-0222

FACSIMILE NO.: (610) 431-2792

**TO: Zoning Hearing Board
of West Chester Borough**

FAX NO: (610) 692-7958

DATE: October 3, 2016

FROM: Robert J. Lohr II

Number of Pages (including this cover sheet): 6

If you do not receive all the pages indicated above, please call (610) 701-0222 as soon as possible.

Comments:

THE INFORMATION CONTAINED IN THIS FACSIMILE MESSAGE IS ATTORNEY PRIVILEGED AND CONFIDENTIAL INFORMATION INTENDED ONLY AND EXCLUSIVELY FOR THE USE OF THE INDIVIDUAL(S) OR ENTITY NAMED ABOVE. IF THE READER OF THIS MESSAGE IS NOT THE INTENDED RECIPIENT, OR THE EMPLOYEE OR AGENT RESPONSIBLE TO DELIVER IT TO THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR OR ARE NOT SURE WHETHER IT IS PRIVILEGED, PLEASE IMMEDIATELY NOTIFY US BY TELEPHONE, AND DESTROY ALL COPIES AND RETURN THE ORIGINAL MESSAGE TO US AT THE ABOVE ADDRESS VIA THE U.S. POSTAL SERVICE AT OUR EXPENSE. THANK YOU.

1246 West Chester Pike, Suite 312
West Chester, PA 19382
Office: (610) 701-0222
Fax: (610) 431-2792
lohRANDassociates.com



LOHR & ASSOCIATES, LTD.
ATTORNEYS-AT-LAW

ROBERT J. LOHR II *+
MARY JO GILSDORF *+ (OF COUNSEL)

*ADMITTED IN PA
+ADMITTED IN NJ

Writer's Direct Dial: (610) 701-0222
Writer's E-mail Address: bob@lohRANDassociates.com

October 3, 2016

Via facsimile

Zoning Hearing Board of West Chester Borough
Department of Building, Housing & Codes Enforcement
401 East Gay Street
West Chester, PA 19380

**Re: Appeal from Findings by Codes Enforcement Officer
Against Mr. Kurt Martin - Owner 508 South Walnut Street
West Chester, PA 19380, Dated December 12, 2005
West Chester Code - Chapter 112, Section 112-19: C**

Dear Zoning Hearing Board:

Please be advised that I represent Mr. Kurt Martin in connection with the alleged violations as they appear in the above-referenced matter. On August 31, 2016, Mr. Kevin M. Beans issued a letter to Mr. Martin within which there were allegations that the above-referenced West Chester Code Section was violated by existing conditions at the real property located at 508 South Walnut Street, West Chester, PA 19380 (the "Property"). I have attached a copy of this letter for your review. The purpose of this letter is to appeal the findings of Mr. Beans and request that we be granted an opportunity to be heard at a hearing. Consistent with the Rules of the Zoning Hearing Board of West Chester Borough, I will hand deliver a check in the amount of \$200.00.

1. **Name and Address of the Applicant.**

Mr. Kurt Martin
9 Line Road
Malvern, PA 19355

*Zoning Hearing Board of West Chester Borough
October 3, 2016
Page 2*

2. The Name and Address of the Owner or Real Estate to be affected by the Appeal or the proposed Special Exception or Variance.

Kurt Martin is the title owner of the Property. Mr. Martin is appealing the findings of Mr. Beans as set forth in the attached letter.

3. A brief description and location of the Real Estate to be affected by the Application or Appeal.

Single family dwelling located at 508 South Walnut Street, West Chester, PA 19380.

4. A Statement of the present Zoning Classification of the Real Estate in question, the improvements thereon and the present use thereof.

The real property is zoned NC 2, Block Class B with the only improvement thereon being a single family dwelling. Specifically, there are no garages, sheds or any other improvements whatsoever. The single family dwelling is currently used as a rental property occupied by four tenants.

5. A Statement of the Section of the West Chester Code under which the Variance or Special Exception requested may be allowed, and reasons why it should be granted. The Board may decline to consider any ground or reason for the relief sought which is not stated in the Appeal or Application.

The attached letter sets forth in pertinent part: "Information received by our office on August 31, 2016 indicates that your property located at 508 South Walnut Street; West Chester, Pennsylvania is being used as a student home. This is a violation of the Borough of West Chester Code, Chapter 112, Section 112-19: C - *Uses by Special Exception.*"
The section cited by Mr. Beans sets forth in pertinent part:

- C. Uses by special exception:
- (1) Conversion of an existing building to a professional office in a designated Professional Office Overlay District, in accordance with § 112-22.
 - (2) Nursing homes, in accordance with § 112-23.
 - (3) Religious uses.
 - (4) Conversion of an existing building to a multifamily dwelling, in accordance with § 112-23, provided that no exterior alteration is made to the structure.

*Zoning Hearing Board of West Chester Borough
October 3, 2016
Page 3*

- (5) Day-care centers.
- (6) Bed-and-breakfast facilities, in accordance with Article XVI.
- (7) Student home in a single-family detached dwelling.

The definition of a "student home" is found in the West Chester Code 112-7 as follows:
"Student Home. A living arrangement for at least two students to a maximum of four students (as defined in this chapter) unrelated by blood, marriage or legal adoption. Student homes shall not include dormitories. [Added 4-18-2001 by Ord. No. 5-2001; amended 9-19-2001 by Ord. No. 10-2001]"

The definition of a "student" is found in the West Chester Code 112-7 as follows:

An individual who is enrolled or has made application and been accepted at a university, college or trade school and is taking at least six credit hours and whose primary occupation is as a student or who is on a semester or summer break from studies at a college, university or trade school. The term "student" shall apply to both undergraduate or graduate students alike.

Mr. Quinn Nguyen manages the Property for Mr. Martin and at the time that he interviewed Ms. Erica Turtz (sometime shortly before September 29, 2016), who is one of the current tenants at the Property, Ms. Turtz represented to Mr. Nguyen that none of the tenants would be students as of the lease commencement date which is June 1, 2016. In the past Mr. Nguyen has called West Chester University ("WCU") and asked whether certain prospective tenants were enrolled as students. Representatives of WCU stated that due to privacy laws they are not permitted to divulge whether certain persons are students.

Furthermore, the attached letter fails to adequately provide notice as to whom is allegedly a student residing at the Property. The letter fails to state the names of the alleged students. The letter fails to state what school the alleged students are attending. The letter fails to state how many credit hours the alleged students are taking. The letter does little more than make a bald allegation that the Property is a "student home". It is the Borough of West Chester's burden to adequately put Mr. Martin on notice of the details that comprise the alleged violation and it has failed to do so. Accordingly, Mr. Martin is requesting that the Zoning Hearing Board dismiss the complaint within the attached letter.

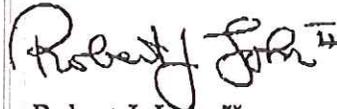
*Zoning Hearing Board of West Chester Borough
October 3, 2016
Page 4*

6. A reasonably accurate description of the present improvements and the additions intended to be made under the Appeal or Application, indicating the size of such proposed improvements, material and general construction thereof. In addition, there shall be attached a Plot Plan of the Real Estate to be affected, prepared (except where otherwise authorized by the Zoning Officer) by a Registered Engineer or Land Surveyor, indicating the location and size of the lot and the size of improvements now erected and proposed to be erected thereon.

This section is inapplicable as the applicant does not seek to modify the improvements on the real property.

For the foregoing reasons the applicant respectfully requests that the Zoning Hearing Board of West Chester Borough dismiss the complaint within the attached letter. Thank you for your consideration of this matter and I look forward to the opportunity to present the applicant's position to your Board.

Sincerely,



Robert J. Lohr II

RJL/ns
attachments

cc: Mr. Kurt Martin
Mr. Quinn Nguyen



Department of Building, Housing & Codes Enforcement
Regulations for the Protection of Public Health, Safety and Welfare

401 East Gay Street • West Chester, Pennsylvania 19380
610-696-1773 • fax: 610-692-7958 • web: www.west-chester.com

August 31, 2016

Kurt Martin
9 Line Road
Malvern, PA 19355

Re: 508 South Walnut Street; West Chester, Pennsylvania

Information received by our office on August 31, 2016 indicates that your property located at 508 South Walnut Street; West Chester, Pennsylvania is being used as a student home. This is a violation of the Borough of West Chester Code, Chapter 112, Section 112-19; C- *Uses by Special Exception*.

Upon receipt of this Notice, you have thirty (30) days (or no later than **Monday October 3, 2016**) to cease and desist this illegal use of this property. The recipient of this Notice has the right to Appeal to the Zoning Hearing Board within thirty (30) days, in accordance with the Pennsylvania Municipalities Planning Code and the Rules and Regulations of the Borough of West Chester Zoning Hearing Board.

Failure by you to comply with this Notice within the time specified, unless extended by appeal to the Zoning Hearing Board, constitutes a violation and may force the Borough to institute appropriate action or proceedings to prevent, restrain, correct or abate stated violation. In addition, any person, partnership or corporation who or which has violated or permitted the violation of the provisions of any Zoning Ordinance enacted by law, shall, upon being found liable therefore in a Civil Enforcement Proceeding commended by a Municipality, pay Judgment of not more than five hundred dollars (\$500.00) per day, plus all court costs, including reasonable Attorney's Fees incurred by the Borough as results thereof.

Please feel free to contact this office should you have any questions concerning the contents of this letter.

Respectfully,

Kevin M. Beans
Building, Housing & Codes Enforcement
Office - 610.436.1349
E-Mail - kbeans@west-chester.com
First class mail August 31, 2016

MINUTES

Smart Growth Committee

September 14th, 2016 – 7:30 pm

Department Head: Mike Perrone

1. Comments, suggestions, petitions by residents in attendance regarding items not on the agenda.

None

2. Discuss 200 N. Church Street HARB – Window Replacement

Property owner requested Borough Council reconsider the HARB recommendation to allow him to keep the existing replacement windows on his building at 200 North Church St. Mike Perrone provided Borough Council with an overview of Solicitor Camp's answers to Borough Council's questions. Diane LeBold asked the applicant what a reasonable amount of time would be to replace the windows, with windows that are acceptable according to HARB guidelines. After much discussion Bill Scott made a motion, seconded by Mike Galey, that the applicant is to replace 13 windows in accordance with HARB guidelines, with all work completed within 3 years. Five windows shall be replaced the first year, and 4 windows each the following 2 years. In addition, the owner shall enter into an agreement with the Borough, requiring all windows to be replaced before the real estate is sold, if sold in less than 3 years.

3. Conditional Use Application for 29 S. Church Street – Historic Carriage House Use – Council to set date for Public Hearing

The Committee recommended 3-0 for the Hearing be held at the regular Council Meeting on October 19th at 6:30 p.m.

4. Discuss WCU – Land Development Application
The Commons Building & Parking Structure

Representatives from West Chester University introduced a preliminary land development plan for a 165,000 sf mixed use educational building, and a 460 car parking structure on the north campus super block. Mr. Cotter asked the applicants if the closing of Church Street and University Avenue would change the layout of the application. Mr. Patrick Brunner (WCU) stated it would not. **No Action Taken**

5. Discuss Vision Partnership (Comp Plan) Grant Time Extension

Mr. Cotter explained where the comprehensive plan was in relationship to the Vision Partnership Grant and that the Borough had successfully hired Dottie Ives Dewey with the expectation that the comprehensive plan would be completed by the end of 2016. The Committee recommended 3-0 to Borough Council that they approve the time extension until December 31, 2016.

6. Discuss 510 E. Barnard St., Sketch Plan for 57 residential units

Mike Perrone gave a brief overview of the sketch plan submitted by property owner John Drury for a 57 unit townhouse development. Joe Russella, from D.L. Howell Associates, presented the sketch plan to the Committee. Diane LeBold had concerns about the layout of the development and feels there is no connection with existing streets or alleys. She would like the property to have existing Borough street addresses.

It was also discussed that the developer consider reducing the widths of the streets and perhaps removing a couple end-units to provide additional visitor parking in the development.

Mr. Russella stated he understood the concerns of the Committee and will proceed to the Planning Commission.

No Action Taken.

7. Discuss Certificates of Appropriateness:

- a. 122 E. Gay Street – Opa Opa Restaurant
Install hanging sign
Approve with conditions: Sign shall be installed above the entrance door on either the existing square tube bracket or a new black bracket similar to the existing bracket with no sign at the center of the building.
- b. 158 W. Gay Street – STP Investments
Install hanging sign on front façade and construct an elevated steel platform to hold a new generator above an existing trash dumpster enclosure
Approve as presented
- c. 120 N. Church Street – WC Shambhala Mediation Center
Install hanging sign
Approve with conditions: Shall be installed on a black bracket similar to existing brackets and field of the sign should be off-white.
- d. 16 E. Market Street – The Brooks Group
Replace entry steps and handrails
Approve with conditions: Steps shall be constructed of brick sides and risers and bluestone treads. Bluestone treads and uppermost landing are to be monolithic treads (1 piece, not 2 or many). Railings to replicate designs of existing deteriorated railings.
- e. 141-43 W. Gay Street – WC United Methodist Church
Install historic marker at 141 E. Gay Street
Approve as presented
- f. 40 E. Market Street – Rams Head Bar & Grill
Remove existing awning and install sign board covering all the transom windows along Market Street, paint all red trim and pent roof on the building black and repaint existing cream trim cream.
Approve with conditions: Signage component of application was tabled and applicant will return with other signage options. Metal pent roof will not be painted black, but if repainted, will be red.

- g. 117 E. Gay Street – The Social
Install building mounted sign, remove exterior and interior muntin grids from existing picture windows.
Approve with conditions: Sign will read “The Social”.
 - h. 11 N. Walnut Street – Parisian Cleaners
Install HVAC unit below existing 2nd floor rear window
Approve as presented
-

The Committee recommended 3-0 to approve all COAs, and to have Mike Perrone review “F” –

40 E. Market Street – Rams Head Bar & Grill
Remove existing awning and install sign board covering all the transom windows along Market Street, paint all red trim and pent roof on the building black and repaint existing cream trim cream.

Approve with conditions: Signage component of application was tabled and applicant will return with other signage options. Metal pent roof will not be painted black, but if repainted, will be red.

Only the removal of the existing awning was approved. Applicant asked HARB to table his application in order to return next month with new sign options.

- 8. Discuss July and August minutes

The Committee approved both the July and August minutes.

- 9. Zoning Appeals: none

- 10. Create New Historic Commission

Tom Walsh presented to the Committee a list of names of individuals who would be willing to participate in a Steering Committee to explore the creation of a new Historical Commission. The Committee recommended 3-0 to Borough Council to appoint a Historical Commission Steering Committee to explore the creation of a new Historical Commission.

- 11. Committee Recommendation

The Committee recommended 3-0 that Borough Council instruct the HARB to review the HARB guidelines as they relate to the latest building components that are available today.