

**Village of Chester
Public Hearing
May 9, 2011**

The Board of Trustees of the Village of Chester held a Public Hearing in the Village Hall meeting room on Monday, May 9, 2011. Members present: Mayor Philip Valastro, Deputy Mayor Philip Roggia, Trustee John J. Collins, Trustee Carole Duffy and Trustee Betty-Jo Bono. Also present Village Attorney Ian Schlanger, Treasurer Angela O'Neill, and Water Commissioner Tom Becker. Code Enforcement Officer John Orr and Highway Superintendent John T. Bell were absent. In the audience: Jay Myrow, Jacob Kriney, Elisabeth Mansfield, Gordon Shehab, Nikki Mayer, Frank Nussbaum, Cindy Becker, Thomas Becker, Stacey Henry, Carlotta Ryan, Jessica Moore, Ronald Ryan, Tia Leonardi, Edith Zielinski, and Susan Cleaver.

The Mayor opened the Public Hearing at 6:45p.m. Mayor took a moment to address the audience and asked that everyone to conduct themselves professionally and respectfully of others. The notice which appeared in the Times Herald Record read as follows:

NOTICE IS HEREBY GIVEN that, on May 9, 2011, at 6:45 p.m. at the Village Office, 47 Main Street in the Village of Chester, the Board of Trustees of the Village of Chester, Orange County, New York will conduct a public hearing regarding the amended application and petition of Bruedan Corp to amend the Village Zoning Law to change the zoning district of property identified on the Tax Map of the Village of Chester as S/B/L: 106-2-11, 12, 13, 14 & 57, consisting of approximately 1.06 acres of land, from the RMH Zoning District, Residential-Mobile Homes, to the M-1 Zoning District, Light Manufacturing-Research, at which time and place all interested persons may appear and will be given an opportunity to be heard either in support of, or in opposition to, the proposed zoning change.

The full text of the petition and related documents, is filed with, and is in the custody of, the Village Clerk at 47 Main Street, Chester, New York, is posted at said office, and may be examined by any interested person during regular business hours at the above address up to and including 4:30 p.m., on May 9, 2011.

BY ORDER OF THE BOARD OF TRUSTEES OF THE
VILLAGE OF CHESTER, NEW YORK

Rebecca Rivera
Village Clerk

Dated: April 13, 2011

Pursuant to Village Code §98-40 and the Village Board's Resolution, dated March 14, 2011, the Village of Chester Planning Board submits the following report regarding the proposed zone change for the property at 1 Sanford Avenue:

Background:

The Planning Board reviewed the applicant's previous request to the Board of Trustees to rezone the property to an M-2 District in a report dated January 25, 2011.

As discussed in the Planning Board's prior report, the property is presently zoned RMH -Residential Mobile Homes, which permits single family residences mobile dwellings and mobile dwelling parks. The property consists of 5 lots (Sec. 106, Block 2, Lots 11, 12, 13, 14 and 57) totaling 1.06 acres with road frontage on Sanford Avenue; the parcel is intersected by Lehigh Avenue. Two of the lots (11 and 57) are vacant. The other three lots are improved by a presently vacant 8,748 square foot building which predates the Zoning Code. The property was previously used for light industrial and warehousing and accessory office use, specifically the storage and distribution of golf carts and vending machines.

The property is bounded to the north by a vacant parcel owned by the railroad which is utilized in conjunction with the parcel; a railroad track, a railroad siding and the County's Heritage Trail are located just to the North. On the other side of the railroad track, which is the portion of Camp LaGuardia located in the Village, the zoning district is M-2. The property is bounded to the south by Sanford Avenue. The adjacent parcels on the Sanford Avenue side of the property have residential uses.

According to the referral from the Village Board, the applicant requests that the parcels be re-zoned to an "M-1 Light Manufacturing -Research District," which permits the following principal uses:

2. Manufacturing, processing, producing and fabricating operations which do not produce any noises, fumes, odors or vibrations.
3. Research laboratories.
4. Business and industrial office facilities.

The Special Permitted Use allowed for a parcel in an M-1 District is outdoor storage of materials as an accessory use to one of the above listed principal permitted use. (The other Special Permitted Use listed for an M-1 District, adult entertainment, would not be permitted since the property borders a residential zone.)

The Village's bulk table for M-1 Districts requires, among other things, that the property to have a minimum lot size of 3 acres and a sixty foot front yard setback. The property sought to be rezoned does not satisfy either requirement, but as a lot which existed prior to the adoption of the zoning code, area variances are not required. Village Code § 98-10(A).

At the time the Zoning Code was adapted, the parcel was being used for an M-1/M-2 uses. There is no apparent reason why it was not included in the M-2 zone on the other side of the railroad tracks. Since the adoption of the Code, a residential use in Sanford Avenue across from the property has become prevalent.

With respect to the specific issues raised by Village Code §98-40(B), the Planning Board reports:

(1) Whether the uses permitted by the proposed change could be appropriate in the area concerned.

Although the parcels previously functioned with M-1/M-2 uses and the property rights of the petitioner should be recognized, the Planning Board also recognizes the area has changed with more prevalent residential uses, and the quality of life of the residents must be protected. Two of the stated purposes of the zoning code are to eliminate non-conforming uses and the reduction of traffic congestion. (Village Code, Zoning § 98-2).

In response to this issue, the Planning Board determines that given the Site Plan Review process and the exercise of proper controls some M-1 uses could be made appropriate on the parcels in the area concerned. As stated above, the parcels were utilized for certain M-1 uses prior to the adoption of the Code until those uses were abandoned in 2008. However, the mechanisms for such controls are not contained within the "tool box" of the Planning Board in the existing code. Obviously, less intensive uses utilizing the existing structures would be more suitable than more intensive uses.

For example:

M-1 uses such as those which cause a substantial increase in traffic including delivery trucks or tractor trailers or other impacts to the residential area would not be appropriate.

However, since the property under consideration has access to Route 17M via Lehigh Avenue and Greycourt Avenue, uses involving reasonable vehicle traffic should not significantly impact the surrounding residential district, certainly not more than the permitted mobile home park use.

Further, if the number of truck trips and the loading and unloading are limited to the sides of the existing buildings opposite the residences, the adverse impact upon the neighborhood would be somewhat ameliorated.

The creation of a light manufacturing zoning for a parcel in what has become a developed residential district is not deemed appropriate since certain uses permitted as of right in a M-1 zone would not be compatible with the surrounding residential neighborhood. A change in zoning would arguably be improper "spot zoning."

It would appear that, in the event the owner of the property improved by a presently vacant 8,748 square foot building cannot make a reasonable return on its investment if the zoning remains RMH, an application to the Village Zoning Board of Appeals for a use variance would be more appropriate. During review of the application, the Zoning Board of Appeals could condition the change of use (such as prohibiting uses which required numerous tractor-trailer trucks trips) so that any impact upon the surrounding residential district would be minimized. Other impacts could be minimized during the site plan approval process.

(2) Whether adequate public school facilities and other public services exist or can be created to serve the needs of any additional residences likely to be constructed as a result of such change.

In the event the property were used in conformity with the existing zoning, additional students would likely attend the public school facilities which would not be the case if the property was to be rezoned. The proposed rezoning of the property to permit light manufacturing uses will not create the need for any additional residences. In the event the present zoning district is retained and the property actually used for residential purposes, the number of additional students would not be great enough to affect the adequacy of existing public school facilities or other public services.

(3) Whether the proposed change is in accordance with any existing or proposed plans in the vicinity.

The Planning Board is not aware of any existing or proposed plans regarding land use in the vicinity of these parcels.

(4) The effect of the proposed amendment upon the growth of the Village as envisaged by the Comprehensive Plan.

The re-zoning of these particular parcels should not significantly affect the growth of the Village since the property is only 1.06 acres and would merely change the zone to conform to the preexisting uses which have been discontinued.

(5) Whether the proposed amendment is likely to result in an increase or decrease in the total zoned residential capacity of the Village and the probable effect thereof.

(6)

Similarly to our determination in Paragraph 2, above, the proposed re-zoning of the property to permit manufacturing uses will decrease the total zoned residential capacity of the Village, but not in any material way.

Dated: May 5, 2011

Mayor Valastro asked if anyone in the audience had questions. Jay Myrow legal counsel for the applicant Bruedan Corp asked to address the Village Board and the audience. He asked if he could make a few points reference the property and he would ask to speak again after the members in the audience have had an opportunity to speak. Attorney Myrow opened by giving a brief description of the properties History and its pass uses as well as his points of view as follows;

1. Petition was re-filed for the property located on 1 Sanford Ave owned by the applicant Jacob Kriney.
2. From the existing RMH to M1 zone
3. Prior petition was filed before the Village Board to rezone as M2 which was denied.
4. Applicant submitted a letter to the Village Board to reconsider as an M1.
5. The building located on 1 Sanford Ave has been up and utilized since before 1969 and prior to the existing zoning to the property.
6. The building was used for manufacturing, warehousing and also used by Bruedans a for their golf carts.
7. The impact as an adjoining property to the railroad it renders very little as to what can it can be utilized for. Especially as to what is permitted in the RH zone.
8. Land & Tully provided a survey on 1 Sanford Ave.

Lanc and Tully P.C Property Report & Zoning Analysis for Bruedan Corporation attached to the minutes.

Cindy Becker a long time resident of Chester owner of 12 Sanford Ave was present and read her letter as follows:

My name is Cindy Becker; I reside at 11 Sanford Avenue. I am here with my neighbors in regard to the proposed zone change for one Sanford Ave. The owner of Bruedan's is attempting to change several parcels of property that are currently residentially zoned to M1. This commercial zone change would be against the Village's quest to eliminate non-conforming use structures within its boundaries and does not fit in with the surrounding residential area. The actual building, which sits on three separate parcels, was built in stages throughout the years. The original portion of the building, which sits on 106-2-12 & 13, was built in the 1970's; our current zoning was adopted on 9/13/71. This land was purchased on 9/3/70 for \$10.00 and other consideration. The other lot where the building overlaps, 106-2-14 was purchased on 10/15/75 for \$10.00 and other considerations. Throughout the years they were granted variances to add several additions to the building on these parcels. There are two other parcels that are vacant, 106-2-11 purchased on 3/5/79 for \$12,000.00 from the County of Orange and 106-2-57 purchased on 7/3/85 for \$10.00 and other considerations. These two parcels should not be included in this matter of zone change as they are vacant residential lots that can be sold for such use. Doing otherwise opens more problems in the future and again goes against the village's zoning laws. Bruedan's has since sold their property adjacent to their building to Heritage Homes for \$225,000.00 and have retained the property that they have previously rented for several years to Rovenco Vending until 2008. There have been many problems and complaints made regarding this property. These are not new issues; they go back many, many years. Their realtor, Elizabeth Mansfield states in a letter presented to the planning board "that the building has fallen into disrepair" because they cannot find a tenant or buyer and then says "despite the fence to prevent access, the building continues to suffer Vandalism" since it has been vacant in 2008. The back gate was wide open facing Heritage Trail last week. She further states at the planning board meeting that EVERYTIME she goes to the building there are broken windows and other vandalism, yet there were no police reports of any such vandalism. I also looked at windows and found one window in the back of building with a bottom corner duct taped. The fact of the matter is the condition of the building keeps going downhill not due to vandalism but owner neglect of the building and the grounds. Last year the property was only mowed once and that was done after complaints were made. This letter also contained information that Bruedan's is paying \$16,000.00 a year in taxes. In comparison, just two houses adjacent to them pay over \$20,000.00 a year; our entire neighborhood pays close to \$200,000.00 a year in taxes. The residents of this community have come before this board in the past in regard to Bruedan's attempt to have a zone change from residential to commercial. This board has already denied M2 and in 1987 they denied their request for M1. Why are we here again? In 1987 it was felt that M1 commercial zoning did not fit in the residential area. Since it was decided in 87 there are even more homes in this residential area. M1 did not fit then and it certainly does not fit now. Not only does it not fit the neighborhood but also it does not meet the requirements for M1 zoning of having 3 or more acres. Even if they included the two vacant parcels of land, they still only have 1.06 acres, far less than the required amount. It also does not have a 60 foot front yard setback. The industrial park was created for such uses. This area was primarily residential back when this zoning was put into place and was zoned as such. Even more houses are present today. The zoning was carefully thought-out. Over a long and arduous process by Village officials, many residents and legal counsel the present zoning was adopted as law. Not only do they fall very short of the required 3 acres, it goes against the village's master plan to eliminate non-conforming use structures and can be argued as improper "spot zoning". This is a residential neighborhood. Numerous residents have lived here for many years and have had problems with Bruedan's for years. Why are the needs of one being considered over many? This will continue to impact on our quality of life and ask that this board make a decision not to allow this zone change. This M1 zone change has already been denied to them in the past.

Stacey Henry resident of 230 Lehigh Ave addressed the Village Board and stated that the Sanford Ave is not safe for children to play outside; the property in question is run down. She wishes she could move but with this economy it's not possible to sell.

Carlotta Ryan resident of 3 Marion Street addressed the Village Board and asked why Jacob Kriney can't sell the 2 vacant properties next to the Bruedan Building. Elisabeth Mansfield stated that they have tried. In addition it wouldn't be feasible because there wouldn't be sufficient parking.

Jessica Moore a resident of Sanford Ave addressed the Village Board and made a comment that if Mr. Kriene really wants to sell then he should maintain the property maybe he might get prospective buyers.

Tia Leonardi resident of 5 Marion Street voiced her concerns with regards to the Traffic that might come through the area if rezoned. Especially since it's a residential area and there are children playing outside.

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Cindy Becker stated that she has lived on Sanford her whole life and Bruedan is accustomed to doing stuff on the property and getting permission later. Over the years Bruedan's made promise and has never come through on those promises. The residents were promised Buffer zones and she has never seen it happen.

Jacob Kriney responded by saying there is a misconception with regards to the Buffer zones. *****
With regards to vandalism there has been vandalism and it was reported to police 6 months ago. As for the Traffic the Planning Board has full control over traffic*****

Edith Zielinski resident of 12 Sanford Ave stated that trucks turn around in her driveway and that some where someone has to draw the line. What size trucks will be going through Sanford Ave?

Stacey Henry address the board once again stating the trucks turn around in front of her property and the children play in front of the house since there is no sidewalk.

There was no further discussion and the public hearing was closed on a motion made by Deputy Mayor Philip Roggia, seconded by Trustee John J. Collins. On a vote of 5 to 0 the public hearing was closed.

Respectfully submitted,



Rebecca Rivera
Village Clerk