



# BOROUGH OF CONSHOHOCKEN

*Office of the Borough Manager*

**MAYOR**

Yaniv Aronson

**BOROUGH COUNCIL**

Tina Sokolowski, President  
Kathleen Kingsley, Vice-President  
Anita Barton, Senior Member  
Alan Chmielewski, Member  
Stacy Ellam, Member  
Ralph Frey, Member  
Adrian Serna, Member

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Stephanie Cecco  
Borough Manager

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## JUNE 16, 2025, ZONING HEARING BOARD MEETING PACKET

701 Fayette Street (extension request)

Page 2



## BOROUGH OF CONSHOHOCKEN

*Zoning Administration*

**MAYOR**  
Yaniv Aronson

**BOROUGH COUNCIL**  
Tina Sokolowski, President  
Kathleen Kingsley, Vice-President  
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Ralph Frey, Member  
Adrian Serna, Member

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Stephanie Cecco  
Borough Manager

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### **ZONING NOTICE JUNE 16, 2025 ZONING HEARING BOARD MEETING**

#### **ZONING HEARING Z-2025-04**

NOTICE IS HEREBY GIVEN that the Conshohocken Zoning Hearing Board will conduct a public hearing on June 16, 2025 at 6:30 p.m. prevailing time. The meeting will be held at Borough Hall, located at 400 Fayette Street, Conshohocken, PA 19428.

At this time, the Conshohocken Zoning Hearing Board will hear testimony and accept evidence on the following petition:

PETITIONER: CGEM, LLC  
6142 Creekside Drive  
Flourtown, PA 19031

PREMISES INVOLVED: 701 Fayette Street  
Conshohocken, PA 19428  
BC – Business Commercial District  
FCO – Fayette Corridor Overlay District, Zone 2

OWNER OF RECORD: CGEM, LLC  
6142 Creekside Drive  
Flourtown, PA 19031

The applicant is seeking a one (1)-year extension to June 22, 2026 of the Conshohocken Borough Zoning Hearing Board approval of the following variances granted in the Zoning Hearing Board Decision dated December 2, 2021, last extended on October 5, 2023 to expire on June 22, 2025; and pursuant to the Settlement Agreement dated June 22, 2022: from the Conshohocken Borough Zoning Code Sections §27-1303.F to allow an overall impervious coverage of 88.9% where the maximum impervious coverage cannot exceed 85%; and §27-20002 to allow a 26 off-street parking spaces and 7 off-premises parking spaces for a total of 33 parking spaces, where 46 parking spaces are required. The subsequent Settlement Agreement amended the 7 off-premises parking spaces requirement for a one-time financial contribution to the Borough's Shuttle Program.

Interested parties are invited to participate in the hearing. Anyone requiring special accommodations to attend should contact the Conshohocken Borough Administration Office at 610-828-1092 or [zoning@conshohockenpa.gov](mailto:zoning@conshohockenpa.gov) as soon as possible for arrangements.

If you have questions regarding the above prior to the meeting, please contact the Borough at [zoning@conshohockenpa.gov](mailto:zoning@conshohockenpa.gov).

Thank you,  
Zoning Hearing Board



## BOROUGH OF CONSHOHOCKEN

### *Zoning Administration*

**MAYOR**  
Yaniv Aronson

**BOROUGH COUNCIL**  
Tina Sokolowski, President  
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Alan Chmielewski, Member  
Stacy Ellam, Member  
Ralph Frey, Member  
Adrian Serna, Member

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Stephanie Cecco  
Borough Manager

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Date: May 29, 2025

To: Stephanie Cecco, Brittany Rogers

From: Allison A. Lee, PE

Re: 701 Fayette Street (2<sup>nd</sup> Extension Request) – Zoning Determination

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### **History of the Site:**

701 Fayette Street is an approximately 18,000 SF corner property located at the northeast corner of Fayette Street and East Seventh Avenue. The property was formerly an Exxon gas service station and automotive repair shop. The site is located within the underlying BC – Borough Commercial zoning district and Zone 2 of the FCO – Fayette Street Corridor Overlay District. The site is fronted by Fayette Street to the west and East Seventh Avenue to the south; commercial properties to the north and southeast; and residential properties zoned in the BR-1 - Borough Residential District One zoning district to the northeast.

The Applicant, CGEM, LLC, proposes to demolish all of the existing site improvements in order to construct a three-story, mixed-use building with commercial retail on the first floor and nine (9) residential apartments on the second and third floors. The applicant also proposes new curbing, sidewalk, landscaping, and an off-street parking lot with twenty-six (26) parking spaces, including two (2) ADA accessible parking spaces. Access to the new off-street parking lot is located off of East Seventh Avenue.

The Applicant went before the Conshohocken Borough Zoning Hearing Board under Zoning Application no. Z-2021-09 on December 2, 2021 and was granted zoning relief for the following sections of the Borough Zoning Ordinance:

- §27-1303.F – Variance to allow an overall impervious coverage of 88.9% where the maximum impervious coverage cannot exceed 85%.
- §27-20002 – Variance to allow a 26 off-street parking spaces and 7 off-premises parking spaces for a total of 33 parking spaces, where 46 parking spaces are required.

The Zoning Hearing Board approval of the variances were conditioned upon the Applicant securing and executing an agreement for the rights for the 7 off-premises parking spaces. However, subsequent to the Zoning Hearing Board Decision, and pursuant to a Settlement Agreement dated June 22, 2022, the Zoning Hearing Board Decision of securing and executing an agreement for the rights for the seven (7) off-premises parking spaces was amended to instead require the Applicant to make a one-time financial contribution in the amount of \$25,000.00 to the Borough's Shuttle Program.

The Applicant appeared before the Conshohocken Borough Zoning Hearing Board under zoning application no. Z-2023-14 on August 21, 2023 requesting a two (2)-year extension to June 22, 2025 of the

variances granted in the December 21, 2021 Decision. The requested two (2) year extension was approved by the Zoning Hearing Board in a Decision dated October 5, 2023.

In accordance with Section §27-613 of the Zoning Ordinance, the zoning relief granted expires if the applicant does not obtain any and all required permits within one year of the date of approval. The reliefs were granted by the Zoning Hearing Board in the December 21, 2021 Decision, the subsequent Settlement Agreement dated June 22, 2022, and a two (2) - year extension of the granted reliefs in the October 5, 2023 Decision to expire on June 22, 2025.

**Current Request:**

The applicant, CGEM, LLC, is seeking an extension of the previously granted zoning reliefs pursuant to Section §27-613 of the Zoning Ordinance for an additional one (1)-year extension to June 22, 2026.

**Zoning Determination:**

The proposed development constitutes a land development under the Pennsylvania Municipalities Planning Code, requiring the applicant to complete the Borough's established land development process. The land development process is currently in progress and the Applicant has received land development application reviews and recommendations by the Borough and County Planning Commissions, and has obtained preliminary/final land development application approval from Borough Council by Resolution no. 2023-06 on February 15, 2023. The applicant cannot proceed to apply for permits until the project has adequately addressed all outstanding review comments and obtained the required approvals for land development plans recordation. Therefore, an extension of the previously granted relief is required.



# Eastburn and Gray, PC

Attorneys at Law

**Michael E. Peters, Esquire**

60 East Court Street

P.O. Box 1389

Doylestown, PA 18901

(215) 345-7000

[mpeters@eastburngray.com](mailto:mpeters@eastburngray.com)

June 5, 2025

**VIA E-MAIL**

Alexander M. Glassman, Esquire

Clarke Gallagher Barbiero Amuso & Glassman Law

[aglassman@cgbaglaw.com](mailto:aglassman@cgbaglaw.com)

**RE: Conshohocken Zoning Hearing Board  
701 Fayette Street**

Dear Alex:

Please be advised that on June 4, 2025, Borough Council of the Borough of Conshohocken reviewed application no. Z-2025-04, a request for further extension of the relief granted for 701 Fayette Street. The initial relief was granted at application no. Z-2021-09, by decision dated December 2, 2021 (the "2021 Decision").

In 2023, the relief granted in the 2021 Decision was extended for two years, by decision dated October 5, 2023 (the "2023 Extension"). Under the 2023 Extension, the relief granted in the 2021 Decision expires on June 22, 2025.

Following the ZHB's decision granting the 2023 Extension, Borough Council adopted Ordinance No. 02-2024, creating the Fayette Street Corridor Overlay (FCO) District. Adoption of the FCO occurred pursuant to a lengthy and involved public process. Borough Council has prioritized appropriate redevelopment of the corridor. 701 Fayette Street is located in the FCO.

At this point, the 2021 Decision was issued over 3 and a half years ago. While redevelopment of 701 Fayette Street has completely stalled, other redevelopment projects in the Borough have charged ahead and been completed. To the extent the ZHB decides further extension of the 2021 Decision is appropriate, Borough Council respectfully requests that the ZHB limit the extension to December 31, 2025. Borough Council is hopeful that the applicant will move redevelopment of 701 Fayette Street forward.

Very truly yours,

Michael E. Peters, Esquire  
Borough Solicitor

cc: Mark S. Danek, Esquire (counsel for applicant), [mark.danek@obermayer.com](mailto:mark.danek@obermayer.com)

**BOROUGH OF CONSHOHOCKEN**

400 Fayette Street, Suite 200, Conshohocken, PA 19428

Phone (610) 828-1092 Fax (610) 828-0920

**Zoning Application**

Application: Z-2025-04  
 Date Submitted: 5/14/25  
 Date Received: 5/14/25

1. Application is hereby made for:

☐ Special Exception      ☒ Variance

☐ Appeal of the decision of the zoning officer

☐ Conditional Use approval      ☐ Interpretation of the Zoning Ordinance

☐ Other \_\_\_\_\_

2. Section of the Zoning Ordinance from which relief is requested:

27-613 - Extension Request for Zoning Relief

3. Address of the property, which is the subject of the application:

701 Fayette Street, Conshohocken

4. Applicant's Name:
- CGEM, LLC - Mun Chung, Managing Member

 Address: 6142 Creekside Drive, Flourtown, PA 19031

 Phone Number (daytime): 484-344-5429 (thru counsel)

E-mail Address: \_\_\_\_\_

5. Applicant is (check one): Legal Owner
- ☒
- Equitable Owner
- ☐
- ; Tenant
- ☐

6. Property Owner:
- same

Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_

E-mail Address: \_\_\_\_\_

7. Lot Dimensions:
- 120' x 50'
- Zoning District:
- BC

8. Has there been previous zoning relief requested in connection with this Property?

Yes ☒ No ☐ If yes, please describe.

Prior zoning relief granted in June 2022 to allow for the three-story mixed use building. Zoning relief was extended in October 2023 and expires in June 2025.

9. Please describe the present use of the property including any existing improvements and the dimensions of any structures on the property.

Vacant lot - closed gas station

10. Please describe the proposed use of the property.

Same as granted in prior zoning approval. No changes requested from prior relief.

11. Please describe proposal and improvements to the property in detail.

n/a

12. Please describe the reasons the Applicant believes that the requested relief should be granted.

Applicant requests an extension of the Zoning Hearing Board Decision dated June 22, 2022 as extended by decision dated October 5, 2023. The current zoning relief is set to expire on June 22, 2025.

Since the last extension, Applicant has been engaged with architects and engineers to complete its land development set of drawings, as well as the Building Permit Set of drawings. Applicant is also seeking to secure Green Globes Certification for the design and proposed building materials.

In the coming weeks, Applicant will submit its revised land development drawings for review. Once approved and recorded, Applicant will submit its Building Permit Set, which are near completion as well.

13. If a Variance is being requested, please describe the following:

a. The unique characteristics of the property: \_\_\_\_\_

b. How the Zoning Ordinance unreasonably restricts development of the property:

c. How the proposal is consistent with the character of the surrounding neighborhood. \_\_\_\_\_

d. Why the requested relief is the minimum required to reasonably use the property; and why the proposal could not be less than what is proposed.

14. The following section should be completed if the applicant is contesting the determination of the zoning officer.

a. Please indicate the section of the zoning ordinance that is the subject of the zoning officer's decision (attach any written correspondence relating to the determination).



b. Please explain in detail the reasons why you disagree with the zoning officer's determination.

15. If the Applicant is requesting any other type of relief, please complete the following section.

a. Type of relief that is being requested by the applicant.

b. Please indicate the section of the Zoning Ordinance related to the relief being requested.

c. Please describe in detail the reasons why the requested relief should be granted.

16. If the applicant is being represented by an attorney, please provide the following information.

a. Attorney's Name: Mark S. Danek, Esq.

b. Address: 1001 Conshohocken St Rd., Ste 1-210, W Conshohocken, PA 19428

c. Phone Number: 484-344-5429

d. E-mail Address: mark.danek@obermayer.com

I/we hereby certify that to the best of my knowledge, all of the above statements contained in this Zoning Application and any papers or plans submitted with this application to the Borough of Conshohocken are true and correct.

Mark D... Counsel for CGSM, LLC  
Applicant

Legal Owner

4-24-25

Date

COMMONWEALTH OF PENNSYLVANIA

COUNTY OF MONTGOMERY

As subscribed and sworn to before me this 24<sup>th</sup> day of  
April, 2025.

Elizabeth A. Garrison

Notary Public

(Seal)

Commonwealth of Pennsylvania - Notary Seal  
Elizabeth A. Garrison, Notary Public  
Montgomery County  
My commission expires May 6, 2025  
Commission number 1056382  
Member, Pennsylvania Association of Notaries



**BOROUGH OF CONSHOHOCKEN**  
400 Fayette Street, Suite 200, Conshohocken, PA 19428  
Phone (610) 828-1092 Fax (610) 828-0920

## Decision

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(For Borough Use Only)

Application Granted ☐

Application Denied ☐

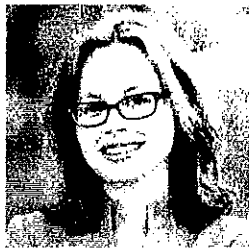
MOTION:

CONDITIONS:

BY ORDER OF THE ZONING HEARING BOARD

	Yes	No
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>
_____	<input type="checkbox"/>	<input type="checkbox"/>

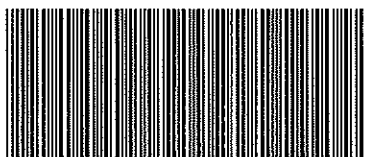
DATE OF ORDER: \_\_\_\_\_



RECORDER OF DEEDS  
MONTGOMERY COUNTY  
*Jeanne Sorg*

One Montgomery Plaza  
Swede and Airy Streets ~ Suite 303  
P.O. Box 311 ~ Norristown, PA 19404  
Office: (610) 278-3289 ~ Fax: (610) 278-3869

DEED BK 6136 PG 01408 to 01412  
INSTRUMENT # : 2019031000  
RECORDED DATE: 05/20/2019 01:19:45 PM



5635172-0008U

MONTGOMERY COUNTY ROD

OFFICIAL RECORDING COVER PAGE

Page 1 of 5

**Document Type:** Deed  
**Document Date:** 05/17/2019  
**Reference Info:**

**Transaction #:** 5844392 - 3 Doc  
(s)  
**Document Page Count:** 4  
**Operator Id:** ebossard

**RETURN TO:** (Pickup)  
SUBURBAN PHILADELPHIA ABSTRACT INC  
922 W. RIDGE PIKE  
CONSHOHOCKEN, PA 19428

**PAID BY:**  
SUBURBAN PHILADELPHIA ABSTRACT INC

**\* PROPERTY DATA:**

**Parcel ID #:** 05-00-03296-00-2  
**Address:** 701 FAYETTE ST

**Municipality:** PA  
Conshohocken Borough  
(100%)  
**School District:** Colonial

**\* ASSOCIATED DOCUMENT(S):**

**CONSIDERATION/SECURED AMT:**  
**\$1,000,000.00**

**FEES / TAXES:**

Recording Fee: Deed	\$86.75
State RTT	\$10,000.00
Conshohocken Borough RTT	\$5,000.00
Colonial School District RTT	\$5,000.00
<b>Total:</b>	<b>\$20,086.75</b>

DEED BK 6136 PG 01408 to 01412  
Recorded Date: 05/20/2019 01:19:45 PM  
I hereby CERTIFY that this document is  
recorded in the Recorder of Deeds Office in  
Montgomery County, Pennsylvania.



Jeanne Sorg  
Recorder of Deeds

Rev1a 2016-01-29

**PLEASE DO NOT DETACH**

**THIS PAGE IS NOW PART OF THIS LEGAL DOCUMENT**

NOTE: If document data differs from cover sheet, document data always supersedes.

\*COVER PAGE DOES NOT INCLUDE ALL DATA, PLEASE SEE INDEX AND DOCUMENT FOR ANY ADDITIONAL



Prepared by and Return to:

Suburban Philadelphia Abstract, Inc.  
922 West Ridge Pike  
Conshohocken, PA 19428  
610-828-6133

RECORDER OF DEEDS  
MONTGOMERY COUNTY

2019 MAY 20 P 1:08

File No. 469-556

UPI # 05-00-03296-00-2

MONTGOMERY COUNTY COMMISSIONERS REGISTRY

05-00-03296-00-2 CONSHOHOCKEN  
701 FAYETTE ST

IVENS PROPERTIES LLC  
B 037 U 052 L 4260 DATE: 05/20/2019

\$15.00  
JE

000

This Indenture, made the 17th day of May, 2019,

Between

**IVENS PROPERTIES, LLC, A PENNSYLVANIA LIMITED LIABILITY  
COMPANY**

(hereinafter called the Grantor), of the one part, and

**C G E M, LLC**

(hereinafter called the Grantee), of the other part,

Witnesseth, that the said Grantor for and in consideration of the sum of **One Million And 00/100 Dollars (\$1,000,000.00)** lawful money of the United States of America, unto it well and truly paid by the said Grantee, at or before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, has granted, bargained and sold, released and confirmed, and by these presents does grant, bargain and sell, release and confirm unto the said Grantee

**ALL THAT CERTAIN** lot, tract or parcel of land, hereditaments and appurtenances, situate lying and being in Conshohocken Borough, County of Montgomery, Commonwealth of Pennsylvania and more particularly bounded and described according to a survey and plan thereof prepared by Ezra Golub & Associates, Professional Engineers and Land Surveyors of Levittown, Pennsylvania, dated 4/7/88 and numbered D-23521501 as follows to wit:

BEGINNING at a point, said point being the intersection of the Northeasterly right-of-way line of 7<sup>th</sup> Avenue (80 feet wide) and the Southeasterly right-of-way line of Fayette Street (100 feet wide), and running thence (1) along said right-of-way line of Fayette Street (100 feet wide) North 41 degrees 00 minutes 00 seconds East a distance of 150 feet to a P K Nail, thence (2) along the lands now or formerly of Texaco Refining and Marketing, Inc. South 49 degrees 00 minutes 00 seconds East a distance of 120 feet to a PK Nail, thence (3) partly along a 20 feet wide public driveway and along land now or formerly of Carl D. and Rita M. Hamilton South 41 degrees 00 minutes 00 seconds West a distance of 150 feet to an iron pin, thence (4) along said right-of-way of 7<sup>th</sup> Avenue (80 feet wide) North 49 degrees 00 minutes 00 seconds West a distance of 120 feet to an iron pin and first mentioned point and place of beginning.



CONTAINING 18,000 square feet on 413 acres of land, more or less  
LESS AND EXCEPT any deeds, condemnations, takings, or declarations of record.

UNDER AND SUBJECT to agreements, easements, rights of way, covenants, conditions  
and restrictions of record.

BEING Parcel No. 05-00-03296-00-2

BEING THE SAME premises which 701 Fayette St. Conshohocken, LLC, a Pennsylvania limited liability company by indenture bearing date the 14<sup>th</sup> day of December 2004 and as recorded at Norristown in the Office for the Recorder of Deeds in and for the County of Montgomery on the 3<sup>rd</sup> day of March 2005 in Deed Book 5545 page 1061 granted and conveyed unto Ivens Properties, LLC, a Pennsylvania limited liability company in fee.

Together with all and singular the buildings and improvements, ways, streets, alleys, driveways, passages, waters, water-courses, rights, liberties, privileges, hereditaments and appurtenances, whatsoever unto the hereby granted premises belonging, or in anywise appertaining, and the reversions and remainders, rents, issues, and profits thereof; and all the estate, right, title, interest, property, claim and demand whatsoever of it, the said grantor, as well at law as in equity, of, in and to the same.

To have and to hold the said lot or piece of ground described above, with the buildings and improvements thereon erected, hereditaments and premises hereby granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, to and for the only proper use and behoof of the said Grantee, its successors and assigns, forever.

And the said Grantor, for itself, its successors and assigns, does, by these presents, covenant, grant and agree, to and with the said Grantee, its successors and assigns, that it, the said Grantor, and its successors and assigns, all and singular the hereditaments and premises herein described and granted, or mentioned and intended so to be, with the appurtenances, unto the said Grantee, its successors and assigns, against it, the said Grantor, and its successors and assigns, will **WARRANT SPECIALLY** and defend against the lawful claims of all persons claiming by, through or under the said Grantor but not otherwise.

In Witness Whereof, the party of the first part has caused its common and corporate seal to be affixed to these presents by the hand of its Member, and the same to be duly attested by its Member.  
Dated the day and year first above written.



ATTEST

IVENS PROPERTIES, LLC, A PENNSYLVANIA  
LIMITED LIABILITY COMPANY

By: \_\_\_\_\_

William P. Ivens, Member

By: \_\_\_\_\_

Karen Ann Ivens, Member

[SEAL]

Commonwealth of Pennsylvania }  
County of MONTGOMERY } ss

This record was acknowledged before me on May 17, 2019 by William P. Ivens as  
Member, and by Karen Ann Ivens as Member, who represent that they are authorized to act on  
behalf of Ivens Properties, LLC, a Pennsylvania Limited Liability Company.

Notary Public

My commission expires \_\_\_\_\_

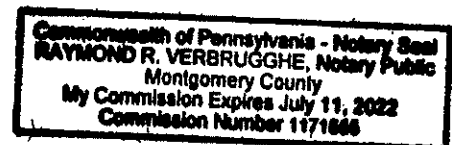
The precise residence and the complete post office  
address of the above-named Grantee is:

6142 CREEKSIDE DRIVE  
FLOURTOWN, Pa. 19031

\_\_\_\_\_  
On behalf of the Grantee

File No. 469-556

Record and return to:  
Suburban Philadelphia Abstract, Inc.  
922 West Ridge Pike  
Conshohocken, PA 19428



Deed	UPI # 05-00-03296-00-2  Ivens Properties, LLC, a Pennsylvania Limited Liability Company  TO  C G E M, LLC	Suburban Philadelphia Abstract, Inc. 922 West Ridge Pike Conshohocken, PA 19428
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**Mark S. Danek, Esquire**  
Direct Dial: 484-344-5429  
E-mail: mark.danek@obermayer.com  
www.obermayer.com

1001 Conshohocken State Road  
Suite 1-210  
West Conshohocken, PA 19428  
P 610-234-4877  
F 610-825-4549

May 14, 2025

**VIA EMAIL and HAND DELIVERY**

Borough of Conshohocken  
Attn: Ms. Brittany Rogers, Zoning Admin.  
400 Fayette Street  
Conshohocken, PA 19428

**RE: 701 Fayette Street  
Z-2021-09**

Dear Ms. Rogers:

On behalf of my client, CGEM, LLC ("Applicant"), I request an extension of the Zoning Hearing Board Decision dated June 22, 2022 as extended by decision dated October 5, 2023. The current zoning relief is set to expire on June 22, 2025.

Since the last extension, Applicant has been engaged with architects and engineers to complete its Land Development set of drawings, as well as the Building Permit Set of drawings. Applicant is also seeking to secure Green Globes Certification for the design and proposed building materials.

In the coming weeks, Applicant will submit its revised land development drawings for review. Once approved and recorded, Applicant will submit its Building Permit Set, which are near completion as well.

At this time, Applicant seeks a variance from Code §27-613 for a one-year extension of the current Zoning Decision until June 22, 2026.

Included with this letter are the following:

1. Completed Application
2. Zoning Board Decision dated June 22, 2022
3. Zoning Board Decision dated October 5, 2023 (Extension); and

4. Two checks made payable to the Borough of Conshohocken (\$500 application fee and \$1,500 escrow fee).

Respectfully submitted,

*/s/ Mark S. Danek*

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Mark S. Danek, Esq.

cc: Mun Chung, Managing Member CGEM, LLC

**BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN**

**IN RE: APPLICATION OF CGEM, LLC**

**REGARDING**

**701 FAYETTE STREET**

**APPLICATION NO. Z-2021-09**

**DECISION OF THE BOARD**

**I. HISTORY**

On April 16, 2021, CGEM, LLC, Mun Chung, Member (the “Applicant”) filed a Zoning Hearing Board application before the Conshohocken Zoning Hearing Board (the “ZHB”) seeking dimensional variances from the standards of the BC Zoning District of the Borough of Conshohocken Ordinance (the “Ordinance”) for the property located at 701 Fayette St. Conshohocken, PA 19428 (the “Subject Property”) (the “Application”).

The Applicant’s specific request for relief includes the following:

1. A variance from the terms of Section 27-1303.F to allow an overall impervious coverage of 88.9 percent where the Ordinance requires that the maximum impervious coverage cannot exceed 85% of the lot area.
2. A variance from the terms of Section 27-2002 to allow 26 off-street parking spaces and 7 off-premises parking spaces for a total of 33 parking spaces where the Ordinances requires 46 parking spaces.

After notice was duly given and advertised, hearings were held on June 21, July 19, September 13, and October 18, 2021. At the hearings, the following Exhibits were introduced and admitted:

## Conshohocken Zoning Hearing Board Exhibits

- P-1 Artist's Rendering and Exhibit List
- P-2 Zoning Application
- P-3 Deed
- P-4 Mixed Use Renderings
- P-5 19 photographs of the site and the surroundings taken on April 5, 2021
- P-6 14 photographs
- P-7 Parking Assessment by Dynamic Traffic dated April 9, 2021
- P-8 Curriculum Vitae of Justin P. Taylor
- P-9 Zoning Plan
- P-10 Satellite Image Overlay
- P-11 Petition In Support
- P-12 Zoning Notice
- P-13 Zoning Determination
- P-14 Entry of Appearance of Julian Miraglia
- P-15 Pennoni Review Letter
- P-16 Dynamis Traffic parking assessment
- P-17 Off-site parking
- P-18 Zoning Plan
- P-19 Church Property Diagram
- P-20 Letter dated 10/15/21
- P-21 Letter dated 10/14/21

## Applicant's Exhibits

- A-1 Site Plan
- A-2 Ground Level Photographs
- A-3 Site Plan
- A-4 2005 Easement
- A-5 2006 Easement
- A-6 Parking Summary
- A-7 International Building Code Excerpt
- A-8 Yoga Studio Schedule
- A-9 Letter dated 8/12/21

Applicant was represented by Mark S. Danek, Esq. of The Danek Law Firm, LLC.

Julian V. Miraglia was granted party status and expressed concerns that the Applicant's request is too big to meet the requirements of the Ordinance.

## **II. FINDINGS OF FACT**

1. The Subject Property is located at 701 Fayette Street.
2. The Subject Property is an abandoned Exxon station.
3. The Subject Property is located in the Borough Commercial Zoning District.
4. The Applicant is proposing to construct a three-story mixed-use development, with the first floor consisting of retail space.
5. The second and third floors of the Applicant's proposal will be apartments.
6. The Applicant initially proposed five (5) two (2) bedroom units on the second and third floors for a total of 10 apartments, but reduced the number of total apartments to nine (9).

7. The Applicant initially proposed 27 on-site parking stalls but reduced the number of on-site parking stalls to 26.
8. The Applicant proposes five (5) new on-street stalls.
9. There would be a total of seven (7) off-site parking stalls.
10. The Applicant is the legal owner of the Subject Property.
11. John Mancini, a realtor with Coldwell Banking, offered the following testimony on behalf of the Applicant:
  - a. The lower level of the building would be a basement area that will house the utilities.
  - b. The first floor of the building would have 4,700 square feet of retail space.
  - c. On the first floor, there would also be a lobby that is going to enter into a stairwell and also the elevator.
  - d. There will be two sets of stairwells going to the second and third floor.
  - e. The Applicant made a commitment not to have any sit-down food operations or any food preparation in the building.
  - f. On the second floor, the Applicant is proposing five (5) units, which would be two-bedroom units.
  - g. The third floor of the building would mirror imaging the second floor.
  - h. The ten (10) two-bedroom apartments would be serviced by two (2) stairwells and an elevator.
  - i. On the north side of the beginning of the property line, there is about an eight to nine foot drop from the top of the property down to the corner of 7<sup>th</sup> and Fayette Street, so there is a decline in elevation.

- j. The rear of the building is where the parking lot is going to be.
- k. The building will have all ADA access, so all the units in the apartments will be ADA accessible.
- l. The parking rendering proposal is where all the residential units will enter, and the commercial units will also enter through the parking lot and along Fayette Street.
- m. The Applicant has proposed 27 off-street parking spaces.
- n. The lobby, elevators, and stairwells will be able to be accessed through the rear of the building.
- o. Mr. Mancini was involved in the planning of this concept.
- p. The Subject Property was purchased on May 17, 2019 and the project was delayed due to the Covid-19 pandemic.
- q. The team utilized and considered the borough comprehensive plan when developing this concept.
- r. The Applicant had almost 100 percent approval from everyone with respect to the project.
- s. Parking is readily available on the street, both sides of the street of 7<sup>th</sup> Avenue.
- t. The hours of operation for retail would be early in the morning and would be closed around the times of 6:30-7:30 at night.
- u. The actual project was designed with an 85 percent impervious coverage and the only thing that prevented that amount was the 3.8 of the neighbors encroaching in the rear left-hand corner of the property.

- v. If the Applicant was to erect a one-story building for commercial use only, the Applicant would still need 26 off-street parking spaces for the commercial use.
  - w. The parking spaces would be on a first come, first serve basis.
  - x. Mr. Miraglia was approached on two separate occasions about entering into a parking lease for his property located across the street and indicated that he had no interest in leasing the parking spaces.
12. Tracey Borusiewicz, a civil engineer and site planner, offered the following testimony on behalf of the Applicant.
- a. Mr. Borusiewicz prepared the Applicant's Exhibit Number 1.
  - b. In the event that the paving is right up to the back of the Applicant's parking, there would be a fence placed there.
  - c. The sidewalk is right up to the building, which makes the retail spaces more accessible for pedestrians coming up the street.
  - d. Along Fayette Street, there are extra long depressions in two places on either side of what used to be the gas station.
  - e. The Applicant is picking up at least five additional on-street spots that are contiguous to the property on both sides.
  - f. Down 7<sup>th</sup> Street, there is an opening that is closer to the corner and the Applicant is going to move that back down, which ends up adding a couple of spots there.
  - g. On Exhibit P-9, the Applicant's site is located right in the middle.
  - h. Along the middle, from 8<sup>th</sup> Avenue over to 7<sup>th</sup>, there is a 20-foot wide strip.
  - i. The storm water management would probably be on the side of the parking lot closer to 7<sup>th</sup> Avenue.



- j. The 30-50 feet of depressed curb that is present on Fayette Street will become full height, and on-street parking will be made available once that happens.
- k. The Applicant is going to build the storm water runoff underneath the parking lot because there is no room anywhere else and there is not a full-fledged storm system in the existing roads.
- l. There are no inlets that are immediately adjacent to the site along the curb.
- m. There is nowhere to do the storm water facility because the whole lot is covered with either building or parking.
- n. The 10 evergreen trees in the back will end up being removed because the trees are in the way of the 13 spots.
- o. The Applicant will be required to replace the trees all along the wall and off the parking lot, and there will be a buffer strip that would be created for privacy.
- p. The 27 stalls for the site parking lot has been reduced to 26.
- q. The spot closest to the trash receptacle was allocated as a turnaround that would enable people to turn around and come out of the lot.
- r. The proposal originally added nine on-street parking stalls, but one will be eliminated so the total will come out to eight on-street parking stalls added as a result of the proposal.
- s. The Applicant was asked to leave a pair of spots for the church, which is on 6<sup>th</sup> and Fayette, in the event of a snow emergency.
- t. The Applicant plans on relocating a shed in order to make their 7<sup>th</sup> spot usable.
- u. The HVAC unit is not going to go anywhere and it has a fence around it.
- v. The shed will be relocated into the back corner.

- w. The shed is a movable wooden shed and the two spots will be marked for the church use only.

13. Justin Taylor was qualified as a traffic study expert and offered the following testimony on behalf of the Applicant:

- a. In developing the report marked as Exhibit P-7, Mr. Taylor reviewed the parking standards from a municipal standpoint and from current national trends to determine whether there was going to be sufficient parking for the project as proposed.
- b. The proposed 5,155 square foot retail component of the first floor would equal a parking requirement of 26 spaces, for a total of 46 spaces.
- c. The 5,155 is based on a prior iteration of the retail component on the first floor, which had additional tenant space, so the square footage was slightly higher in comparison to what is currently before the Board.
- d. Based upon data contained within the “Parking Generation” publication from the Institution of Transportation Engineers, there would be a parking demand of 2.91 spaces per thousand square feet for a retail component based on the original 5,155 square feet.
- e. This would equate to a parking demand of 15 spaces.
- f. For the residential component, the manual for multifamily housing would project a demand ratio of 1.21 spaces per unit, for a total of 12 spaces for the proposed ten units.
- g. The Applicant would expect a parking demand of 27 spaces for the proposed site.

- h. From a residential standpoint, there would be a peak demand during the nighttime, when all of the residents are home and then that demand would drop as people leave for work.
- i. By 9 AM, there would be a total demand of about 45 percent for the site.
- j. As people return from work, the demand starts to increase.
- k. For retail, the typical peak time occurs between 12:00 and 1:00 P.M.
- l. Based on the two different peaking characteristics, it allows for the sharing of the spaces on the site.
- m. It is anticipated that there will be a maximum demand on a weekday of about 20 spaces and a max demand on the weekend of about 24 spaces.
- n. There is an increase in parking that is being provided on the street.
- o. The parking that will be provided on the street will be usable by the surrounding businesses and residents.
- p. The demand generated by retail has gone down, given the delivery services and the ride sharing phenomenon.
- q. In a walkable community where there are opportunities to shop, dine, and complete various other tasks, there is less reliance on vehicular travel and demand.
- r. The Parking Generation sets forth the parking ratios of 75<sup>th</sup> percentile demand for a retail component of 3.74 spaces per thousand square feet.
- s. For the 4,733 square feet, this would equate to 18 spaces required for the retail component.

- t. The residential use comes in at 1.61 spaces per unit, which equates to another 15 spaces for the residential side of it.
- u. The combination of the spaces provided for retail and residential adds up to an anticipated demand of 33 spaces for the development.
- v. A comprehensive analysis of the on-street parking was conducted.
- w. Parking counts, as part of the analysis, was conducted within a one-block radius of the site, along both Fayette and Harry between 6<sup>th</sup> and 8<sup>th</sup>, and along 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> between Forrest and Harry.
- x. These counts were conducted between 12:00 noon and 8:00 PM on Thursday 8/5, Friday 8/6, and Saturday 8/7 to get a typical weekday, a Friday evening, and then a Saturday to see if there were varying characteristics.
- y. In that surrounding one-block area, there is approximately 155 available on-street spaces and there is a demand ranging between 71 spaces occupied and 114 spaces occupied.
- z. During any of these times, there are between 41 and 84 spaces within a one-block radius that is available for vehicles to park in.
- aa. Any vehicle that might end up on the street is not going to create any type of imposition to the surrounding residents or the surrounding retail component.

### **III. CONCLUSIONS OF LAW**

From the facts presented, it is the judgment of the Board that Applicant shall be granted the requested variances. The Applicant has proven an unnecessary hardship unique or peculiar to the property and that the variance is not contrary to the public interest. The Order and Decision

reflect this determination. Accordingly, the Board is able to make the following relevant findings under Section 910.2 of the MPC:

1. That there are unique physical circumstances or conditions, including irregularity, narrowness or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the property, and that the unnecessary hardship is due to such condition, and not the circumstances or conditions generally created by the provisions of the Ordinance in the neighborhood or district in which the property is located;

2. That because of such physical circumstances or conditions there is no possibility that the property can be developed in strict conformity with the provisions of the Ordinance and that the authorization for a variance is therefore necessary to enable the reasonable use of the Subject Property;

3. That the variance will not alter the essential character of the neighborhood or district in which the Subject property is located, nor substantially or permanently impair the appropriate use or development of the adjacent property, or be detrimental to the public welfare;

4. That the unnecessary hardship has not been created by the Applicant; and,

5. That the variance will represent the minimum variance that will afford relief and will represent the least modification possible under the pertinent provisions of the Ordinance.

**ORDER**

**AND NOW**, this 2<sup>nd</sup> day of December, 2021, the Application of CGEM, LLC, Mun Chung, seeking variances from the Conshohocken Borough Zoning Ordinance of 2001 is **GRANTED** to permit the construction of a three-story mixed-use development with the first floor containing retail space and the second and third floors containing nine (9) apartments and to allow 26 on-site parking spaces and seven (7) off-site parking spaces. Such relief is conditioned upon Applicant securing and executing an agreement for the rights for the seven (7) off-site parking spaces.

The Applicant is directed to apply to the Borough Zoning Officer to obtain any appropriate permits.

**CONSHOHOCKEN ZONING HEARING BOARD**

Date Personally Delivered:

\_\_\_\_\_  
Richard D. Barton

\_\_\_\_\_  
Or Date emailed:

12/2/2021  
\_\_\_\_\_

\_\_\_\_\_  
Mark S. Danek

\_\_\_\_\_  
Gregory Scharff

\_\_\_\_\_  
Marlowe Doman

\_\_\_\_\_  
Alan Chmielewski

I, Alexander Glassman, the Solicitor of the Conshohocken Zoning Hearing Board, hereby certify that each member of said Board has read and approved this written opinion, which accurately reflects the actions and vote by said Board at its October 18, 2021 hearing in this matter. Said Board members have consented to their signatures to be affixed to this Decision as above.

*Alexander M. Glassman*

\_\_\_\_\_  
Alexander M. Glassman, Esquire

**BEFORE THE ZONING HEARING BOARD OF CONSHOHOCKEN**

**IN RE: APPLICATION OF CGEM, LLC**

**REGARDING**

**701 FAYETTE STREET**

**EXTENSION OF APPLICATION NO. Z-2021-09**

**DECISION OF THE BOARD**

**I. HISTORY**

On April 16, 2021, CGEM, LLC, Mun Chung, Member (the “Applicant”) filed a Zoning Hearing Board application before the Conshohocken Zoning Hearing Board (the “ZHB”) seeking dimensional variances from the standards of the BC Zoning District of the Borough of Conshohocken Ordinance (the “Ordinance”) for the property located at 701 Fayette St. Conshohocken, PA 19428 (the “Subject Property”) (the “Application”).

Upon the conclusion of the hearings, the ZHB voted to approve the Application and granted the following specific relief:

1. A variance from the terms of Section 27-1303.F of the Ordinance to allow an overall impervious coverage of 88.9 percent where a maximum of 85 percent is permitted;
2. A variance from the terms of Section 27-2002 of the Ordinance to allow 26 off-street parking spaces and 7 off-premises parking spaces for a total of 33 parking spaces where a minimum of 46 parking spaces are required.

The ZHB placed a condition upon its grant of the above-stated relief, requiring Applicant to secure and execute an agreement for the rights to seven (7) off-site parking spaces (the “Condition”). After this decision was issued, an objector who had obtained party status appealed therefrom to the Court of Common Pleas.

By way of a Settlement Agreement, reached in June of 2022, the parties agreed to remove the Condition from the Decision. In lieu of the removed Condition, Applicant agreed to make a one-time contribution to the Borough's shuttle program in the amount of \$25,000. All other provisions of the ZHB's decision remained intact. This settlement was made an Order of the Court of Common Pleas on June 22, 2022. The granted relief was due to expire and become void unless all necessary permits had been obtained within one (1) year.

On June 29, 2023, Applicant submitted a letter to the ZHB requesting an extension of the time afforded to commence development pursuant to the relief granted by the ZHB and affirmed by the Order dated June 22, 2022 ("Extension Request").

After notice was duly given and advertised, a hearing on the Extension Request was commenced on August 21, 2023 ("Hearing"). At the hearing, the following Exhibits were introduced and admitted:

P-1 Application for Extension

P-2 Zoning Determination

P-3 Proof of Notice

Applicant was represented by Mark S. Danek, Esquire.

No members of the public requested party status.

No members of the public offered comment either in support of or opposition to the Extension Request.



## **II. FINDINGS OF FACT**

1. The Subject Property is located at 701 Fayette Street in the Borough.
2. Applicant owns the Subject Property.
3. Applicant is proposing to construct a three-story, mixed-use development with the first floor consisting of retail space on the Subject Property.
4. After executing the Settlement Agreement in June of 2022, Applicant engaged with the Borough to obtain preliminary and final land development approval, which was accomplished on February 16, 2023.
5. However, the land development approval is subject to several conditions that Applicant has not yet completely fulfilled.
6. Applicant cannot obtain all of the necessary permits until all of the preliminary conditions have been completed.
7. Applicant expects that these permits will be obtained soon but wants to be sure that no further relief will be necessary after the instant application.

### III. DISCUSSION

Section 27-613 of the Ordinance provides that “[u]nless otherwise specified by the Board, a special exception or variance shall expire if the applicant fails to obtain any and all permits within one year of the date of approval.”

In a request for a modification of a condition of approval, an Applicant “can obtain relief if [the Applicant] establishes: (1) Either grounds for traditional variance or changed circumstances which render the condition inappropriate; and (2) Absence of injury to the public interest.” South Broad St. Neighborhood Assoc. v. Zoning Bd. of Adjustment, 208 A.3d 539, 545 (Pa. Commw. Ct. 2019). “For changed circumstances to support modification of a condition, the record must contain substantial evidence of exactly ‘what changes in circumstances render the [previously imposed] conditions no longer appropriate.’” Id.

#### **IV. CONCLUSIONS OF LAW**

From the facts presented, it is the judgment of the Board that Applicant has proven all elements as required to justify a modification of a condition. Accordingly, the Board can make the following conclusions of law:

1. Applicant has established changed circumstances that render the condition no longer appropriate; and
2. Applicant's request causes no injury to the public interest.

## **ORDER**

**AND NOW**, this 5<sup>th</sup> day of October, 2023, the Application of CGEM, LLC, Mun Chung, LLC seeking a two (2) year extension of time of the relief previously granted by the ZHB and restated by Order dated June 22, 2022, issuing several variances from the Conshohocken Borough Zoning Ordinance of 2001, as stated herein, is **GRANTED**. All relief previously granted, and as stated herein, shall now expire on June 22, 2025 unless all applicable permits are obtained or further extension granted by the Zoning Hearing Board.

The Applicant is directed to apply to the Borough Zoning Officer to obtain any appropriate permits.

### **CONSHOHOCKEN ZONING HEARING BOARD**

Date Emailed:

October 5, 2023

/s/ Richard Barton

Richard Barton, Chair

/s/ Marlow Doman

Marlowe Doman


/s/ Alan Chmielewski

Alan Chmielewski

/s/ Tyler Dunphy

Tyler Dunphy

I, Gregory R. Heleniak, the Solicitor of the Borough of Conshohocken Zoning Hearing Board, hereby certify that each member of said Board has read and approved this written opinion, which accurately reflects the actions and vote by said Board at its August 21, 2023, hearing in this matter. Said Board members have consented to their signatures to be affixed to this Decision as above.

  
Gregory R. Heleniak, Esquire