

**TOWN OF CHESTER**  
**DEVELOPMENT REVIEW BOARD**  
**DRAFT MINUTES**

*January 13, 2020*

**BOARD MEMBERS PRESENT:** Carla Westine, Gary Coger, Phil Perlah, and Robert Greenfield.

**STAFF PRESENT:** Michael Normyle, Zoning Administrator, Cathy Hasbrouck, Recording Secretary.

**CITIZENS PRESENT:** Scott McKussik, Joe Epler, Lori Canfield, Bill Lindsay, Nancy Lindsay, Joe DiBernardo.

**Call to Order**

Chair Carla Westine called the meeting to order at 6:00 PM in Conference Room 4 at the NewsBank Conference Center. The town hall auditorium was still under construction. She noted that two site visits had occurred earlier that day. At 3:00 PM, a site visit took place at the intersection of Lovers Lane and Baileys Mills Road for Boundary Line Adjustment hearing #543. At 3:30 PM a site visit took place at 42 Maple Street for Conditional Use hearing #546 and Flood Hazard hearing #544. She introduced the members of the Development Review Board and staff. She explained that the audio of the meeting is taped and that recording is the official record of the meeting. She read the meeting's agenda.

**Agenda Item 1, Review draft minutes from December 30, 2019**

Phil Perlah moved to accept the draft minutes from December 30, 2019. Robert Greenfield seconded the motion. Phil Perlah noted that there was a typo in the first line of agenda item 2. It should have said there were no citizens present. A vote was taken and the minutes were accepted as written.

**Agenda Item 2, Citizen Comments**

No citizens had any comments to make about topics other than the hearings scheduled.

**Agenda Item 3 Boundary Line Adjustment Application #543**

Carla Westine asked the Board members if they had any ex-parte communication or any conflict of interest to report. No one did. She then swore Joe DiBernardo in to give testimony. Michael Normyle gave a short history of the project. He said the first application was submitted on December 10, 2019. The application was considered final on December 17, 2019. He said that he had not heard from any abutters until the end of the site visit that day, when Carl Beck and Carol Knight arrived and asked a few questions.

The following documents were entered into evidence. The first document was a Town of Chester Application for Boundary Line Adjustment. The applicant name was Joe DiBernardo, the landowner's name was James G. Tomasso, the location of the property was Baileys Mills and Lovers Lane Roads, the zoning district is R120. Parcel 1 (tax map number 06-01-35) was 46.76 acres before the adjustment and will be 67.88 acres after the

adjustment. Parcel 2 (tax map number 06-01-35.1) was 44.74 acres before the adjustment and will be 23.62 acres afterward. The application was signed by Joseph DiBernardo and Michael Normyle. Phil Perlah moved to accept the application as Exhibit A. Gary Coger seconded the motion. A vote was taken and the application was accepted as Exhibit A.

The second document was a Town of Chester Notice of Public Hearing before the Development Review Board dated December 17, 2019. It gave the date and time of the site visit and hearing. The property owner was listed as James Tomasso, the applicant was Joseph DiBernardo, the location was Baileys Mills Road and Lovers Lane Road. The zoning district was R120. The action requested was, "A proposed boundary line adjustment which will exchange 21.12 acres between two adjoining properties." Phil Perlah moved to accept the notice as Exhibit B. Gary Coger seconded the motion. A vote was taken and the notice was accepted as Exhibit B.

The third document presented was a memo from Michael Tomasso, dated December 10, 2019, authorizing Joseph DiBernardo to represent him as an applicant in the Boundary Line Adjustment hearing. Carla Westine read the memo aloud. Carla Westine asked if Michael Tomasso is the same person as James Tomasso. Joe DiBernardo explained that they are brothers. Michael Tomasso represents Chester Land, LLC., the owner of parcel number 06-01-35. Phil Perlah moved to accept the memo as Exhibit C. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fourth document was a site plan showing the boundary line adjustment between properties of Chester Land LLC and James G. Tomasso. It was prepared by DiBernardo Associates, LLC and dated December 3, 2019. Phil Perlah moved to accept the site plan as Exhibit D. Gary Coger seconded the motion. A vote was taken and the site plan was accepted as Exhibit D.

Two additional documents received after the packet was mailed were also examined. The first was a Boundary Line Adjustment Exemption Form, Exemption 1-304(a)(11) – Wastewater Systems and Potable Water Supply Rules. The landowner's names, Chester Lands, LLC and James Tomasso were listed with their mailing addresses and phone numbers. The tax parcel numbers, 06-01-35 and 06-01-35.1 and the current and new acreage for each lot were listed. Box i, "a lot is increased in size", was checked. Carla Westine read the text of box iv, which was also checked, "the Secretary, in a case-by-case basis makes a written determination that the proposed adjustment will not have an adverse effect on any existing potable water supply or wastewater system on the affected lots." The form was signed by James and Michael Tomasso. Phil Perlah moved to accept the form as Exhibit E. Gary Coger seconded the motion. A vote was taken and the motion passed.

A second document received after the packet was mailed was one page with two sides. The first side was a memo dated December 10, 2019 signed by James G. Tomasso authorizing Joseph DiBernardo to represent him in the matter of the Boundary Line Adjustment. Carla Westine read the memo aloud. The second side was a letter on Marquise and Murano stationery dated January 9, 2020 and addressed to Jeffrey Svec of the Agency of Natural Resources. Carla Westine read the letter aloud. The letter gave justifications for the request for exemption on the boundary line adjustment. Phil Perlah moved to accept the two-sided document as Exhibit F. Gary Coger seconded the motion.

A vote was taken and the motion passed. Carla Westine asked Joe DiBernardo if the Agency of Natural Resources had given an answer to the application for exemption. Joe DiBernardo said no reply had yet been received.

The Board turned to Section 4.13 of the Chester Unified Development Bylaws which discusses boundary line adjustments. Carla Westine read these parts of the section aloud:

Boundary Line Adjustments are adjustments to the dividing line between adjacent lots (see Definitions in Article 8).

**A.** In accordance with 24 V.S.A. §4464(c), these Bylaws authorize the Development Review Board to review applications and issue permits for boundary line adjustments, provided that the applicant satisfies all of the following standards:

1. It meets the definition of a Boundary Line Adjustment;  
Carla Westine read the definition of Boundary Line Adjustment given in Section 8 of the bylaws:  
**BOUNDARY LINE ADJUSTMENT:** Moving a property boundary between two (2) or more adjoining parcels that creates no new separate lots or parcels, and has no adverse impact on access, the provision of public services and utilities, or neighboring uses. She concluded that the proposed adjustment met the definition of a boundary line adjustment.
  2. It does not create any new lot as a result of the adjustment;  
Carla Westine said she did not see any new lots as a result of this change. There was no third lot on the site plan.
  3. The Plan must show the requirements of Section 4.12(F) of these Bylaws;  
The Board found the items specified in Section 4.13 on the Site Plan submitted as follows.
- 4.12.F.1. Preliminary Plat.** The Preliminary Subdivision Plat shall consist of a pdf copy as well as seven (7) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale or not more than one hundred (100) feet or more to the inch, showing or accompanied by information on the following points unless waived by the Development Review Board:
- a. Proposed subdivision name or identifying title and the name of the Town.  
This was found in the lower right corner.
  - b. Name and address of record owner, subdivider, and designer of Preliminary Plat.  
All this information was found in the lower right corner.
  - c. Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, water courses, and other essential existing physical features.  
The former property line was captioned on the map and indicated by a dashed line where it did not follow a stone wall. The new property lines were a solid line. The old, new and amount of adjustment acreage was found in boxes that gave the tax map parcel number for each parcel. Buildings and driveways on both parcels

were found. The 50-foot right of way for parcel 6-1-35.1 was shown in an inset. Wells and leach fields were found. The location of the existing leach field on parcel 6-1-35 is not known and was not drawn on the map, though the Vermont water/wastewater permit number was cited in Note 8. The pond was shown. Wells for both parcels were shown.

- d.** The names of owners of record of adjacent acreage.

There are 9 abutting parcels and each was labeled with the owner of record.

- e.** The provisions of the zoning standards applicable to the area to be subdivided and any zoning district boundaries affecting the tract.

This was found in Note 5.

- f.** The location and size of any existing sewer and water mains, culverts, and drains on the property to be subdivided.

Four culverts were shown on the site plan, primarily on and near parcel 6-1-35. There is no municipal water or sewer service in the area and no water or sewer mains area present.

- g.** The width and location of any existing roads within the area to be subdivided and the width, location, grades, and road profiles of all roads or other public ways proposed by the Subdivider.

No roads were present within the sub-division and none are proposed.

- h.** Contour lines at intervals of five (5) feet of existing grades and of proposed finished grades where change of existing ground elevation will be five (5) feet or more.

The contour lines at 5-foot intervals were present.

- i.** Date, true north point, and scale.

These was found along the right side of the site plan.

- j.** Deed description and map of survey of tract boundary made and certified by a licensed land surveyor tied into established reference points, if available.

The deed descriptions and reference plans were in the lower left corner.

- k.** Location of connection with existing water supply or alternative means of providing water supply to the proposed subdivision.

Wells for both parcels were shown on the map.

- l.** Location of connection with existing sanitary sewage system or alternative means of treatment and disposal proposed.

The septic system for parcel 6-1-35.1 was shown. The wastewater permit for parcel 6-1-35 was found in Note 8.

- m.** Provisions for collecting and discharging storm drainage, in the form of drainage plan.

Joe DiBernardo said the drainage for lot 6-1-35.1 was contained on the parcel.

The parcel was not particularly steep and runoff had not been an issue in the past

20 years. Carla Westine noted that no roads or alteration to the landscape are being proposed. Phil Perlah moved to waive the drainage plan requirement. Gary Coger seconded the motion. A vote was taken and the Board waived the formal drainage plan requirement.

- n.** Preliminary designs of any bridges or culverts which may be required.

No bridges or culverts were required.

- o.** The proposed lots with surveyed dimensions, certified by a licensed land surveyor, numbered and showing suggested building locations.

No new lots were being created and no buildings proposed. The lots and buildings present were shown.

- p.** The location of temporary markers adequate to enable the Development Review Board to locate readily and appraise the basic layout of the field. Unless an existing road intersection is shown, the distance along a road from one corner of the property to the nearest existing road intersection shall be shown.

Carla Westine noted that the properties are found at the intersection of Baileys Mills and Lovers Lane Roads, which is drawn on the map.

- q.** Locations of all parcels of land proposed to be dedicated to public use and the conditions of such dedication.

No parcels are being dedicated to public use.

- r.** Names identifying roads and streets; locations of street name signs and description of design of street name signs.

No new streets or roads are being proposed.

- s.** The Preliminary Plat shall be accompanied by:

1. A vicinity map drawn at the scale of not over four hundred (400) to the inch to show the relation of the proposed subdivision to the adjacent properties and to the general surrounding area. The vicinity map shall show all the area within two thousand (2,000) feet of any property line of the proposed subdivision or any smaller area between the tract and all surrounding existing roads, provided any part of such a road used as part of the perimeter for the vicinity map is at least five hundred (500) feet from any boundary of the proposed subdivision.

The vicinity map is in the upper right corner.

2. A list or verification of the applications for all required State permits applied for by the Sub-divider. Approval of the subdivision application by the Development Review Board may be conditioned upon receipt of these permits.

No additional permits are needed. The existing permits are listed in the Notes.

- t.** Endorsement. Every Plat filed with the Town Clerk shall carry the following endorsement:

"Approved by the Development Review Board of the Town of Chester, Vermont as per findings of fact, dated \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ subject to all requirements and conditions of said findings.

Signed this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ by

\_\_\_\_\_  
\_\_\_\_\_, Development Review Board"

This endorsement is to the left of the map's center in the upper left quadrant

4. It does not substantially change the nature of any previous subdivision;  
The lots in the area are large and have single family homes on them. These lots are similarly large and have single family homes.
5. It will not adversely impact access to any parcel;  
Carla Westine pointed out that both lots continue to have ample road frontage.
6. It will not result in the development on any portion of a parcel that has been designated as open space as the result of a prior municipal permit or approval, or allow for the acreage of any open space parcel to be applied to the maximum density or minimum lot size for another parcel; and,  
Carla Westine asked Joe DiBernardo if there were any areas designated as open space before this Boundary Line Adjustment was proposed. Joe DiBernardo said there were not.
7. It will not create any nonconformities.  
The lot size minimum in the R-120 district is 3 acres. Both lots continue to have more than 3 acres and plenty of road frontage.

Michael Normyle said that Joe DiBernardo was at the site visit, but much closer to one of the houses. Michael ran into him only after many of the Development Review Board members had started back toward the center of town. Carla Westine said this was not the first time many of the members had visited the site and they had found their way around easily.

There being no further questions from the Board, the applicant or the audience, Phil Perlah moved to close the hearing. Gary Coger seconded the motion. A vote was taken and the hearing was closed.

#### **Agenda Item 4. Conditional Use Application #544 and Special Flood Hazard Review #545 for SEVCA and the Head Start program**

Carla Westine asked if any Board members had a conflict of interest or had had ex-parte communication on this subject. Phil Perlah said his wife is a member of one of the school boards for Chester that deals with both the high school and the elementary school. He offered to recuse himself. Lori Canfield said Head Start is not part of the Two Rivers Supervisory Union and not connected to Head Start. She did not want Phil Perlah to recuse himself. Scott McKussik also said he did not want Phil to recuse himself.

Michael Normyle gave a short history of the project. He said Scott McKussik had contacted him early in December 2019. The application was close enough to being

complete by December 17, 2019, that Michael sent out notices that day. There were seven abutters. Joe Epler who attended the site visit and was present at the hearing was the only abutter who showed interest. The parcel is in the flood hazard zone and Michael contacted John Broker-Campbell from the Watershed Management Division of the Vermont Department of Environmental Conservation about developing the parcel. Recording Secretary Cathy Hasbrouck passed out paper copies of the letter received from John Broker-Campbell earlier that day.

Carla Westine swore in those citizens who wanted to give testimony. They included Lori Canfield, Joe Epler and Scott McKussik. She then began entering the documents submitted with the application as evidence.

The first document presented was a Town of Chester Application for Hearing before the Development Review Board. The project numbers were 544 and 546, since this application involve a Special Flood Hazard Review as well as a Conditional Use hearing. The Appellant name was SEVCA Head Start, the location of the property was 42 Maple Street, the parcel map number was 60-51-33. Carla Westine read the description of the project aloud. "Renovate the two-story building to accommodate the Head Start classrooms (pre-school programs for 3 – 5-year-olds) for 36 children, serving meals, Monday – Friday from August through May each year. The application was signed by Lori Canfield and Zoning Administrator Michael Normyle on December 17, 2019. There was an e-mail on the back of the document from Lori Canfield to Amie O'Brien, Assistant Town Clerk which apparently accompanied the application. The e-mail was forwarded to Michael Normyle. The Development Review Board decided to ignore the e-mail chain and did not include it as evidence. Phil Perlah moved to accept the application as Exhibit A. Gary Coger seconded the motion. A vote was taken and the motion passed.

The second document presented was a Town of Chester Notice of Public Hearing Before the Development Review Board dated December 17, 2019. The notice lists the site visit scheduled for 3:30 PM on January 13, 2020 and the hearing scheduled for 6:00 PM the same day. The Notice was for Flood Hazard Review #546 and Conditional Use Application #544. The property owner was One Credit Union, the applicant was SEVCA Head Start, the location was 42 Maple Street and the zoning district was Village Center. Carla Westine read the action requested aloud: "SEVCA is proposing to purchase 42 Maple Street with the intent of installing a Head Start Program to serve Chester. The facility will be open primarily Monday – Friday with two classrooms serving children ages 3 – 5." Phil Perlah moved to accept the Notice as Exhibit B. Gary Coger seconded the motion. A vote was taken and the motion passed.

The third document presented was a 3-page letter/narrative describing the project dated December 20, 2019 and addressed to Michael Normyle. Carla Westine established that the letter had been written by Scott McKussik. She began reading the narrative aloud. When she reached the portion that discussed specific portions of the bylaws, Phil Perlah suggested that that portion be skipped as it will be covered thoroughly during the hearing. Carla agreed and read only the final paragraph, which gave the Wikipedia definition of Head Start. Phil Perlah moved to accept the narrative as Exhibit C. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fourth document presented was a letter on One Credit Union stationery dated December 10, 2019 addressed to Michael Normyle from Judith Soules, Chief Financial Officer. The letter gave Michael Normyle permission to release any information SEVCA Head Start needed to proceed with the purchase of the property. Carla Westine read the letter aloud. Phil Perlah moved to accept the letter as Exhibit D. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fifth document presented was a 2-sided Elevation Certificate from the US Department of Homeland Security, Federal Emergency Management Agency. The building owner's name was given as One Credit Union. The address was 42 Maple Street. The latitude and longitude of the parcel was given in Section A. In Section B, the Flood Zone was given as AE and the Base Flood Elevation was given as 602.5 feet. In Section C, the top of the bottom floor (including basement, crawlspace or encloser floor) was given as 596.8 feet, and the top of the next higher floor was given as 604.2 feet.

Carla Westine explained how those measurements related to what the Board had observed at the site visit. She said the Board was standing on the top of the bottom floor when they visited the lower classroom. Scott McKussik said the top of the bottom floor measurement was taken in an area called the lobster room, which was slightly lower than the classroom floor. Scott McKussik said the top of the next higher floor was measured at the French doors off the Depot Street driveway. The floor of the classroom was a step up from there.

He explained that the surveyor could not get access to the building when he was working, so he shot elevations at thresholds he could reach from the outside. Carla Westine read the lowest adjacent (finished) grade next to the building, which was 597.6, and the highest adjacent finished grade next to the building which is 602.9. The measurements were certified by David E. Coleman, dated January 7, 2020, and his stamp was affixed to the document. Phil Perlah moved to accept the certificate as Exhibit E. Gary Coger seconded the motion. A vote was taken and the motion passed.

The sixth document presented was a map of the site showing the building on the site and elevations at three points along the walls of the main building. The map was prepared by Coleman Surveys and dated January 7, 2020. Carla Westine said it was stated at the site visit that there was no survey of the property. She verified with Scott McKussik that the map was taken from the tax records. She noted that the Board had seen a tiki hut at the site visit that wasn't on the map. Scott McKussik confirmed that the applicant planned to remove the building. Phil Perlah moved to accept the map as Exhibit F. Gary Coger seconded the motion. A vote was taken and the site plan was accepted as Exhibit F.

The seventh document presented was a letter on Town of Chester stationery dated December 31, 2019 from Police Chief Richard Cloud addressed to the Development Review Board. Carla Westine read the letter aloud. In the letter, Chief Cloud said he did think traffic safety would be an issue with this project. Phil Perlah moved to accept the letter as Exhibit G. Gary Coger seconded the motion. A vote was taken and the motion passed.

The eighth document presented was an e-mail exchange between Michael Normyle and Chester Fire Chief Matt Wilson, dated January 7 and 8, 2020. Carla Westine read aloud the portion of the e-mail Michael had sent to both Matt Wilson and Jeff Holden,



informing them of the project and planned hearing. She also read Matt Wilson's response. In the e-mail, he states that the applicants need to follow the guidelines from the state fire marshal's office. He requested a walk-through of the building before it is occupied by children. He also asked to see their plans for fire evacuation and to be notified prior to fire drills. Phil Perlah moved to accept the e-mail as Exhibit H. Gary Coger seconded the motion. A vote was taken and the motion passed.

The ninth document presented was a letter from Jeff Holden to the Development Review Board dated January 8, 2020. Carla Westine read the letter aloud. In the letter Jeff Holden applauds the proposed project and new use and states that the Water and Wastewater departments have capacity for this project. Phil Perlah moved to accept the letter as Exhibit I. Gary Coger seconded the motion. A vote was taken and the motion passed.

The tenth document presented was a copy of the section of the tax map showing the parcel and the frontage it has on both Depot Street and Maple Street. Michael Normyle said he included it in the packet to be sure the Board had a clear idea of the streets surrounding the parcel. Carla Westine asked the Board if it wanted to include the map as an Exhibit. Phil Perlah said he did. He moved to accept the map as Exhibit J. Gary Coger seconded the motion. A vote was taken and the motion passed.

The eleventh document presented was a drawing giving the construction details for an ADA ramp to be built in place of the current porch that faces Maple Street. The back of the drawing gave the text for a proposed 3-foot by 3-foot sign for the project. Phil Perlah moved to accept the document as Exhibit K. Gary Coger seconded the motion. A vote was taken and the motion passed.

The twelfth document presented was a two-sided map from the Vermont Natural Resources Atlas showing the Flood Hazard Area on one side and the DFIRM floodway on the other. The maps were prepared by Michael Normyle. No portion of the property was shown to be in the DFIRM floodway, but about half of the classroom wing of the building was in the AE 1% annual chance of flood area. Phil Perlah moved to accept the 2-sided map as Exhibit L. Gary Coger seconded the motion. A vote was taken and the motion passed.

The thirteenth document presented was a two-page letter dated January 13, 2020 on Department of Environmental Conservation stationery from Regional Flood Plain Manager John Broker-Campbell to Zoning Administrator Michael Normyle. The letter was received via e-mail with an accompanying map of the subject parcel from the Natural Resources Atlas. The Board decided to accept all three pages as one document. Carla Westine read portions of the letter aloud and skipped a section of technical details because they would be addressed during the Special Flood Hazard hearing. Phil Perlah concurred with this decision. Phil Perlah moved to accept the letter and map as Exhibit M. Gary Coger seconded the motion. A vote was taken and the motion passed. Phil Perlah noted that there were two maps entered in evidence were both similar and slightly different and seemed to come from the same source. Michael Normyle explained that there are many layers of data available at the Natural Resources Atlas website, and the maps will look different depending on the layers chosen to be displayed. He said the

important point is that all maps agreed that no portion of the property was in the Floodway, but part of the building was in the AE 1% annual chance flood area.

Carla Westine addressed the Flood Damage Prevention Hearing beginning in Section 4.11, Flood Damage Prevention Review Procedures. She read parts of the bylaw aloud:

#### 4.11 FLOOD DAMAGE PREVENTION REVIEW PROCEDURES

##### **A. Applications and Hearings**

1. All applications for permits for development in the FHA must be heard as a conditional use by the Development Review Board (DRB). Those hearings shall be scheduled, noticed and heard in accordance with 24 VSA Chapter 117, Subchapter 11, Sections 4465 et seq.

2. **Submission Requirements.** Applications for Flood Hazard Review shall be submitted to the Zoning Administrator on the approved blank available from the Town office and shall be accompanied by:

a. Two (2) copies of a map drawn to scale showing:

Carla Westine noted that the Board had received a map drawn to scale.

1. The dimensions of the lot;

2. The location of existing and proposed structures;

Carla Westine noted that the map showed the structures currently present on the parcel. At the site visit, the Board members had seen one structure that was going to be torn down. She also said Lori Canfield had spoken of possibly removing the building closest to the abutter Endless Creations. She asked Lori if a decision had been made on that building or not. Lori said that decision had not yet been made. In any case, the building that may be removed is not in the flood hazard areas.

3. The elevation of the lowest floor, including basement, either

a. in relation to mean sea level where base flood elevation data in relation to mean sea level is available, or

b. in relation to the elevation determined pursuant to Section 7B, or

c. if neither (a) or (b) apply for lack of a determined elevation, in relation to highest adjacent grade of all new or substantially improved structures and notations as to whether or not such structures contain a basement; and

Carla Westine said an elevation certificate had been received and the measurement taken was a bit lower than the classroom area in question.

4. The relationship of the above to the streambank and, based upon the best information available (including Federal Insurance Administration data, if issued), the elevation and limits of the SFHA.

Carla Westine turned to the Natural Resource Atlas map from John Broker-Campbell and indicated the double blue line of the stream bank where it was closest to the building.

b. If any portion of the proposed development is within a designated Floodway, the application must show that the development standards in Section 8 A. and B. are met.

Carla Westine said this topic will be addressed when the Board discusses Article 6. The bylaw had been re-organized in 2017 and this reference to Section 8 is out of date.

- c. If the proposed development is in the Floodway Fringe Area(s), the application must show that the development standards in Section 8 A and C. are met.
- d. All permits required for the proposed development by municipal law.
- e. The applicant shall contact a permit specialist at ANR and request the specialist to complete a permit review for the project. The permit review sheet, which informs the applicant of all governmental agencies from which permit approval for the proposed development is required by federal or state law, shall be filed as a required attachment to the Town permit application.

Carla Westine said the Board has received a letter from John Broker-Campbell and the elevation certificate which indicate that the paperwork requesting the permit review sheet has been filed.

Carla Westine said that, if the building were to be built today, the floors to be occupied could not be so low. She said no records of the building's construction could be found in the zoning files and the previous owner of the building, Bill Smith, was not at the hearing. She turned to Joe Epler whose home is closer to the stream than the subject parcel and asked him if his home was affected by Tropical Storm Irene. Joe Epler said his building was affected and the neighboring building, now the subject of the hearing was also affected.

Phil Perlah said that he knew that the occupants of the lobster pound in the building had escaped during Tropical Storm Irene. Joe Epler said that he was not aware of any structural damage to the subject building from the water. Carla Westine said that the proposed owners now know there had been water in the building during Irene, as many properties in Vermont did at that time. She said the bylaw forbids a residence on the lower level of the building and that anything placed on that level will get wet if there is another event like Irene.

Phil Perlah said the applicant had stated at the site visit that they had no plans to rent any part of the building to other people. He asked if the Board should forbid residences in the building as a condition of the permit. Carla Westine agreed that no residences could be placed on the lower level of the building.

She said that if the building were being built today mechanicals would have to be raised a foot above the base flood elevation and the windows would have to be the type that would blow out under pressure from the flood. She noted that the Board had not seen the mechanicals at the site visit. Scott McKussik said the furnace for the proposed classrooms was on the lower level of the building. They had plans to move the furnace to a place above the base flood elevation.

Michael Normyle said that the Planning Commission is considering adopting Model Flood Hazard Bylaws which have more stringent requirements for development in a flood hazard zone. Phil Perlah said the applicants are planning on having the facility open by September, 2020. The permit would give them two years to finish the project and the project would be subject to the bylaws in force when the application was originally filed.

Phil Perlah said the applicant could choose to elevate the mechanicals high enough to meet the proposed regulations if they wanted to, but it would not be required.

Carla Westine said she didn't think anything should be stored in the area where the lobster pound had been. Scott McKussik and Lori Canfield said they did not plan to store anything in that area because it had such a fishy smell. There were other areas in the building for storage. Lori Canfield said they may possibly put bikes for the playground in that area.

Carla Westine recapped the likely conditions the Board impose on a permit: no apartments be allowed at the lower level, the mechanicals be raised to at least one foot above the base flood elevation, and nothing that could be damaged by water be stored in the lobster pound part of the cellar.

Carla Westine said the landscaping currently present does not meet the standards in the bylaws for separating incompatible uses. She asked the applicants if they had plans to change the landscaping. Scott McKussik said they had no plans to change any of the grading and planned to remove the tiki hut and the platform near it. The playground will be built there. He said nine inches of bark mulch is required on the playground for fall protection. He speculated that the mulch would raise the grade somewhat. He said they will be removing some trees that are too close to the building.

Scott McKussik pointed out that the worst flooding from Irene did not take place in the flood hazard area on the Natural Resources Atlas map.

There being no further questions from the Board, the applicants or the audience, Phil Perlah moved to close Flood Hazard Prevention portion of the hearing. Gary Coger seconded the motion. A vote was taken and the hearing was closed.

Carla Westine turned to the Conditional Use hearing. She read from the bylaws as follows:

#### 4.8 CONDITIONAL USES

Specific conditional uses are permitted only by approval of the Development Review Board, providing that General standards, Specific Standards, Performance Standards and Special Criteria, as herein provided are met, and further provided that:

##### **1. General Standards**

These general standards shall require that any conditional use proposed for any district created under these Bylaws shall not result in an undue adverse effect to:

- a. The capacity of existing or planned community facilities;

Carla Westine said that the Fire, Police and Water and Sewer Departments had all said the project would not adversely affect the capacity of their departments. She asked Lori Canfield how Head Start would affect the schools. Lori Canfield said the Head Start program was currently housed in Green Mountain Union High School and they must move. The families of 34 children depend on Head Start to help their children. Not having classroom space would adversely affect the town. Phil Perlah asked if the Head Start program can accommodate all the children who need it. Lori Canfield said it

did. She said they are able to take community children at the current site and have some spaces available for community children.

- b.** The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located;

Carla Westine read the purpose of the Village Center District, “To provide a mix of commercial, residential and civic uses that are consistent with the traditional compact Village Center as described in *the Chester Town Plan*. Development in this District shall be of the highest density in the Town, preserve historic character, and provide a pedestrian-friendly streetscape that accommodates public transportation.” She said that a civic use in the Village Center fit well in the district.

- c.** Traffic on roads and highways in the vicinity;

Carla Westine said that it was noted at the site visit that Maple Street is a busy street and that the property also had a driveway that opened onto Depot Street. She said Police Chief Rick Cloud had sent a letter saying he did not see a traffic problem as a result of this use. She asked Lori Canfield to discuss her view of traffic. Lori said the drop off period is between 8:00 AM and 8:30 AM daily, and not all the children arrive at the same time. She said she plans to have children who will be in the upper classroom use the Maple Street entrance to the parking lot and the children in the lower classroom use the Depot Street entrance. Pick-up time is between 2:00 PM and 2:30 PM which also spreads out the traffic. Phil Perlah asked about the statement in the narrative written by Scott McKussik which said the facility would be open from 7:00 AM to 5:00 PM. Lori Canfield said the staff arrives before the students and remains for a while after they leave. Carla Westine asked if any of the children were bused to the school. Lori Canfield said they were not.

Joe Epler said he had had customers of the previous owner of the building parking in his driveway and turning around in his driveway. He hoped that this wouldn't happen with the Head Start program. Lori Canfield said she would discuss this with the parents at parent orientation and draw them a map to make it clear that Joe's driveway is not a parking area. She invited Joe to speak to her if parents start using his driveway.

- d.** Bylaws and ordinances then in effect; and,

Carla Westine looked at the list of uses in the Village Center and saw that Civic/Institutional was a conditional use in the Village Center district. Carla addressed the district dimensional standards. She said this is an existing lot and building, which exempted them from the standards. She cautioned the applicant that any new construction would have to comply with the dimensional standards in the future.

- e.** Utilization of renewable energy resources.

Scott McKussik said the project may use heat pumps instead of the propane used currently, but there were no plans to use solar panels or other renewable sources.

## 2. Specific Standards

Specific standards will include consideration with respect to:

**a. Minimum lot size;**

Carla Westine noted that this is an existing lot and the standard did not apply.

**b. Distance from adjacent or nearby uses;**

Carla Westine enumerated the uses that surround the parcel. Three are residential and one is commercial.

**c. Minimum off-street parking and loading facilities;**

Scott McKussik said there are 11 parking spaces in the lot off Depot Street (also known as the back lot) and eight spaces in the lot off Maple Street (also known as the front lot). This was verified by checking the Natural Resources Atlas map which had satellite imagery.

Carla Westine asked if there would be many deliveries made to the facility and if so, by how large a truck. Lori Canfield said deliveries were made to the central office by large truck and supplies were picked up by staff members and brought to the school by car. Carla asked if there would be a dumpster. Scott McKussik said they had discussed this briefly. There would be a dumpster and they thought it would be in the back of the building, closer to the building than the edge of the property to make it easier for the staff to reach it. Carla said the applicants would have to make sure there was room for the truck that empties the dumpster to maneuver. She recalled the former owner had a dumpster at the edge of the Depot Street lot near the abutting two story residence.

Carla Westine asked how many employees will be at the facility. Lori Canfield said there were seven. Lori said there was a gravel area in the back, between the paved parking lot and the building. She thought some of the staff could park in those spaces, since they will not be using their cars when parents are picking up and dropping off children. Carla Westine asked if parents typically spend time in the building when they pick up and drop off their children. Lori said they do. She said at the high school, where they are now, parking is very limited but the parents seem to work things out. It helps that not everyone arrives at the same time. Carla Westine said that there will be no parking on Depot or Maple Street.

Phil Perlah asked if there are parent teacher conferences or open houses. Lori Canfield said parent-teacher conferences are scheduled during the day and school is not in session during the conferences. She said they do have an open house event, usually from 4:00 to 6:00 PM. She said Head Start currently has meetings with groups of parents at Endless Creations, the neighboring business. They will ask permission from businesses around them to use their parking areas for events such as an open house.

Bob Greenfield asked what parents might do if they can't find a parking space when they want to pick up or drop off their child. He said he was concerned about people stopping on Maple Street and blocking traffic. Lori Canfield said they will probably circle the block until a space opens up. Michael Normyle said he knew that People's Bank had shared their parking lot with other businesses in the past and suggested that Lori get in touch with them. People remembered that MacLaomainn's patrons and people visiting the funeral home sometimes parked in that lot.

**d. Landscaping and fencing;**

Carla Westine said she noticed trees and fencing in different areas along the property line at the site visit. She said she heard the applicants say they will remove some trees and some bushes that were prickly. Lori Canfield said they plan to remove some trees that are dangerously close to the building. They will remove the trees before they work on the fences. They will leave as many trees as possible because the federal government requires shade in the play area.

Carla Westine explained that commercial uses next to residential uses are considered incompatible uses and incompatible uses must have some kind of landscape separation such as a fence or bushes and trees. She mentioned the green stockade fence seen at the site visit. Joe Epler said Bill Smith was required to put that fence up as a condition of one of the permits he had. Carla Westine said the fence would now be Head Start's responsibility and needs to be maintained. The back of the parcel also abutted a residence. Carla said she had seen a wire fence between those two properties with some plantings. Lori Canfield said she planned to leave the fence and plantings alone. Scott McKussik said there was another section of fence in that area that they would leave in place. Joe Epler said the stockade fence was not in good repair and had been patched. He wasn't sure how long it would last. He asked if it would be replaced. Scott McKussik said they would address it now if it fit in the budget, otherwise SEVCA would have to maintain it.

**e. Design and location of structures and service area;**

Carla Westine said she heard at the site visit that there would be a kitchen for the school where the old kitchen is now. The entry for the Depot Street side of the building will be off the Depot Street parking lot on the lower level of the building. The entry for the Maple Street side of the building would be the French Doors that open on the parking lot. Handicapped access would be at the front of the building where a new ramp will be built.

**f. Size, location and design of signs;**

Carla Westine said one of the exhibits showed the text to be put on a sign for the building. She asked if the applicant was planning on using any of the sign structures Bill Smith had built. Scott McKussik said they would affix one sign on the building on the Maple Street side and probably use the kiosk on Depot Street for the other sign. Lori Canfield said neither sign would need lights as the business hours are primarily during the daylight. Carla advised

Scott McKussik to work with Michael Normyle on the placement of signs since the property was between two intersections and care should be taken not to block sight lines.

Bill Lindsay asked to speak and was sworn in. He asked if the town or state would install a School sign to warn drivers about the school. Michael Normyle said he would speak to the Town Manager and the Road Manager Kirby Putnam about this.

- g. Performance Standards under Section 4.9 and,
- h. Other such factors as these Bylaws may include.

Carla Westine read the introduction to the Performance Standards and the Noise section aloud.

In accordance with §4414(5) of the Act, the following standards must be met and maintained by all uses in all districts that are subject to a permit under these Bylaws.

**A. Noise:** noise volume shall be limited to the specified decibel levels listed below measured at the property line. (The sidebar is shown only as a reference to illustrate the decibel levels of typical activities.) Noise levels or frequencies which are not customary in the district or neighborhood or which represent a repeated disturbance to others shall not be permitted. Limited exceptions are allowed for incidental and customary activities, such as the occasional use of lawn mowers and snow blowers for regular property maintenance.

1. Noise shall not exceed 60 dB between 8:00 PM and 7:00 AM;
2. Noise shall not exceed 70 dB during the day between 7:00 AM and 8:00 PM.

Lori Canfield said the children will normally chatter and laugh when they are outside playing. Scott McKussik said the children are always supervised and the staff would intervene if the children were too loud. The school will be open from 8:00 AM to 2:30 PM, not a time when many people are trying to sleep.

Decibel (dB) Levels:
10 dB = normal breathing
30 dB = soft whisper
40 dB = quiet residential area, library
60 dB = normal conversation
70 dB = TV audio, human voice at 10 feet
80 dB = doorbell, machine tools, car at 10 feet
90 dB = lawn mower, tractor, blender
100 dB = snowmobile, factory machinery,
110 dB = leaf blower, power saw, nightclub band
120 dB = chain saw, rock concert, pain threshold
130 dB = stock car race, jackhammer
150 dB = jet engine taking off

**B. Air Pollution:** no use shall create emissions, such as dust, fly ash, fumes, vapors, gases and other forms of air pollution, which:

1. Constitute a nuisance to other landowners, businesses or residents;
2. Endanger or adversely affect public health, safety or welfare;
3. Cause damage to property or vegetation; or,
4. Are offensive or uncharacteristic of the area.

Outdoor wood-fired boilers are exempt from this provision.

Scott McKussik said there will be fewer pollutants than in the past and the heat will be changed to heat pumps which will reduce carbon dioxide.



**C. Glare, Light or Reflection:** illumination from lighting fixtures or other light sources shall be shielded or of such low intensity as not to cause undue glare, reflected glare, sky glow or a nuisance to traffic or abutting properties. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "down shield luminaire" type where the light source is not visible from any public highway or from adjacent properties. Only fixtures which are shielded to not expose a light source, and which do not allow light to "flood" the property, are permitted to be attached to buildings. Searchlights are not permitted. The Development Review Board may require a lighting plan under conditional use or planned unit development review procedures.

Carla Westine said there had been a lot of light at this location in the past, in order to draw attention to the business. She asked the applicants which lights they expect to keep. Scott McKussik said they will keep all the lights on the exterior of the building and modify them to meet the downward facing shielded requirement. They need to have lights over all entrances and the handicapped ramp. The parking lot must be lit. The lights associated with the sign kiosks will be removed.

**D. Safety Hazards:** Fire, explosive and similar safety hazards which would substantially increase the risk to an abutting property, or which would place an unreasonable burden on the Fire Department, shall be prohibited.

Scott McKussik said there would be no safety hazards.

**E. Electromagnetic disturbances:** any electromagnetic disturbances or electronic emissions or signals which will repeatedly and substantially interfere with the reception of radio, television, or other electronic signals, or which are otherwise detrimental to the public health, safety and welfare, beyond the property lines of the property on which it is located, except as specifically licensed and regulated through the Federal Communications Commission.

Scott McKussik said there would be no electromagnetic disturbances.

**F. Underground Storage Tanks, Ground/Surface Water Pollution:** No use shall result in burying or seepage into the ground of material which endangers the health, comfort, safety or welfare of any person, or which has a tendency to cause injury or damage to property, plants or animals. Commercial, industrial or institutional facilities having underground fuel storage shall maintain all tanks and related equipment with leak detection and spill control systems incorporating the best available safety practices and technology, consistent with government and industry standards.

Scott McKussik said there was a propane tank present, but he knew of no underground storage tanks. Carla Westine said the propane tank must be above the base flood elevation and anchored so it won't float away in a flood.

Carla Westine said the project was in the Village Center and the Special Criteria applied to it. She noted that no one had mentioned changes to the exterior of the building aside from replacing the porch with an access ramp. Scott McKussik said there would be some repairs to the roof and an exhaust hood would be removed. Carla Westine said if changes were made to the exterior,

the Special Criteria would apply. Lori Canfield said they are planning to remove some planters that had been added to the building, but it would not make the building less compliant with the Special Criteria.

Lori Canfield asked what happens after the hearing is over. Carla Westine said the Board has six weeks to complete the findings and conclusions document. She outlined some of the conditions that would be part of the permit. She said that once the document was finalized and signed there was a 30-day appeal period when the findings could be contested by the people who attended the hearing. An informal poll of the board was taken to give Lori an idea of the probable outcome. Joe Epler said he was glad to have the building occupied again and he did not anticipate contesting the findings. The Board was also informally in favor of the project. Cathy Hasbrouck said the earliest Lori could expect a Findings document was two weeks. The Board would be meeting then and may be able to consider the document.

There being no further questions Phil Perlah moved to close the hearing. Gary Coger seconded the motion. A vote was taken and the hearing was closed.

#### **Agenda Item 5 Set the next meeting date**

Carla Westine said the next meeting will be January 27, 2020. The site visit will take place at 4:00 PM on Pleasant Street and the meeting at 6:00 PM at the town hall. Michael Normyle said the architect is likely to present the application. David Pisha and the chiefs of the departments will be there. He said he is holding February 10<sup>th</sup> as a back up date if more time is needed. He said there may be a hearing on a different project on February 24<sup>th</sup>. Carla Westine asked whether a noise expert will be at the meeting. She was concerned about noise from sirens.

There being no further agenda items Phil Perlah moved to adjourn the meeting. Gary Coger seconded the motion. A vote was taken and the meeting was adjourned.