

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

*June 22, 2020*

**BOARD MEMBERS PRESENT:** Carla Westine and Harry Goodell at the Town Hall via Zoom teleconference, Robert Greenfield, Gary Coger, and Phil Perlah via Zoom teleconference.

**STAFF PRESENT:** Michael Normyle, Zoning Administrator at the Town Hall, Cathy Hasbrouck, Recording Secretary via Zoom teleconference.

**CITIZENS PRESENT:** Peter Hudkins via Zoom teleconference.

**Call to Order**

Carla Westine called the meeting to order at 6:00 PM via Zoom conference. She read the meeting's agenda. She noted that a site visit had taken place at 442 Elm Street at 5:20 PM that evening. She listed the Development Review Board members present, which included Phil Perlah, Harry Goodell, and Bob Greenfield. Gary Coger joined the meeting a few minutes later.

**Agenda Item 1 Review draft minutes from the May 25, 2020 meeting.**

Harry Goodell moved to accept the minutes from the May 25, 2020 meeting. Phil Perlah seconded the motion. There was no discussion. A vote was taken and the minutes were accepted as written.

**Agenda Item 2 Citizen comments.**

The citizen who wished to speak, Peter Hudkins of the Planning Commission, was not present yet. He had asked to wait until after the hearing for 442 Elm Street was over. The Board agreed to wait and proceeded to open the hearing.

**Agenda Item 3 Breezy Sky LLC Conditional Use application (#552).**

Carla Westine asked the Board members if anyone had a conflict of interest or if any member had had any ex-parte communication about this hearing. No one had.

Melissa Howe and Barry Lynch were sworn in to give testimony.

Carla Westine then entered the documents submitted into evidence. Gary Coger joined the meeting.

The first document was a Town of Chester Notice of Public Hearing before the Development Review Board dated May 26, 2020. Carla Westine read the notice aloud. It showed a site visit was scheduled at 5:20 PM on Monday, June 22<sup>nd</sup> and a Public Hearing at 6:00 PM. The property owner was Breezy Sky LLC, the applicants were Melissa Howe and Barry Lynch, the location was 442 Elm Street. The district was Commercial - Industrial. The action requested was, "Two-family home for the foreseeable future with the potential for one or both apartments to be leased as a commercial space in the future." The Notice was signed by Michael Normyle. Harry Goodell moved to accept the Notice as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the Notice was accepted as Exhibit A.

The second document was an application for a hearing before the Development Review Board. Carla Westine read the following items: the project number was 552, the appellant names were Melissa Howe and Barry Lynch, the landowner name was Breezy Sky, LLC, the location was 442 Elm Street, the parcel map number was 58-50-34. The description of the project was, "Two-family home for the foreseeable future with the potential for one or both apartments to be leased as commercial space in the future." The application was signed by Barry Lynch and Michael Normyle. Harry Goodell moved to accept the application as Exhibit B. Phil Perlah seconded the motion. A vote was taken and the application was accepted as Exhibit B.

The third document was a letter from Melissa Howe and Barry Lynch dated June 16, 2020 and addressed to Whom it may concern, explaining that the property is being sold and the new owner would like to use it as a two-family residence. Carla Westine read the letter aloud. Harry Goodell moved to accept the document as Exhibit C. Phil Perlah seconded the motion. A vote was taken and the letter was accepted as Exhibit C.

The fourth document was a site plan titled Breezy Sky LLC. The parcel number, the building and the lot with the parking areas, dumpster and mailbox were drawn in. Harry Goodell moved to accept the site plan as Exhibit D. Phil Perlah seconded the motion. A vote was taken and the site plan was accepted as Exhibit D.

The fifth document was an e-mail exchange between Zoning Administrator Michael Normyle and Fire Chief Matt Wilson discussing the proposed 2-family use at 442 Elm Street. Carla Westine read Matt Wilson's answer aloud. Harry Goodell moved to accept the e-mail exchange as Exhibit E. Phil Perlah seconded the motion. A vote was taken and the e-mail exchange was accepted as Exhibit E.

The sixth document was a letter on Town of Chester Water Department letterhead from Jeff Holden to the Chester Development Review Board dated June 15, 2020. Carla Westine read the letter aloud. Jeff Holden said Gary Rapanotti, representing the applicant, had requested a water and wastewater allocation of 420 gallons per day for the two 1-bedroom apartments at 442 Elm Street. Jeff Holden confirmed that the water and sewer connections could handle that volume and that the Town of Chester had capacity for both the water and wastewater requirements. Harry Goodell moved to accept the letter as Exhibit F. Phil Perlah seconded the motion. A vote was taken and the letter was accepted as Exhibit F.

The seventh document was a letter on Town of Chester Police Department letterhead from Police Chief Richard Cloud to the Zoning Administrator Michael Normyle dated June 16, 2020. Carla Westine read the letter aloud. Chief Cloud stated that, in his opinion, traffic safety will not be a problem if the building at 442 Elm Street is converted to a 2-family residence. Harry Goodell moved to accept the letter as Exhibit G. Phil Perlah seconded the motion. A vote was taken and the letter was accepted as Exhibit G.

Carla Westine began the discussion by confirming with the applicants that the use being applied for is a residential use only. Melissa Howe agreed that the only use to be considered at the hearing was two-family home. The statement on the Notice of Hearing and the Application that said a possible future commercial space are not valid.

Carla Westine said the property is in the Commercial - Industrial district. Single- two and multi-family residences are listed as a conditional use in the Commercial Industrial district. She

confirmed with the applicants that the building is a pre-existing building. The applicants confirmed that the footprint is not changing and no other changes are planned.

Carla Westine then began the review of the General Standards under Conditional Uses.

## **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:

- A. The Development Review Board after public notice and public hearing determines that the proposed use will conform to such standards.**
- B. In granting such conditional use, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purpose of the law and these Bylaws.**
- C. The Development Review Board shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this Section, and failure to so act within such period shall be deemed approval.**

### **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 reviewed the evidence presented: letters from the Police and Water / Wastewater Departments and an e-mail from the Fire Department stating that the two-family residence will not be a burden to their departments or endanger public safety.

- 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 Commercial - Industrial district aloud, "To provide a mix of commercial and light industrial uses in an area that is served by municipal water and sewer service and adjacent to two major highways and the Green Mountain Railroad."

Carla Westine noted that there were several residences in the area and that this building is next door to two of them and across the street from another. Melissa Howe and Barry Lynch had nothing to add to that statement.

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

Carla Westine noted that Police Chief Richard Cloud saw no adverse traffic safety effects in changing the use to a two-family residence. The applicants had nothing to add.

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

Carla Westine said the two-family residence use is available in the Commercial - Industrial district and the project met the definition of two-family residence. She noted that no change to the footprint of the building is proposed and the building and lot are pre-existing, so the dimensional standards do not have to be checked.

**e. Utilization of renewable energy resources.**

Carla Westine said she did not see anything in the application indicating that solar energy use was planned. The applicants confirmed that was true.

## **2. Specific Standards**

Specific standards will include consideration with respect to:

**a. Minimum lot size;**

Carla Westine asked Barry Lynch for the acreage of the lot. He and Melissa Howe said it was 0.24 or 0.25 acres. Carla Westine noted that this is a pre-existing lot and not subject to dimensional standards.

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

Melissa Howe said the neighbor to the left is a residence (the Griggs family), to the right is a second residence (Nate Stewart) and 40 – 50 feet across the street is a third residence (Ken Williams).

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

Carla Westine said each residential unit required two parking spaces, so a total of four parking spaces were required for the building. She asked the applicants if there were four spaces available in the parking area. Melissa Howe said she saw eight cars parked in the lot during the site visit and she was sure there was space for four cars for residents.

**d. Landscaping and fencing;**

Carla Westine asked the applicants if there was any fencing or further landscaping was planned. She noted that the bylaws considered the abutting residential uses compatible and landscaping to screen incompatible uses was not required. The applicants said no changes or additions to the landscaping were planned.

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

Carla Westine asked if the person planning on purchasing the property was going to have a dumpster. Melissa Howe said she did not know that. Barry

Lynch said there were four 100-gallon propane tanks behind the building and they would remain there.

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

Carla Westine said this was not applicable for a residential use. Only the street number needed to be displayed for 911 purposes.

**g. Performance Standards under Section 4.9 and,**

**h. Other such factors as these Bylaws may include.**

**3. Special Criteria**

The following Special Criteria shall be considered by the Development Review Board when considering an application for a conditional use permit in the (VC) Village Center, (SV) Stone Village, (R-C) Residential-Commercial, Districts:

Carla Westine noted that the Special Criteria did not apply to the Commercial – Industrial District.

She then read Section 4.9.A Noise.

**4.9 PERFORMANCE STANDARDS**

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.

<p>Decibel (dB) Levels:</p> <p>10 dB = normal breathing</p> <p>30 dB = soft whisper</p> <p>40 dB = quiet residential area, library</p> <p>60 dB = normal conversation</p> <p>70 dB = TV audio, human voice at 10 feet</p> <p>80 dB = doorbell, machine tools, car at 10 feet</p> <p>90 dB = lawn mower, tractor, blender</p> <p>100 dB = snowmobile, factory machinery,</p> <p>110 dB = leaf blower, power saw, nightclub band</p> <p>120 dB = chain saw, rock concert, pain threshold</p>
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Barry Lynch said he did not expect the noise level to change as a residential use. He thought there would be an air conditioner and people coming and going, but it would not exceed the decibel levels of 60 decibels at night and 70 decibels during the day that Carla Westine quoted from the bylaws.

**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.**

Melissa Howe said there were no sources of air pollution in the residences.

**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 noted that the applicant mentioned the new owner may possibly change the exterior lights on the building, and that the applicants had told the new owner about Chester/s requirement for downward facing shielded lights. The applicant confirmed that was true.

**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.**

Melissa Howe said there were no safety hazards associated with the residences.

**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.**

Melissa Howe did not know of any sources of electromagnetic disturbance in the building.

**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.

Barry Lynch said he knew of no underground storage tanks on the property.

Carla Westine asked the Board members if they had any questions. They did not. She asked the applicants if they had any questions. Barry Lynch asked if the Board could be polled so he could let his buyer know the status of the permit. Harry Goodell asked for the name and address of the potential buyer so that Michael Normyle can send him the town's requirements on exterior lighting. Barry Lynch said the person was Wyatt McAlister at 442 Elm Street.

Carla Westine said she saw all the Board members show thumbs up so the permit is likely to be issued. There being no other questions, Harry Goodell moved to close the hearing. Gary Coger seconded the motion. A vote was taken and the hearing was closed. Carla Westine said the Board had 45 days to issue their findings.

### **Resume Agenda Item 2 Citizen Comments**

Carla Westine introduced Pete Hudkins, the chair of the Planning Commission. Peter Hudkins explained that the Town of Chester had hired a consultant to prepare new bylaws. The bylaws have been written and discussed by the Planning Commission. The bylaws as written cover all state requirements for nearly every type of town in Vermont and they will work in Chester. The bylaws have a whole new layout and format. He wanted the Development Review Board to express their opinions about the new format so the Planning Commission could modify the document to make it easier for them to use. He said the Planning Commission has been functioning as an island for the past 18 months and he wanted to gather more input from the people who will be using the new bylaws. He said only two of the current Planning Board members have had any experience on the Development Review Board.

He also asked the DRB members to let him know if they see discrepancies in the bylaws. He cited a discrepancy in the height limit in the Village 12 (the green) which did not coordinate with the height limit of one of the planned unit development options.

Carla Westine said she had spent some time looking at the document early in the review process and felt that there was a lot of work yet to be done. She asked whether the version of the bylaws on the town website was the final rendition of the document, the most current version of the document. Peter Hudkins said he felt he was about a year from being satisfied that the document was ready to launch because he was concerned that there were too many inconsistencies in it.

Peter Hudkins explained that the task of maintaining the document has been given to Cathy Hasbrouck and she will keep the document current with the changes as the Planning Commission makes them. Carla Westine did not want to spend time studying a document that was in flux. Peter Hudkins gave the example of the Chester road and bridge standards which were not included in the proposed bylaws and the Planning Commission has now changed them to reflect the Chester Road and Bridge standards as the current bylaws do.

Phil Perlah asked what version of the proposed bylaws is available on the town website. Cathy Hasbrouck said it was the April 22, 2019 version. Phil asked how out of date that version was. Cathy Hasbrouck explained that the changes the Planning Commission had been working on were primarily changes to the zoning district map. She said her question for the Development Review Board was whether they would want to see the zoning district page use the proposed format that referred to tables instead of giving lists of uses and other requirements or whether they would prefer the current format which has lists of current and permitted uses and other special criteria on the page for the zoning district.

In response to a question from Phil Perlah, Carla Westine said she used cheat sheets to manage hearings now. If the new bylaws required too much flipping around the bylaw document to manage a conditional use hearing, she said she would create new cheat sheets with page number references to direct the participants to the correct page. She asked Peter Hudkins if the version on the website would be current when she went there. Peter Hudkins said Cathy Hasbrouck would let her know when it was current.

Peter Hudkins said he expected more changes will come. He would like to make the document useable from the DRB perspective as part of the work the Planning Commission is doing now. He felt that there will be a different response to the public hearings than occurred in the workshops done in June of 2019. Carla Westine said despite the effort to obtain public input for the 2014 bylaws, there were problems in those bylaws that were not discovered until actual conditional use hearings took place. Carla said that for herself she didn't think she should participate in drafting the law. Separation between the work of making the law vs enforcing the law has been achieved by having the Planning Commission and the Development Review Board as separate entities. She would be willing to give an opinion on the ease of using the package as a DRB member.

Phil Perlah said he would like a baseline version of the document and a mechanism that shows the changes made to the April 22, 2019 baseline. Cathy Hasbrouck said that one of the copies on the town website shows all the changes that the Planning Commission had requested to the document since it was introduced in August of 2018. Phil said the date of the baseline document wasn't important to him but he would like to see change control used going forward. Carla Westine said she had noticed that the state of Vermont has been pushing zoning standards to the towns via the regional planning commissions and she wasn't sure how successful Chester would be if it wanted to resist the flow of mandates. Peter Hudkins said he was hoping the new Chester bylaws would be practical. He pointed out that the lot sizes in some areas of the village had been reduced because the area is theoretically served by town water and sewer and the land could handle more development. Those areas are also higher in elevation than where the water lines currently run. He felt it was important to discuss the practicality of running municipal water to those areas with Jeff Holden before the denser zoning districts were finalized.

Peter and Carla also discussed the practical aspects of enforcement and Carla speculated that additional landscaping requirements will not be enforced because the town was not willing to pay for a lawyer to take action. Phil Perlah said sometimes new standards are enforced by banks when property changes hands.

Phil Perlah asked Peter Hudkins what he specifically wanted and when he wanted it. Peter Hudkins said he would like the DRB to look at Table 4-01. Cathy Hasbrouck asked them to look at the proposed format of the Stone Village zoning district page compared to the zoning district



pages in the document on the website. It was agreed that Peter Hudkins will attend the July 13, 2020 DRB meeting to discuss the DRB's findings and his participation will be a separate agenda item to be addressed after the hearing scheduled for that date. Carla Westine asked Peter Hudkins if he was speaking for the entire Planning Commission in this request and Peter said he was.

Michael Normyle confirmed that there will be a hearing for a minor subdivision on July 13, 2020 for a piece of property on Quarry Road.

**Agenda Item 5 Deliberative Session to review previous or current matters**

At this point, Harry Goodell moved to close the meeting in preparation for a deliberative session. Phil Perlah seconded the motion. A vote was taken and the meeting went into deliberative session and was adjourned at the end of it.