

1 **TOWN OF CHESTER**  
2 **DEVELOPMENT REVIEW BOARD**  
3 **MINUTES**

4 *November 29, 2021*

5 **BOARD MEMBERS PRESENT:** Harry Goodell, Scott MacDonald, Bob Greenfield Gary  
6 Coger, and Phil Perlah, all at the Town Hall.

7 **STAFF PRESENT:** Zoning Administrator Preston Bristow and Recording Secretary Cathy  
8 Hasbrouck, at the Town Hall.

9 **CITIZENS PRESENT:** Jim and Gladys Collins via Zoom, Bill and Nancy Lindsay and  
10 Penelope Trinkaus at the Town Hall.

11 **Call to Order**

12 Bob Greenfield called the meeting to order at 6:00 PM. He introduced the members of the  
13 Development Review Board. He led the group in the Pledge of Allegiance.

14 **Agenda Item 1 Review minutes of the November 8, 2021 meeting**

15 Harry Goodell moved to accept the minutes of the November 8, 2021 meeting. Gary Coger  
16 seconded the motion. There was no discussion. A vote was taken and the minutes were  
17 accepted as written.

18 **Agenda Item 2 Citizen's comments**

19 There were no citizen comments.

20 **Agenda Item 3 Conditional Use Review for 46 Route 103 South**

21 Bob Greenfield asked if any board members had a conflict of interest in this hearing or had had  
22 any ex-parte communication about the application. None had.

23 The exhibits were then entered into evidence.

24 The first document to be considered was an application for a public hearing before the  
25 Development Review Board. The purpose of the hearing was to construct a 26' x 22' garage on  
26 the south side of the existing house and a 16' x 22' lean-to shed on the north side of the existing  
27 house. It was dated November 8, 2021 and signed by Lewis Gordon. Harry Goodell moved to  
28 accept the application as Exhibit A. Gary Coger seconded the motion. A vote was taken and the  
29 application was accepted as Exhibit A.

30 The second document presented was a Town of Chester Notice of Hearing for Waiver of  
31 Dimensional Setback before the Development Review Board issued by Preston Bristow on  
32 behalf of the Town of Chester. Harry Goodell moved to accept the notice as Exhibit B. Gary  
33 Coger seconded the motion. A vote was taken and the notice was accepted as Exhibit B.

34 The third exhibit was a map from the Agency of Natural Resources showing the parcel, the 200-  
35 year flood line, a seasonal stream, Andover Road and the existing house. Harry Goodell moved  
36 to accept the map as Exhibit C. Gary Coger seconded the motion. A vote was taken and the map  
37 was accepted as Exhibit C.

1 The fourth exhibit was a sketch of the site at 416 Andover Road showing the house and the  
2 proposed garage and shed. Harry Goodell moved to accept the sketch as Exhibit D. Gary Coger  
3 seconded the motion. A vote was taken and the sketch was accepted as Exhibit D.

4 Bob Greenfield swore in Lewis Gordon, Jim and Gladys Collins and Penelope Trinkaus to give  
5 testimony.

6 Preston Bristow gave the history of the project. The project began with the town's junk  
7 ordinance. Preston had approached Lewis Gordon who explained he had race cars and parts in  
8 his yard because the town would not let him put up a garage. Preston investigated the history  
9 and determined that the town had denied a permit for a garage because the proposed garage did  
10 not meet the front setback requirement. Preston thought that a case could be made for a waiver  
11 of the front setback requirement. He referred to section 7.16 Waivers on page 112 of the Chester  
12 Unified Development Bylaws. He noted that there was no clear limit on how much of the  
13 setback could be waived. He felt that criteria 7.16.B.1.a.vi, "To avoid encroaching into a  
14 seasonal stream buffer or to avoid building in the Special Flood Hazard Area" applied here.  
15 Preston said the DRB looked at the property at the site visit. It is an historic schoolhouse which  
16 has been converted into a home. The building is perched on a bluff which drops off sharply. He  
17 said the 100-year flood plain on the state map does not touch Mr. Gordon's property. The 200-  
18 year flood plain does reach the flat area of the property below the bluff. He said there was a  
19 seasonal stream wrapping around the back of the property. The required front setback is 50 feet  
20 in the R-120 zoning district. The setback was measured during the site visit and the existing  
21 house is 26 – 28 feet from the edge of the road, depending on where the apron ends and the  
22 actual road begins. This waiver would cut the setback approximately in half if the garage was  
23 built at the same setback distance as the house.

24 Preston said he had discussed the issue with the Chester Road Superintendent Kirby Putnam who  
25 then visited the property and said the garage would not be a problem as long as it was no closer  
26 to the road than the existing house. Kirby did not see a problem for road maintenance or  
27 plowing.

28 Preston said he hoped the box trailer contents and the other items on the property could be put  
29 under cover if the garage were built. He pointed out that the doors to the garage would be on the  
30 side instead of facing the road and felt that design would be an advantage. Preston said Mr.  
31 Gordon was had been bringing items to a recycler in Charlestown, NH. The last trip he made  
32 ended in disappointment because the recycler was closed due to COVID.

33 Mr. Gordon presented several slips from the recycler showing he had previously brought items to  
34 be recycled. He said if he had a garage, he planned to unload the box trailer on the property and  
35 get rid of it. He had seen other people in the neighborhood build buildings within the 50-foot  
36 setback. Mr. Gordon said he doubted he would use clapboards on the exterior of the garage,  
37 which would match the house. He might use board and batten.

38 Bob Greenfield asked Preston Bristow to discuss the applicability for the waiver. The first point  
39 Preston covered was that the waiver could be granted to avoid a seasonal stream, or a Flood  
40 Hazard Area as mentioned in items vi and vii. He pointed out the seasonal stream on the north  
41 side of the house shown on the ANR map. The Chester bylaws require a 25-foot buffer for a  
42 seasonal stream. The proposed 16' x 22' shed would fit in that buffer but the 26' x 24' garage  
43 would not.

1 Preston said the area at the base of the bank was not technically flood plain under Chester's  
2 bylaws, but it is called flood plain by the state. A garage could be built there, but Preston did not  
3 consider that good planning.

4 Preston then considered section 7.16.B.2, Review Criteria.

5 a. Granting a waiver will not result in an unsafe condition of the lot or to the public.

6 The Chester Public Works director had stated that a garage or lean-to would not  
7 create an unsafe condition.

8 b. Incorporates design techniques (restricted height, lack of windows), screening  
9 (fencing or plantings) or other remedies to reasonably limit impact or the potential  
10 for impact upon the neighbors or public rights-of-way.

11 Preston said the garage doors will be at the end of the garage and not facing the road.

12 c. The waiver requested would not impair sight distances on or maintenance of public  
13 or private roads or sidewalks.

14 Preston said the property is on a straight stretch of Andover Road and sight distances  
15 will not be impaired.

16 d. The proposed work or construction does not encroach into the required front, side  
17 or rear yard setbacks any more than necessary to accomplish the desired results.

18 Preston said the property has a steep bank behind the house. Cantilevering the garage  
19 over the bank on piers or fill would interfere with the existing state-approved septic  
20 system.

21 e. The proposed development is compatible in scale and design of structures and the  
22 overall existing development pattern of the surrounding area.

23 Preston said the garage and lean-to will be rustic but not incompatible with other  
24 structures in the area. He also pointed out there is a waiver for a barn at 1604  
25 Andover Road, within sight of the subject property, granted in 1992. Other parcels in  
26 this neighborhood have been given waivers for certain structures.

27 f. The waiver resolves a practical difficulty in developing the property and allows  
28 reasonable use of the property;

29 Preston said Mr. Gordon's son, Eric is a stock car racer at a Claremont Motor Sports  
30 Speedway. It is the nature of racing to have multiple vehicles and repair them. It is  
31 expected that having a garage and lean-to could help the family comply with  
32 Chester's junk ordinance.

33 g. In the case of historic properties, the waiver is essential to the preservation and  
34 renovation of the historic building or the preservation of the historic pattern of land  
35 use of the surrounding area.

36 The home on the property is the Simsbury School House, an historic, existing non-  
37 conforming structure. The proposed garage and lean-to will be no closer to the road  
38 than the existing non-conforming structure.

39

1 Preston then addressed the requirements for a conditional use permit, which must be part of the  
2 waiver hearing. He noted that many of the standards do not apply to a non-commercial structure.

3 **1. General Standards**

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

6 **a. The capacity of existing or planned community facilities;**

7 Preston said a garage and storage shed are permitted uses so this requirement does not  
8 apply.

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

11 Preston said the purpose of the R-120 district is to provide lower-density  
12 residential neighborhoods with compatible home businesses and working  
13 landscape uses that are consistent with the Chester Town Plan. He said, while  
14 rustic, the proposed garage and lean-to addition and their proposed uses are  
15 consistent with a working landscape and should make the overall appearance  
16 of the property more consistent with the character of the area.

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

18 Preston said he did not think this requirement is applicable for a permitted use.

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

20 Preston said he did not think this requirement is applicable for a permitted use  
21 either.

22 **2. Specific Standards**

23 **Specific standards will include consideration with respect to:**

24 **a. Minimum lot size;**

25 Preston said the application does not meet the front yard setback by about half  
26 the distance.

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

28 Preston said there is a residential dwelling 500 feet north of the property and  
29 300 feet south of the property on the same side of the road. There is no  
30 dwelling across the road.

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

32 A garage under these bylaws does not increase parking requirements for  
33 residents.

34 **d. Landscaping and fencing;**

35 Preston Bristow said no landscaping is proposed and he was not sure what  
36 kind of landscaping could help.

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

38 The maintenance and repair of a race car by the owner is a hobby, not a  
39 business, and this criterion does not apply.

1 f. Size, location and design of signs;

2 Preston said no sign had been requested.

3 g. Performance Standards under Section 4.9 and,

4 Preston said he didn't believe any of the performance standards for noise, glare  
5 light and reflection, safety hazards, electromagnetic disturbances and underground  
6 storage tanks are affected by this application as proposed.

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

8  
9 Harry Goodell asked if only race cars will be worked on the at the garage. Would any other cars  
10 be repaired? Mr. Gordon said no other vehicles will be worked on.

11 Scott MacDonald said 500 feet seemed fairly far away. He said he had a workshop which was  
12 even more isolated. He occasionally uses it at 1:00 AM, but only raccoons and deer hear him.  
13 He wondered how much noise an air compressor or impact wrenches would make and if it would  
14 fall under the 70-decibel limit. Preston asked Mr. Gordon if he would be using tools late at  
15 night. Penelope Trinkaus, a neighbor to the north of the parcel introduced herself. She said she  
16 thought the permit would be helpful to the neighborhood and supported it. Phil Perlah asked if  
17 the permit could be conditioned to not use power tools at certain times. Bob Greenfield said he  
18 thought it could. He read the following from the bylaws:

19 1. The Development Review Board shall make its decision on the request for waiver  
20 by applying the facts presented both in the application and at the public hearing  
21 to the criteria listed herein. In approving a waiver request, the Development  
22 Review Board shall determine and may impose conditions to ensure that the  
23 waiver is the minimum required to afford relief and represents the least  
24 deviation possible from the dimensional requirements. These conditions may  
25 include, but need not be limited to, the following:

26 a. Limiting the size of the structure;

27 b. Requiring the mitigation of impacts to adjoining properties and/or uses, to  
28 public rights-of-way through building design (e.g., limiting window  
29 placement), layout, landscaping or screening;

30 c. Reducing the encroachment into the required front, side or rear yard  
31 setbacks;

32 d. Requiring that the project does not extend beyond an existing nonconforming  
33 structure unless needed to accomplish the intended goal;

34 Phil Perlah said he thought b. Requiring the mitigation of impacts to adjoining properties  
35 allowed imposing a condition about noise. Scott MacDonald said he doubted that an  
36 impact wrench running in an enclosed garage 300 feet away would create more than 70  
37 decibels of noise. Phil Perlah said the garage may not always be closed. Bob Greenfield  
38 suggested that the condition require that the bylaw noise standard for the town of Chester  
39 be met. Phil Perlah agreed to that proposal.

1 The DRB members discussed how the noise condition would be enforced and concluded that it  
2 would be handled like any other issue with noise.

3 Gladys Collins said she and her husband are in favor of family hobbies and think Lewis  
4 Gordon's son's hobby is a great idea. She said she had concerns about the property because it  
5 was in her neighborhood. She said this was to help Lewis Gordon comply with the junk  
6 ordinance and she wanted to hear from Lewis how he intended to do that. Bob Greenfield said  
7 the purpose of the hearing is to decide whether to grant the waiver for the building or not. Phil  
8 Perlah said how Mr. Gordon intends to clean up the junk may not be part of the hearing process,  
9 but he felt Gladys' question was a fair one. Mr. Gordon said he would get rid of the trailer and  
10 the other junk. He said the state had told him he could keep race cars behind his house.

11 Gladys Collins asked what was meant by the term working landscape. Preston Bristow  
12 explained that in general, a working landscape in Vermont is a landscape where people may have  
13 agricultural or forestry activity or home businesses. The landscape is used in a way that helps  
14 people afford to live there.

15 Scott MacDonald asked if the side of the lean-to facing the road will be closed. Mr. Gordon said  
16 it would not be closed, only the north side of the lean-to would have a tarp to block the north  
17 wind. It would be a post and beam frame with a roof over it.

18 Gladys Collins asked if the dimensions of the garage and lean-to were big enough to accomplish  
19 the purpose they were intended for. Mr. Cordon said they were.

20 Jim Collins commended Mr. Gordon on his support of his son. He said he was concerned about  
21 the number of salvage items in the back of the property. Bob Greenfield said the hearing was not  
22 intended to discuss the items in the back of the property. Jim Collins said he wondered how the  
23 proposed garage could handle the items stored behind the house. Mr. Gordon said the state had  
24 told him there was no limit on the number of race cars he could keep. They were all operable.  
25 Scott MacDonald and Bob Greenfield said the hearing was not intended to discuss the issue of  
26 vehicles in the back.

27 Harry Goodell said he was satisfied with the answers given and moved to close the hearing.  
28 Gary Coger seconded the motion. A vote was taken and the hearing was closed.

29 Bob Greenfield explained the time frame for the DRB to make and publish its decision. Mr.  
30 Gordon said he has sawn most of the lumber.

31 **Agenda Item 6 Deliberative session to review previous or current matters**

32 Harry Goodell moved to go into Deliberative Session. Gary Coger seconded the motion. A vote  
33 was taken and the DRB then went into Deliberative session.