

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD
DRAFT MINUTES

June 12, 2023

BOARD MEMBERS PRESENT: Harry Goodell, Phil Perlah, Scott MacDonald, and Gary Coger at the Town Hall, Bob Greenfield on Zoom.

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

CITIZENS PRESENT: Randy Miles, Sarah James, Vincent DiBernardo, Richard Rondinone, III, Casey Rondinone.

Call to Order

Bob Greenfield called the meeting to order at 6:00 PM. The group recited the Pledge of Allegiance. Bob introduced the members of the Development Review Board and staff.

Agenda Item 1 Review draft minutes from the May 22, 2023 meeting.

The Board considered the minutes from May 22, 2023. Harry Goodell moved to accept the minutes as written. Gary Coger seconded the motion. There was no discussion. A vote was taken and the minutes were accepted as written.

Agenda Item 2 Citizen Comments

Sarah James of Smokin' Bowls spoke to the board about locating a food truck on the parcel at the southern corner of Sylvan Road and VT Route 103 South. The parcel, 35 Sylvan Road, belongs to Randy Miles who was at the meeting. Phil Perlah asked what the parcel's zoning district was. Randy said the parcel was in the R-40 zoning district. It was established that restaurant was neither a permitted nor a conditional use in the district, though prior to the 2017 version of the bylaws, it was a conditional use. Preston said the DRB could issue a temporary permit for a restaurant as it had done for the Farmer's Market a couple of years ago, with a view to make a change to the zoning bylaw to permit restaurants in the R-40 district at a future date.

Phil Perlah asked Sarah James about the structure of the food truck. Sarah said it was on wheels, though it had not been moved for about 17 years. She said the food truck had prospered in its current location opposite an entrance to Interstate 91. She said she operates the truck Friday through Sunday and holiday Mondays, generally 11:00 AM to 7:00 PM. She said that sometimes on winter weekends she extends the closing time on Friday to 9:00 PM. She does not need to open the restaurant at other times.

She described the food truck on wheels as looking like a sugar shack. She hopes to eventually a bigger structure on skids that would still be moveable. She would like to include a freezer, a Creamee machine and more storage in the new structure. Phil Perlah asked if the proposed site had electricity. Sarah said it did. Scott MacDonald established that the parcel in question is parcel 15-01-08 on the tax map. The entrance to the parcel is from Sylvan Road.

Preston Bristow asked Randy Miles if he ever owned the Chester General Store. Randy said he did not. Phil Perlah asked if the fact that the structure would be on skids and could be moved had any impact on what use is involved. Preston said he did not look at the uses in terms of whether

the structure is permanent or not. Sarah confirmed that her structure would be moveable. She was planning on having a porta-potty at the Sylvan site as she does now. She currently has the porta-potty cleaned once a week.

Bob Greenfield asked Sarah how much parking she would need. She said the current location had adequate parking. She believes the front half of the Sylvan Road lot would be about the same size as her current location. Scott MacDonald pointed out that there is soil and not gravel on the part of the Sylvan lot closest to route 103. Sarah said she and Randy Miles needed to measure the space and come to an agreement about how it would be allocated. The area furthest from route 103 has been used for material storage in the past. Sarah said that Sunday evenings can be busy with skiers. Harry Goodell pointed out that the base of the lot has a lot of gravel and would make a good parking area.

Sarah said she had a sign she'd like to use now and she was aware she needed a sign permit. She wanted to hang it on the existing sign post on the Sylvan lot. Harry Goodell asked about Health Department permits. Sarah said she has a permit now which requires an annual inspection. She has a rooms and meals account as well. Gary Coger asked Sarah if the permits would need to be changed if she moved the business. Sarah said the address would have to be changed.

Dates for a hearing were discussed. Sarah would like to get a permit as soon as possible. Her current rent has been doubled. Harry Goodell confirmed that the DRB could issue a temporary permit. Preston agreed and said it could be for six months and it would be renewable. Preston said restaurant had been a conditional use in that zoning district in the past and the Planning Commission was working on revising the list of uses.

Preston said it takes 3 weeks to warn and schedule a hearing. There was a risk that an abutter could appeal the permit in the 30 days after the permit is issued. Preston thought the risk to Sarah was relatively small since the building was on wheels and could be moved if necessary.

Bob Greenfield asked how conditions for a permit could be set when the use is not specifically named as a use for the zoning district in the bylaws. Preston said the bylaw text that authorizes a temporary permit for a non-conforming use requires a conditional use hearing, which includes meeting the usual standards every permit must meet.

Scott MacDonald asked what would happen if the Planning Commission does not make restaurant a conditional use in that zoning district in the near future. What would happen if another restaurant wanted a permit in that zoning district? Is the food truck designation the saving grace for this permit? Preston said the current bylaws are silent on food trucks and he has been working with Jason Rasmussen to come up with bylaw language to cover food trucks anywhere in Chester, or in certain districts. Scott said there is a difference between allowing a food truck and allowing a brick-and-mortar restaurant in a district that does not allow a restaurant use. Preston agreed and noted that some of this ground had been recently covered when the DRB issued a permit to Michael Kennedy for a restaurant use in the hardware store parking lot. Bob Greenfield asked if there had been any feedback on Michael Kennedy's permit since it was issued. There had been none.

Phil Perlah told Sarah James that the permit may not be a permanent or long-term solution for her. Sarah said she would keep that in mind. The Board invited Sarah to apply for a permit.

Cathy Hasbrouck went over the process of warning a hearing. The earliest possible date for a normally scheduled hearing would be July 10. She said a hearing for was already scheduled for

that date. It was possible to schedule two hearings for the same date. Preston Bristow said the All Stone Quarry hearing scheduled for that date could be a quite an event as several lawyers would be involved. Preston said Sarah's hearing could be done first or it could be scheduled for a different day.

Phil Perlah thought a site visit would not be needed as there was not much to look at. Preston agreed that there were three parts to the All Stone site visit and it would take most of the afternoon on July 10. He said the Chester bylaw requires that every hearing have a site visit. Various modes of meeting this requirement were discussed. The site visit was not required to take place on the same day as the hearing. Cathy Hasbrouck asked whether it was important to have a site visit for neighbors to attend. It was suggested that a site visit at mid-day managed by Preston as Zoning Administrator and Cathy as Recording Secretary could be held. A facetime phone call or video could be done for those DRB members unable to attend.

Randy Miles asked if it was in his best interest to go to the Planning Commission to discuss whether the restaurant use could be added back to the R-40 district or to discuss other options. Preston said Planning Commission meetings are always open to the public and it would be in Randy's interest to attend. He noted the Planning Commission meets the first and third Mondays of the month at 6:30 PM. Randy said he had run a business on the property for 7 years with no complaints and expected there would be no complaints from Sarah's business. She ran a very professional business in Rockingham. Preston said he thought there was a bias 20 years ago against food trucks, but since the pandemic citizens have come to recognize their value and there is much less opposition. He said it is taking some time for zoning bylaws to keep pace with these changes.

Scott MacDonald asked Randy what kind of business he ran. Randy said it was a landscape supply business. Preston told Sarah James that he needs her application this week to start the process of scheduling the hearing. There were no other citizen comments.

Agenda Item 3 Flood Damage Prevention Review Hearing #592 for a bridge replacement at 1638 VT Route 11 East

Bob Greenfield asked the members of the DRB if anyone had a conflict of interest to report. None did. He asked if anyone had had any ex parte communication to report. None had.

Bob swore in Richard Rondinone III and his wife Casey in to give testimony.

He then accepted the documents offered as exhibits.

The first document was an application for a hearing before the Town of Chester Development Review Board. It was dated May 11, 2023 and was signed by Zoning Administrator Preston Bristow. Harry Goodell moved to accept the application for hearing 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 Development Review Board Notice of Public Hearing for a Flood Damage Prevention Review, dated May 18, 2023. Harry Goodell 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 was a 100-foot abutters map generated from the tax map. Harry Goodell moved to accept the map as Exhibit C. Gary Coger seconded the motion. A vote was taken and the map was accepted as Exhibit C.

The fourth document was a list of abutting landowner names and addresses who were mailed a Notice of Hearing on May 23, 2023. Harry Goodell moved to accept the List of Abutters as Exhibit D. Gary Coger seconded the motion. A vote was taken and the list was accepted as Exhibit D.

The fifth document was a Vermont Agency of Natural Resources map of the area in question showing Vermont Route 11 East and the 100-year flood zone. Harry Goodell moved to accept the Notice as Exhibit E. Gary Coger seconded the motion. A vote was taken and the permit was accepted as Exhibit E.

The sixth document was a photograph of the bridge taken from Vermont Route 11 East. Harry Goodell moved to accept the photo as Exhibit F. Gary Coger seconded the motion. A vote was taken and the photograph was accepted as Exhibit F.

34;16The seventh document was a close-up photograph of the bridge showing the supports that were beginning to lean out of place and the stream underneath it. Harry Goodell moved to accept the photo as Exhibit G. Phil Perlah seconded the motion. A vote was taken and the photograph was accepted as Exhibit G.

The eighth document was a 2-page Authorization to Conduct Stream Alteration Activities from the Vermont Department of Environmental Conservation Watershed Management Division Rivers program dated April 10, 2023. Harry Goodell moved to accept the Authorization as Exhibit H. Gary Coger seconded the motion. A vote was taken and the Authorization was accepted as Exhibit H.

The ninth document was a 4-page e-mail chain from Jason Waysville Engineering dated May 17, 2023. Harry Goodell moved to accept the e-mail as Exhibit I. Gary Coger seconded the motion. A vote was taken and the e-mail was accepted as Exhibit I.

Bob Greenfield asked Richard Rondinone for an explanation for his application. Richard said he wanted to replace the deteriorating bridge so larger vehicles such as fuel trucks and fire trucks could drive to his house. Bob Greenfield said he had read the Flood Damage Prevention Procedures. A lot of the regulation referred back to the permit application from the State National Flood Plain Insurance Program Coordinator, the Vermont Agency of Natural Resources Department of Environmental Conservation River Management Section, which led him to consider Exhibit H. Preston suggested that this application is an odd case. The bridge is actually on land owned by the state as part of the route 11 right of way. Therefore, Richard needs a permit from the Vermont Department of Transportation, VTrans. It took some time for VTrans to identify which permit was needed and who could approve such a permit. It was decided that the permit would be issued by Tyler Birchmore. Tyler had said he hoped to issue a permit before the hearing, but the permit has not arrived. Richard Rondinone said he met with Tyler at the site the previous week. Tyler inspected the area. Tyler said he was satisfied with what he saw. He needed the book and page of the deed in the land records to finish the permit.

Preston said he could get the deed book and page to Richard to facilitate that process. He advised the DRB that they could issue the permit subject to receiving that permit. The other issue to be resolved was hearing from John Broker Campbell, the Regional Flood Plain Administrator, about the application. Preston had not heard from John yet. John's 30-day comment period ends on Thursday June 15. Preston said Jason Waysville, the engineer, had

volunteered at the site visit to contact John Broker Campbell. Preston said the DRB may issue the permit pending the receipt of a positive comment from John Broker Campbell.

Preston said he had asked Jason Waysville, the engineer, to make the bridge 100-year flood compliant. This requires that the bridge chord be one foot above the base flood elevation. Preston said the written material presented as exhibits addresses this issue. The DRB could have a condition that the lowest chord be one foot above base flood elevation.

Bob Greenfield asked whether the stream alteration permit included in the exhibits addresses the height requirement. Preston explained that when Scott Jensen issues a stream alteration permit, he is looking at the width of the stream. He does not address the height of the bridge. The bridge height is the responsibility of the town's Development Review Board in the Flood Damage review.

Bob Greenfield said his understanding was that the DRB could issue a permit dependent on the other permits being issued. Preston agreed that two conditions on the permit could be that the VTrans permit is received and a favorable comment is received from John Broker Campbell. The third condition would be that the bridge be one foot above base flood elevation.

Scott MacDonald asked how long Richard had been living at the property. Richard said he had moved there in 2015 and discovered that oil trucks would not cross the bridge soon after. He said that they use wood pellets for heat. Scott MacDonald said he was concerned about emergency vehicles and Richard agreed it was another reason for replacing the bridge.

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

Agenda Item 5 Deliberative Session to review previous or current matters

Gary Coger moved to go into executive session. Scott MacDonald seconded the motion. The meeting went into deliberative session and was adjourned at the end of it.