

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

*August 28, 2017*

**BOARD MEMBERS PRESENT:** Carla Westine, Amy O'Neil, Phil Perlah, Harry Goodell, Mark Curran.

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

**OTHERS PRESENT:** Thomas P. Junker, Lisa A. Junker, Tanya Kell, Erin Hennessy, Jeff Goldstone, Amanda L. S. George, Randy Miles, Chris McNulty, Robert Parker III. Jacques Dodier.

**CALL TO ORDER**

The meeting was called to order at 6:00 P.M. by Chair Carla Westine. She noted that there had been site visits that afternoon at 4:30 to Jack's Diner, 524 Vermont Route 103 South and at 5:20 to the Kell – Hennessy Bed and Breakfast at 501 Main Street. She introduced the members of the Development Review Board and staff. She then read the meeting agenda. The Board and audience members recited the Pledge of Allegiance.

**Agenda Item 1 Citizen Comments**

Randy Miles asked the Board for an explanation of the Board's reasoning in its decision to deny him a conditional use permit for a wood processor. He said he had offered to erect a building around the processor in order to block the noise. He wanted to know why the Board had not considered the proposed building enough of a noise damper to meet the noise requirement in the Bylaw Performance Standards.

Chair Carla Westine said that the Board received testimony about the noise level of the Deutz motor running at a specific speed, but no testimony about the noise level of the saw blade biting into the wood or the splitter mechanism splitting the wood. The testimony received about steps to mitigate the noise did not include any information about the effect of a specific step on the noise level. There was no testimony about how many decibels would be eliminated by a more substantial muffler or by a building of a given construction. The Board needed to know the decibel level of the machine while it was actually processing wood, the decibel reduction that would have been achieved by the muffler, the construction details of the proposed building, the decibel reduction that the building would have achieved, and given the resulting decibel level at the building wall, the decibel level at the property line, which would have been reduced by the distance from the source of the noise. The board could not find that the project met the noise standards in the bylaws because that information was not presented.

Randy Miles asked about the hearing for the dog kennel on Elm Street which was granted a permit. Phil Perlah explained that in the case of the kennel, information about the decibel levels of dogs barking was provided. The applicant presented information about how many decibels the building could be expected to absorb and calculations from a noise researcher on how many decibels would be lost over the distance to the property boundaries. The Board made the

calculations and was able to conclude that the standard for noise would be met at all the property lines. Amy O'Neil said the Board had written the Findings and Conclusions document for the Miles decision in the hope that Randy would be encouraged to reapply, providing the missing information. Then the Board could certify the Performance Standards had been met. She also recommended that Randy attend the joint meeting of the Development Review Board and Planning Commission to be held September 18, 2017 at 7:00 PM to discuss noise and noise regulation with Tim Jones, an engineer at Tech Environmental in Waitsfield.

### **Agenda Item 2 July 24, 2017 Minutes**

Amy O'Neil moved to accept the July 24, 2017 minutes as written. Phil Perlah seconded the motion. There was no discussion. A vote was taken and the motion passed.

### **Agenda Item 3 Conditional Use Permit Application for Kell-Hennessy Bed and Breakfast**

Chair Carla Westine polled the Board to see if any member had had any ex parte communication on this matter or any potential conflict of interest. No member spoke. Tanya Kell, Erin Hennessy and Randy Miles were then sworn in to give testimony.

Michael Normyle began the hearing with an account of the application. He said the initial application was received on May 16, 2017. He noted that the hearing had originally been given number 506, but it was changed to 508 as other hearings were scheduled. The application was final on July 18, 2017. He had not received any replies to the notices he sent to abutters.

The Board then accepted the following documents as exhibits.

- An Application for hearing before the Development Review Board dated May 16, 2017 and signed by Erin Hennessy and Michael Normyle. Project number is 506, Appellant is Erin Hennessy, Landowner is Tanya Kell, Location of property is 501 Main St. Amy O'Neil moved to accept the document as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A Town of Chester Notice of Public Hearing dated July 25, 2017 and signed by Michael Normyle. Property owner is Tanya Kell, Location is 501 Main St., District is Village Center, Action requested is Modification of existing 5 BR home to an owner occupied 3 BR B&B. Amy O'Neil moved to accept the document as Exhibit B. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter from Tanya Kell and Erin Hennessy to Michael Normyle, Matt Wilson, Richard Cloud and Jeff Holden, dated June 22, 2017, explaining the details of the proposed business. Amy O'Neil moved to accept the document as Exhibit C. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter from Jeff Holden, Water/Sewer Superintendent dated August 22, 2017 stating that the Chester Water and Sewer Department has the capacity to support this use and has no objections. Amy O'Neil moved to accept the document as Exhibit D. Phil Perlah seconded the motion. A vote was taken and the motion passed.

- A letter from Police Chief Richard H. Cloud to Michael Normyle dated July 26, 2017 stating that traffic safety and parking will not be issues. Amy O’Neil moved to accept the document as Exhibit E. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- Fire Inspection Results from the Vermont Division of Fire and Safety, with an inspection date of March 28, 2017. The inspector is Frank Small. It noted 3 issues which required correction prior to occupancy. Amy O’Neil moved to accept the document as Exhibit F. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- Electrical Inspection Results from the Vermont Division of Fire and Safety, with an inspection date of May 4, 2017. The inspector is Bruce H. Martin. It noted 4 wiring issues which required correction prior to a final inspection and one safety issue which was referred to Steve Dumont. Amy O’Neil moved to accept the document as Exhibit G. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- An 11”x17” site plan of the property at 501 Main Street labeled SD-1, prepared by Kyle Bingham and dated July 31, 2017, showing 3 standard parking places, one handicapped space and 2 parking spaces inside a garage. Amy O’Neil moved to accept the document as Exhibit H. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- An 11”x17” drawing of the property at 501 Main Street labeled SD-2, prepared by Kyle Bingham and dated July 31, 2017. This drawing showed more detail of the site plan, giving dimensions of parking places and distances from the parking places to the rear of the property and from the front of the building to the street. Amy O’Neil moved to accept the document as Exhibit I. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The application was then evaluated according to Section 4.8.C of the Bylaws, the General Standards.

## 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 noted that the Board had received letters discussing the project’s impact from Jeff Holden, the Water/Wastewater Superintendent and Richard Cloud the Chief of Police. She asked if the applicant had contacted the Fire Chief and she said she had not. Michael Normyle said he had forwarded the narrative for the project to Fire Chief Matt Wilson. He said he had received an e-mail reply from Chief Wilson saying he (Chief Wilson) would defer to the state fire inspector and look at the property after the final state inspection is complete.

When invited to speak, the applicant said she was planning on marketing her Bed and Breakfast to temporary staff at the area hospitals and expected her guests to stay for a couple of weeks instead of a couple of nights as tourists generally do. They would be

interested in the area's businesses and other support facilities because they may be considering relocating to the area.

- 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 noted that the property is in the Village Center District and asked the applicant to describe the neighborhood in her own words and how the Bed and Breakfast would fit in. Erin Hennessy replied that her guests will usually be working during the day, as most people in the neighborhood do. There were apartments on one side of the property and an art gallery across the street. Down the street is the green with businesses, so there is a mixture of residential and business uses in her area.

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

Carla Westine cited the letter from Police Chief Rick Cloud saying traffic safety and parking would not be a problem. Erin said there would be people going out to work in the morning and coming back at night as other residents do. She would be asking the guests to be in by 9:00 PM. She said the guests would not be teen agers driving their cars too fast. She found traffic on Main Street to be light. In response to a question from Carla Westine, Erin said her guests would be exiting from the driveway in a forward motion, not backing out onto Main Street.

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

Erin Hennessy said they will not be making changes to the exterior. Carla Westine noted that the house and lot are pre-existing and the project is not obliged to meet setbacks. Carla Westine noted that Tourist lodging is a conditional use allowed in the Village Center, and although Erin Hennessy has stated they would be marketing to longer term visitors, the proposed use matched tourist lodging. Erin Hennessy said she did not plan to add more lights to the building. She felt the lights currently present, plus the street lights were sufficient.

- e. Utilization of renewable energy resources.

Erin Hennessy did not currently plan to install solar panels on the property, though she approved of solar energy.

## 2. Specific Standards

Specific standards will include consideration with respect to:

- a. Minimum lot size;

Carla Westine said the lot is a pre-existing lot and is not required to meet this standard.

- b. Distance from adjacent or nearby uses;

Erin Hennessy said the house to the west is an apartment house, the house to the east is unoccupied and currently for sale. There is a gallery across the street among more residences. The NewsBank parking lot abuts the meadow in the back. NewsBank mows a strip of the meadow so their employees can walk there during breaks.

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

Carla Westine cited three regular-sized guest parking spaces and one handicapped space on the site plan. Erin Hennessy said that there are two spaces under a section of the building which are for the owners. She said the three regular sized parking spaces will not be covered with gravel, they will remain as they are. She said there is plenty of room to pile snow in the winter further back on the lot and the spaces will be kept plowed. Phil Perlah asked if the parking spaces will be marked. Erin Hennessy said they will be.

**d. Landscaping and fencing;**

Erin Hennessy said they will be trimming the bushes growing in the front of the building. She did not plan changes to the meadow outside of a vegetable garden. She did not plan to put up any fences. She planned to leave the brush growing between her property and her neighbor's property to maintain privacy. Harry Goodell asked if the business will have a dumpster. Erin said they would have a rolling bin for trash.

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

The only service structure or area would be the rolling trash container.

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

Erin Hennessy said she does not have any immediate plans for a sign. There was limited space for a sign in any case. Phil Perlah asked if they were planning to name the inn. Erin replied they had applied for an LLC under the name Garnet House.

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

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

## **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 p.m. and 7 a.m.;
2. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

Aside from mowing the grass, the only expected noise from guests would be when the picnic table under the back shed roof is used. Phil Perlah asked if they were planning any use of amplification, i.e. loud speakers. Erin Hennessy said she had no plans for any type of musical event. If she did, she would apply for a permit and abide by those rules. Carla Westine explained that the bylaws limited noise to 70 decibels at the property line during the day and 60 decibels at night. Normal conversation is 60 decibels.

**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.

Erin said she did not expect to generate any air pollution. Since the fireplaces do not have dampers they will not be using them.

**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.

Erin Hennessy said they would be replacing bulbs with downward facing shielded bulbs. Phil Perlah said that the site plan shows a floodlight on the back corner of the building. Erin Hennessy said she has never seen it turned on. The only functioning lights are on each side of the front door and two others on the side of the building. Amy O'Neil asked if Erin would be willing to remove the floodlight. She said she was willing to remove it. Michael Normyle reminded the Board that in the past he Board had required other businesses to replace their lighting with downward facing shielded lights before they opened for business. Erin Hennessy said she was willing to replace the light fixtures on the side of the building if necessary, but was concerned about changing the historically significant lights on the front of the building. Harry Goodell asked if the lights had a frosted globe or chimney over the bulb. Erin said they did. Harry said the globe kept the bulb from being visible and would eliminate glare. Phil Perlah proposed that the applicant work out the issue with Zoning Administrator Michael Normyle. Mark Curran said he would hate to have a house built in 1801 remove its antique light fixtures. Michael Normyle said he felt some pressure to be consistent with all applicants. Erin Hennessy proposed that the front fixtures be kept as is because they will rarely be illuminated. She would replace the fixtures on the side of the house.

**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.

Erin Hennessy said she would not be using the fireplaces because the chimneys have no dampers. She would also not use the cook stove in the kitchen. The wiring is safe. Phil Perlah asked how the house was heated. Erin Hennessy said it was heated with an oil furnace.

**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.

Tanya Kell said the house had ordinary Wi-Fi, but no other sources of electromagnetic disturbance.

**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.

Erin Hennessy said there was an oil tank in the basement and a tank for the gas cook stove on the side of the house. To her knowledge there is nothing buried on the property.

Chair Carla Westine pointed out the Special Criteria in Section 4.8.C.3 which apply to the Village Center district. In this case, there are no alterations to the outside of the building, but in the future, if alterations were made, they would need to comply with these Special Criteria.

There were no further questions from the Board. Randy Miles testified that he felt housing for temporary hospital staff was needed and will be welcome in the community. There were no other comments. Amy O'Neil moved to close the hearing. Phil Perlah seconded the motion. A vote was taken and the motion passed.

#### **Agenda Item 4 Conditional Use Permit Application for Jack's Diner**

Chair Carla Westine polled the Board to see if any member had had any ex parte communication on this matter or any potential conflict of interest. Amy O'Neil said that her sister Naomi Johnson is a principal with Dufresne Group but Amy did not think that would affect her decision to approve the application. Chair Carla Westine asked the applicants if they had any objection to Amy O'Neil sitting on the Board for the hearing. They did not. The following citizens were then sworn in to give testimony: Randy Miles, Robert Parker III, Amanda L.S. George, Lisa Junker, Payne Junker, Chris McNulty and Jeffrey Goldstone.

Michael Normyle began the hearing with an account of the application. He said the application was received on June 6, 2017 with enough information for him to consider it final. Michael Normyle said he had been contacted by a couple of neighbors and had received a letter from Elisa and Payne Junker which he had distributed to the board at the meeting.

The Board then accepted the following documents as exhibits.

- An Application for hearing before the Development Review Board dated June 6, 2017 signed by Amanda L. S. George and Michael Normyle. The Project Number is 507, the Appellant is Jacques Dodier c/o Amanda L. S. George, the location of property is 524 VT Route 103/South Main Street. Amy O'Neil moved to accept the application as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- Town of Chester Notice of Public Hearing dated July 25, 2017 signed by Michael Normyle. The Property owner is Jacques Dodier, the Location is 524 VT Route 103 South, the district is Residential/Commercial and the action requested is expansion of restaurant including a bar, plus adding two 3-BR apartments. Amy O'Neil moved to accept the Notice as Exhibit B. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter from Amanda L. S. George to Michael Normyle and the Development Review Board dated June 6, 2017 discussing the plans to complete the project. Amy O'Neil moved to accept the letter as Exhibit C. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A Project Review Sheet from the Vermont Department of Environmental Conservation and Natural Resources Board dated July 6, 2017 stating that no Act 250 permit is required and that a wastewater system and potable water supply permit or approval is required. The document is signed by Jacqueline Carr, Linda Matteson and Terrence Shearer. Amy O'Neil moved to accept the Project Review Sheet as Exhibit D. Phil Perlah seconded the motion. A vote was taken and the motion passed. It was noted that the Project Review Sheet says the restaurant will have 96 seats, when the Conditional Use application has 78 seats. Amanda George confirmed that the plan was for 78 seats.
- A letter from Police Chief Richard H. Cloud to Michael Normyle dated June 6, 2017 stating that traffic safety and parking will not be issues. Amy O'Neil moved to accept the letter as Exhibit E. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter dated June 6, 2017 from Timothy Knapp of the Dufresne Group Consulting Engineers to John Alexander of the Vermont Agency of Transportation requesting input on traffic safety, security and parking issues for the project. Amy O'Neil moved to accept the letter as Exhibit F. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter dated August 7, 2013 from Timothy Knapp of Dufresne Group to Payne and Elise Junker discussing a meeting on July 24, 2013 between Payne and Elise Junker, Bob Parker and Timothy Knapp regarding storm water drainage in the area. Amy O'Neil moved to accept the letter as Exhibit G. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- An e-mail dated August 7, 2013 from Timothy Knapp to John Alexander discussing a meeting on August 7, 2013 held at the Route 103 Jack's Diner property. Amy O'Neil moved to accept the e-mail as Exhibit H. Phil Perlah seconded the motion. A vote was taken and the motion passed. Phil Perlah asked if the Agency of Transportation was simply refusing to let construction happen in the Route 103 right of way or if it was also

approving the proposed solution to the storm water problem. Amanda George said the AOT was forbidding construction in the right of way, but was not definitively approving the proposed solution.

- An e-mail thread between Amanda George, Michael Normyle, Jacques Dodier and Timothy Knapp dated June 6, 2017 was not accepted as an exhibit. Harry Goodell moved to discard it. Amy O'Neil seconded the motion. A vote was taken and the motion to discard the exhibit passed.
- A document titled Stormwater Narrative Jack's Diner, dated August 18, 2017 which discusses alternatives for storm water runoff and outlines the management strategy selected. It was noted that the narrative was written by Timothy Knapp of Dufresne Group. Amy O'Neil moved to accept the document as Exhibit I. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- Two Proposed Site Plan Maps (Fig. 1 and Fig. 2) from the Dufresne Group for Jack's Diner dated August 18, 2017. Amy O'Neil moved to accept the document as Exhibit J. Phil Perlah seconded the motion. A vote was taken and the motion passed. Mark Curran asked where the right of way for Route 103 was on the map. Amanda George said it was the dashed line at the end of the parking area.
- A letter dated September 24, 2013 from Jeff Holden Water/Sewer Superintendent for the Town of Chester discussing potable water service, sprinkler water supply, and a proposed grease interceptor. Amy O'Neil moved to accept the document as Exhibit K. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter dated June 27, 2017 from Jeff Holden Water/Sewer Superintendent for the Town of Chester discussing potable water service, sprinkler water supply, and a proposed grease interceptor. It varies slightly from Exhibit K in some technical details. Amy O'Neil moved to accept the document as Exhibit L. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- An architectural drawing numbered A201 from Goldstone Architects dated 8/20/17 showing four exterior elevations. Amy O'Neil moved to accept the drawing as Exhibit N. Phil Perlah seconded the motion. A vote was taken and the motion passed. Phil Perlah noted that the second-floor windows in the drawing did not match those he observed at the site visit. He asked if the windows were going to be changed. Jeff Goldstone said that they would be.
- An architectural drawing numbered A101 from Goldstone Architects dated 8/20/17 showing the interior layout of the proposed building. Amy O'Neil moved to accept the drawing as Exhibit N. Phil Perlah seconded the motion. A vote was taken and the motion passed.
- A letter dated August 28, 2017 from Thomas and Lisa Junker to the Development Review Board voicing support and specific concerns about this project. Amy O'Neil moved to accept this letter as Exhibit O. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The application was then evaluated according to Section 4.8.C of the Bylaws, the General Standards.

## 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;

Amanda George said she felt the project would bring business to the community. Chair Carla Westine noted that the Board had received letters from Jeff Holden, the Water/Wastewater Superintendent and Police Chief Richard Cloud saying the project would not adversely affect their facilities. To date, there has been no letter from Fire Chief Matt Wilson. Michael Normyle said Chief Wilson sent an e-mail saying he would inspect the property after the state Fire and Safety Department was finished.

Phil Perlah noted that, in his letter, Jeff Holden didn't say the system had enough capacity to support the project as he did in other recent letters.

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

Amanda George said there were several businesses in the area as well as residences. The proposed project was a mix of residential and commercial and fit well. Carla Westine read the Supplement Standards for The Residential-Commercial District for VT Rout 103 South as follows: *VT Route 103 South*: new buildings and modifications to existing buildings shall extend the historic pattern of higher density, mixed use village development that includes single and multi-family dwellings, civic and mixed use buildings (e.g., residential apartments over commercial storefronts), and new public greens all interconnected via pedestrian paths or sidewalks. The desired character of this area requires a shift from vehicle-oriented development allowed under the former Zoning Bylaws, to a more pedestrian-friendly form of mixed use development. All new driveways and substantially reconstructed existing driveways shall meet the Agency of Transportation's *Access Management Program Guidelines*, as most recently adopted.

Carla Westine said the Vermont Agency of Transportation would determine the ingress and egress for the driveway. She noted that the Town of Chester is applying for grants to extend the sidewalk system to that area. Amanda George pointed out that the design incorporated a porch to connect well to a new sidewalk.

c. Traffic on roads and highways in the vicinity;

Amanda George said that VT Route 103 was already a busy road. She did not think the diner would add much traffic to what was there already. Carla Westine asked about communication with the Vermont Agency of Transportation. Amanda George said that she had spoken to Mark Pickering, a new member of the Agency. The state will now only allow one entrance from a state highway to a commercial property. Mr. Pickering would not offer any specifics about what it may require for this property until an application to the agency for a permit was made. Carla Westine asked that, if a length of the edge of the road needed to be blocked off, that it be done attractively. Amy

O'Neil pointed out that a revision to the access plan could affect the site plan and proposed grading. The DRB would need to review the site plan after adjustments to the access plan were made.

d. Bylaws and ordinances then in effect; and,

Checking section 2.4, Residential Commercial District, Carla Westine noted that conditional uses in the district include Restaurants and Residential – Multi-Family. Permitted uses include Residential Single and Two-Family. The lot size was estimated to be 1.15 acres, or 50,094 square feet. Carla Westine calculated the lot coverage for the two buildings as drawn and concluded that it met the district requirement of 35% maximum lot coverage. She also said it met the front, side and rear setback requirements. Amanda George said the height of the building was 34'11", which was just under the limit of 35 feet. Amy O'Neil said it was so close, it ought to be certified. Randy Miles asked if the height limit included the shingles and ridge vent. Carla Westine said the 35-foot height limit was for the finished building. It was agreed by the board and the applicant that the building height ought to be measured by a surveyor. Michael Normyle read the definition of the building height from the bylaws: The vertical distance of a structure measured from the average elevation of the finished grade surrounding the structure to the highest point of the roof, not including the chimney, cupola and other non-habitable roof appurtenances.

Carla Westine read the building element requirement from the supplemental standards for the Residential- Commercial district as follows: A Building Element is a single building or distinct portion of a larger building conglomerate. No building element may be greater than 5,000 square feet in gross area. Her rough calculation of the proposed building was 4,900 square feet. She asked the architect, Jeff Goldstone to check the size of the building element.

e. Utilization of renewable energy resources.

Amanda George said there were no plans to use renewable resources. They will be using energy saving appliances such as LED lights, low flow toilets and a heat pump in the building.

## 2. Specific Standards

Specific standards will include consideration with respect to:

a. Minimum lot size;

The lot is 1.15 acres which meets the minimum standard of 20,000 square feet.

b. Distance from adjacent or nearby uses;

Amanda George said there was a residence to the north of the property and that house was within several hundred feet of the house on the project property. To the west, behind the property was another residence separated by a fence and tall pines. To the south, across Pineview Drive was the 103 Artisan's Marketplace. Across Vermont Route 103 was One Credit Union, the antique center and the Mountain Man Silversmith. Further north along VT Route 103

were residences.

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

Amanda George said the Zoning Bylaws required 26 spaces for the restaurant seats, 4 spaces for the existing apartments, 4 more for the proposed apartments, 3 spaces for office staff and 6 for the employees for a total of 43. Phil Perlah asked if the 10 seats for the bar was included in any count. The 78 seats for the restaurant included the 10 bar seats. There were some discrepancies between the 11 x 17 version of the site plan and the full-scale drawings. In addition, Michael Normyle pointed out that the full-scale drawings labeled Figure 1 listed 88 restaurant seats needing 30 parking spaces.

Amanda George said the service entrance for deliveries would be on the right side of the building. That area would have access to the basement storage area. The dumpster would be located on the left side of the building at the back of the lot with room for a truck to back up to the dumpster and empty it.

Lisa Junker asked if the parking lot would be paved and Amanda George said it would not. Lisa then asked how the lines for parking spaces would be managed on a gravel surface. Amanda George said that if the Agency of Transportation requires lines in the parking lot, there was a particular type of powder similar to what is used to mark football fields that can also mark gravel.

In response to a question about snow storage from Bob Parker, Amanda George said that snow would be piled on the Mountain View (north) side of the lot.

**d. Landscaping and fencing;**

Amanda George said that grading for storm water drainage will also involve removing some trees. Grass will be planted in their place to help with storm water containment. The only shrubs planned so far are the spruce trees around the dumpster.

Carla Westine read the requirement in Section 2.4, of the bylaws that requires landscaping to separate commercial and residential uses and said that landscaping would be required to protect houses in back of the building from the sweep of headlights. Amy O'Neil said that there were residences on the north side as well which would need protection. She pointed out that, although she observed brush growing along the edge of the property, it wasn't clear who actually owned the land under the brush. If it belonged to a neighboring property and the landowner cleared the brush, the commercial property owner would still be required to erect some type of buffer on his or her land to protect the residential property.

Bob Parker said that the large rocks on the southern edge of the property were his and on his property. He would consider removing them if they were replaced with something else that would keep cars from crossing onto Pineview Drive. Amy O'Neil pointed out that Pineview Drive on the southern boundary was another place where residential and commercial uses met and would require screening.

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

There had been some discussion at the hearing about the service area on the right side in the basement. Carla Westine asked about the proposed porches shown on the elevations in Exhibit M. Jeff Goldstone asked for a clearer definition of a building element. Carla Westine re-read the definition of building element. Jeff Goldstone said that with the additional porches the building exceeded the 5,000-square foot limit. He would look into ways of incorporating those

limits into the design. He said the proposed changes to the original design were to make the building fit the New England architecture standards in the bylaws. Some existing windows will be replaced and others will have applied muntins added. Amy O'Neil asked if the proposed porch was enclosed or open, whether diners will be seated on the porch. Jeff Goldstone said that the porch would have a roof and a railing and would not be enclosed.

Carla Westine asked about egress from the apartments. She saw only one exit for them. Jeff Goldstone explained that the entire building would be sprinklered and the state did not require a second exit if the building was sprinklered.

Bob Parker asked where the handicapped ramp was located. It is on the left side of the front door.

f. Size, location and design of signs;

Carla Westine noted that there is only one small sign depicted in the drawings, over the front door. Amanda George said she was aware that a sign permit is required and will get one from the Zoning Administrator.

g. Performance Standards under Section 4.9 and,

h. Other such factors as these Bylaws may include.

#### 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.

3. Noise shall not exceed 60 dB between 8:00 p.m. and 7 a.m.;

4. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

Amanda George said the restaurant will be open for breakfast, lunch and dinner. It may pick one day a week to be closed. It may be open until 10:00 PM on Friday and Saturday. They do not expect noise other than normal conversation as people enter and leave the building. Carla Westine asked if any entertainment was planned. Amanda George said that none was planned and there was no space to accommodate musicians, particularly not in the bar area. Amy O'Neil asked if there would be dining outside in the evening hours. Amanda George said it was possible and would only take place in the summer. Carla Westine reminded Amanda of the permitted decibel levels of 70 dB in the day and 60 dB at night at the property line. Normal conversation is 60 dB, so diners having conversation would be permitted. Amplified music would not be permitted.

**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.

Amanda said there will be cooking smells, but no smoking of meat would be done on the premises. Carla Westine noted that the state requires venting of kitchens and asked where the vents would be installed. Jeff Goldstone said it was likely a wall vent would be used. The kitchen had not been laid out yet. Jacques Dodier said the vent is likely to be placed on the Mountain View (north) side of the building or on the back. Carla Westine noted the proposed porch may block the view of the vent.

**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.

Amanda George said the lights would be mounted on the sides of the building. Amy O'Neil noted that the A101 drawing showed lights drawn as triangles with a caption that indicated they were wall mounted, downcast LED fixtures.

Bob Parker asked if the lights would be turned off at night or left on 24 hours. Jacques Dodier said the lights would be turned off when the business was closed. Harry Goodell asked if there were lights on the front of the building. Amanda George said there would be lights on the porch and one light for the sign.

Later, Harry Goodell asked about lighting for the parking area. Jeff Goldstone said the parking area will only be lit by the lights mounted on the building. No pole mounted lights are proposed.

**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.

Amanda George said there is a 1000-gallon propane tank with a line running from it under the parking lot to the building. Carla Westine noted that the building will be sprinklered. Jeff Goldstone said the state will require the kitchen to have a separate fire suppression system.

Randy Miles asked how thick the windows are and wanted to know if they could be broken in the event of the fire. He said he had observed the windows in person and believed they were 4 inches thick, essentially bullet proof, and worried that the structure could not support such heavy windows.

Jeff Goldstone, the building's architect said the windows were double paned and that the building will meet the state of Vermont fire safety codes. He said that the state of Vermont does not require sprinklered buildings to have egress windows. He also said that some of the windows in the apartments will be operable because he believes some tenants will want to be able to open the windows. The final decision on the windows has not yet been made.

Amy O'Neil said she found it difficult to follow the drawings and asked that floor levels be added to the exterior elevations.

Carla Westine asked if there was any space at the top of the building above the apartment. Jeff Goldstone said there was a loft area for each apartment, reached by a spiral staircase. Payne Junker asked how the state Fire Safety code deals with carbon monoxide. Jeff Goldstone explained that the state requires carbon monoxide detectors in all sleeping areas. Jeff also said that sprinklers are activated by heat, not by the presence of carbon monoxide. Lisa Junker asked what was on the third floor of the building. Jeff Goldstone said each apartment had a small mezzanine reached by a spiral staircase. By definition it is not a third floor and it is open to the space below. Phil Perlah asked if a bed could be fit in the mezzanine area. Jeff Goldstone said that it could. He said the space was not intended to be a sleeping area and was not advertised as such. He said the fact that a bed could be fit in the space will not have an effect on the Fire Safety review.

**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.

Amanda George said the bar area will have a television and the building would have ordinary WiFi, but she did not think those devices could cause an electromagnetic disturbance.

**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.

Amy O'Neil said the Project Review Sheet had indicated that the applicant should check to see if a storm water permit was needed. Amy asked if the applicant needed a storm water permit. Amanda George said she didn't think a permit was needed. Amy O'Neil asked how much impervious surface the project had. Amanda said it was less than an acre, therefore no storm water permit was needed.

Amanda George explained that goal of the storm water plan was to spread runoff from Mountain View as widely as possible over the pervious surfaces of the lot in order to allow as much storm water as possible to seep into the soil. This would limit the storm water passing to Pineview Drive and the Junker property further south. New plantings could help soak up the storm water. There will be no increase in impervious surfaces. Carla Westine paraphrased Amanda George's statement as follows: You are not increasing the amount of storm water to be dealt with, you are redirecting the storm water that is currently passing over the lot. The effort is to spread the water over a larger area and possibly let it pond until it could seep into the ground. Amanda agreed that that was the plan.

Amy O'Neil discussed the three proposals outlined in the storm water document:

- Pipe the water under the property and discharge it into the storm water system on the Junker property. This proposal was rejected by the Junkers.
- Pipe the storm water directly to the Route 103 storm water culvert. This proposal was rejected by the state.
- Dissipate the water on site and prevent it from leaving the site.

Amy said she was confused by some testimony that said the storm water would be directed to a culvert and more testimony that the culvert on the property may or may not exist and may or may not be blocked. She asked if the goal was to have the storm water dissipate on the site or have it leave the site. Amanda George said the goal was to dissipate as much storm water as possible on the site and not increase the current flow of storm water to the Parker and Junker properties to the south. Amy O'Neil asked if anyone had measured the flow from Mountain View and whether anyone had calculated whether the Dodier site could handle the flow. Amanda George said she didn't know whether Tim Knapp, the Dufresne Group engineer had made those calculations. Amanda George confirmed that Tim Knapp had worked on the design recently, since the initial work in 2013.

Mark Curran asked about a reference in the Junker's letter to algae-infested water. Payne Junker testified that, when Jack's Diner was operating, there actually was smelly, stinky water coming from that property through the Pineview culvert onto the storm water system on his property. He thought the algae in the water was caused by a leaking dumpster on the Jack's Diner property. He hoped the new dumpster site would prevent that problem. Payne Junker said he was concerned that the engineering report he has seen so far seems to be intended to increase the flow of storm water to his property and he did not want that. He would like to see better ponding sites in the back area of the Jack's Diner property to prevent an increase in storm water flow. Lisa Junker said the soil in the area is river silt and it does not absorb water. She did not think digging ditches would slow the movement of the water.

Mark Curran asked if, in any of the engineering designs, a dry well was ever proposed. Amanda George said she had not seen any. He thought that if a storm water permit had been required, a dry well might have been chosen as a solution. Harry Goodell thought a rain pool was another solution. Amy O'Neil felt it would be helpful to hear from the engineer on the design. Both Michael Normyle and Amanda George said Tim Knapp had wanted to attend the meeting, but he had a previous commitment.

Carla Westine said that there had been recent applications that included storm water retention ponds, some of them quite deep. Bob Parker spoke of the history of the area and the problem of the Mountain View storm water flow. He remembered discussing chambers to hold the storm water before Payne Junker bought the Artisan Marketplace property. Bob Parker said he would like to see the drainage proposal staked out on the site with a few elevation stakes.

Carla Westine asked if it was certain that there was a culvert under Pineview Drive. Payne Junker and Bob Parker both said, yes, there is a culvert. Payne Junker said the culvert emptied into the first of two swale ponds he has on his property. He said the drainage system on the property was pretty sophisticated. By the time the water passes through the second pond and arrives at the culvert on VT Route 103, it is moving fairly slowly. He is concerned that, if there is no ponding on the Jack's Diner property, the water will come through the culvert quickly enough to damage his pond area and driveway.

Amy O'Neil asked to have a more detailed and comprehensive plan presented to the Board by the engineer. Harry Goodell asked to review the plan required by the permit issued to Payne Junker for the Artisan Marketplace property. He would like to know how much water the design was intended to accept. Amy O'Neil felt that the engineer should be looking at the Artisan Marketplace permit as well. Payne Junker said he felt that current state of the Jack's Diner lot absorbed quite a bit of runoff. He was concerned that grading the lot would increase the flow to his property.

Carla Westine said that Amanda George should communicate these concerns to the engineer, that the permit for the Artisan Marketplace should be examined and changes to regulations should be checked, since the Artisan Marketplace permit was issued eleven years ago. Phil Perlah asked about the Agency of Transportation requirements for the curb cut. He felt that no plan could be accepted until those requirements were met. It was agreed that the hearing should not continue until the AOT delivers its letter of intent for a curb cut. A recess until September 25, 2017 was suggested.

Carla Westine then directed the Board to consider item 3, Special Criteria under section 4.8, Conditional Use of the Bylaws.

### **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:

- a.** All new construction, exterior alteration, fencing, lighting, reconstruction or renovation of existing buildings shall include features typical of those which define New England Architectural Character represented by the existing historical structures in the "Center of Chester".
- b.** Native historical building materials are to be used which are found in construction representative of "New England Architectural Character" and /or those building products and materials which are indistinguishable to the eye from such materials in appearance.

- c. That all such construction shall take whatever precautions necessary to incorporate, protect and preserve existing historic sites.
- d. **To maintain the scale, support the density and preserve the “New England Architectural Character”** of Center of Chester, 4 of the following 18 features shall be incorporated in the design of any such Application for construction in the Village Center District; 6 of the following 18 features shall be incorporated in the design of any such Application for construction in the Stone Village Districts. and 4 of the following 18 features shall be incorporated in the design of any such Application for construction in the Residential Commercial District (Chester Depot/South Main Street Section only). The DRB shall evaluate the proposed features based on the degree to which they are interpreted by the Applicant/Design professional to support, reinforce and improve the optimal density, community scale and character as here called for. These additional features are to be in addition to the two items listed below in bold, which are mandatory for all applications within these three districts.
1. Multi-level construction to the stated height limit, unless Application is for a secondary or back building which may be one-level.
  2. Parking at rear and/or side of building.
  3. A Gable roof profile located at street façade.
  4. **Gable roof pitches to be no less than 6/12.**
  5. Compound gable roof.
  6. Corner board trim on street side of building on wood clad exterior walls.
  7. **Front or side entry with walkway directly to sidewalk.**
  8. Wood- or timber frame.
  9. Clapboard and/or stone exterior walls.
  10. Shuttered windows.
  11. Bay windows.
  12. Landscaping/foilage at base of exterior walls.
  13. Minimum 5 foot deep side or front porch.
  14. Permanent awnings, overhangs and/or trellises.
  15. All full frame windows shall display a vertical dimension greater than horizontal dimension.
  16. Stone construction – walls or wall foundations.
  17. Solid wood front door. May include “lights” (small windows in standard sized door panels).
  18. Specific, existing geometries, trim, and other features that originated on pre-1935 architectural examples in The Center of Chester

Owner may propose alternate elements that reinforce, comply or echo the style, manner and character of the Center of Chester

A discussion about item 4, gable roof pitches, concluded that the gambrel roof on this project made the gable roof pitch requirement moot. Jeff Goldstone listed the requirements he felt the design met as follows:

- 7. Front or side entry with walkway directly to sidewalk.
- 8. Wood- or timber frame.
- 9. Clapboard and/or stone exterior walls.

- 12. Landscaping/foilage at base of exterior walls.
- 13. Minimum 5 foot deep side or front porch is proposed.
- 15. All full frame windows shall display a vertical dimension greater than horizontal dimension is a goal they are working toward.
- 17. Solid wood front door. May include “lights” (small windows in standard sized door panels).

Amy O’Neil asked about the stone veneer currently on the building and the clapboards that appear to replace it in the architectural drawings. Amanda George and Jeff Goldstone confirmed that the stone wall which rings part of the building and the stone veneer would be removed. The veneer would be replaced with clapboards.

The hearing was recessed to September 25, 2017. The items outstanding are the height and square feet of the building and the drainage plan.

At this point the meeting went into deliberative session.