

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

*October 9, 2017*

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

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

**OTHERS PRESENT:** Amanda George, Joe DiBernardo, Raymond Stearns, Tucker Mulholland, Robert Parker III, Payne Junker, Lisa Junker, Randal Miles, Shawn Cunningham.

**CALL TO ORDER**

The meeting was called to order at 6:00 P.M. by Chair Carla Westine. She introduced the members of the Development Review Board and staff. DRB alternate Mark Curran joined the board for the meeting, taking Don Robinson's unfilled position. The board and audience members recited the Pledge of Allegiance. Carla Westine then read the meeting agenda. She stated that there had been a site visit that afternoon at the Chester Lands LLC property on Lovers Lane Road at 5:00 PM.

**Agenda Item 1 Comments from Citizens**

There were no citizen comments offered.

**Agenda Item 2 Review minutes from the September 25, 2017 meeting**

The Board reviewed the minutes for the September 25, 2017 meeting. Carla Westine requested corrections to pages 12 and 13. Harry Goodell moved to accept the minutes with the corrections Carla requested. Phil Perlah seconded the motion. A vote was taken and the motion passed.

**Agenda Item 3 Continuation of the Mulholland Conditional Use Hearing**

Carla Westine reminded Tucker Mulholland and Raymond Stearns that they were still under oath, having been sworn in at the previous meeting. No other citizens asked to give testimony. Frank Bidwell joined the board for the hearing, taking Amy O'Neil's place. Amy had recused herself due to a conflict of interest.

Four documents were presented as exhibits. The first was a letter from Chester Water/Wastewater Superintendent Jeff Holden dated September 29, 2017, addressed to the Development Review Board stating that the impact of connecting 81 Gold River Rd to the water and waste water systems would be minimal and he had no objection to the usage. Phil Perlah moved to accept this letter as Exhibit H. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The second document was four stapled pages of information about an electric welder and a grinder that Tucker Mulholland plans to use in his shop. Decibel levels for specific pieces of equipment were highlighted. A Big Blue 350X Pipe Pro was rated at 95 dB. A Perkins 404D-22 was rated at 98.1 dB. The last page had a list of grinders and their loaded test noise levels. Tucker Mulholland said he took the highest decibel level for his calculations. Harry Goodell moved to accept these pages as Exhibit I. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The third document was an updated site plan. The corrections requested at the previous meeting, exterior lights on the building, the swale required by the Act 250 permit, and the removal of a fence on the drawing that no longer existed, were all present. The plan has an update date of 10/2/17. Phil Perlah moved to accept the site plan as Exhibit J. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The final exhibit was a letter on Mulholland Welding and Fabrication letterhead and 5 photographs detailing the sound testing done at the site. Calculations of the loss of decibels at 35, 50 and 65 feet from the source were included. The photographs documented sound meter readings taken while equipment was running at the three distances. Tucker Mulholland said he forgot to date the letter, though the calculation pages have a date. He said the letter should have been dated 10/3/2017. Harry Goodell moved to accept the letter and photos as Exhibit K. Phil Perlah seconded the motion. A vote was taken and the motion passed.

Carla Westine asked the Board members if they had any more questions for Tucker Mulholland. They did not. Carla asked the citizens present if they had any questions. They did not. She then proposed that the hearing be closed. Harry Goodell moved to close the hearing. Phil Perlah seconded the motion. A vote was taken and the motion passed. The hearing was closed.

#### **Agenda Item 4, Chester Lands LLC Sub-Division (#510)**

Joe DiBernardo was sworn in to give testimony. Three documents were presented as evidence.

The first document was a Notice of Public hearing on Town of Chester letterhead dated September 12, 2017. The purpose of the hearing is a Preliminary Plat Review. The property owner is Chester Land LLC. The applicants are Chester Land LLC and Joe DiBernardo. The location is Lovers Lane Road and the action requested is sub-divide the existing 129.48-acre parcel into two smaller ones. Lot 1 will be 46.76 acres and Lot 2 will be 82.72 acres. The notice is signed by Michael Normyle Zoning Administrator. Harry Goodell move to accept the Notice as Exhibit A. Frank Bidwell seconded the motion. A vote was taken and the motion passed.

The second document presented was a Town of Chester Application for a sub-division. The applicant's name was Chester Land LLC. The parcel map number is 6-01-35. It is dated August 21, 2017 and signed by Zoning Administrator Michael Normyle and Michael Tomasso. Harry Goodell moved to accept the application as Exhibit B. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The third document presented was the Site Map titled Chester Lands LLC dated July 14, 2017. Phil Perlah moved to accept the map as Exhibit C. Frank Bidwell seconded the motion. A vote was taken and the motion passed.

Joe DiBernardo described the history of the project. The owners want to keep a part of the current lot for their own purposes. This parcel is called Lot 1 and it currently has a house and

two barns on it. A state permit is being sought because the house will be less than 500 feet from the new property line, given this proposed sub-division. Lot 2 will be purchased by the New England Forestry Foundation, which intends to purchase 2,000 acres and seeks to add the acreage in Lot 2 to the larger parcel. The owners of the parcel to be sub-divided wish to keep the land with the house and barns on it for their own use.

Carla Westine then turned to Section 4.12.F, Required Submissions, of the Chester Unified Development Bylaws and the Board evaluated the Preliminary Plat.

## **F. Required Submissions**

**1. Preliminary Plat.** The Preliminary Subdivision Plat shall consist of a pdf copy as well as seven (7) copies of one or more maps or drawings which may be printed or reproduced on paper with all dimensions shown in feet or decimals of a foot, drawn to a scale or not more than one hundred (100) feet or more to the inch, showing or accompanied by information on the following points unless waived by the Development Review Board:

**a.** Proposed subdivision name or identifying title and the name of the Town.

The name of the Site Map is Chester Lands LLC and the town specified is Chester. This information is found in the title block in the lower right-hand corner.

**b.** Name and address of record owner, sub-divider, and designer of Preliminary Plat.

These were all located on the Plat in the title block.

**c.** Number of acres within the proposed subdivision, location of property lines, existing easements, buildings, water courses, and other essential existing physical features.

The property lines all appeared to be present. Joe DiBernardo said there were no existing easements, and only one proposed easement. He said the total acreage was in Note 7, but it needs to be revised from 129.49 to 129.48. Joe DiBernardo testified that there were no major water courses, only, perhaps, some intermittent streams due to the topography. Carla Westine noted that there were stone walls and tree lines marked on the Plat.

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

Carla Westine listed the names shown on the Plat. She asked Recording Secretary Cathy Hasbrouck if Zoning Administrator Michael Normyle had had any feedback from any of the adjoining landowners. Cathy Hasbrouck said the Michael Normyle had heard from Kathleen Schoendorf that afternoon. When Michael Normyle returned to the room, he brought copies of an e-mail he had received from her. Carla read the e-mail to the Board. Ms. Schoendorf was concerned about the proposed use of the NEFF acreage. Her concerns included access to the NEFF acreage near her home on Lovers Lane Road, the condition of Lovers Lane Road in wet weather, its ability to handle additional traffic and parking. She was also concerned about trespassing and loss of privacy. Carla Westine concluded from this information that Ms. Schoendorf was concerned about the use of the NEFF property and not this sub-division.

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

Note 5 shows the property is in the R120 zone and gives the requirements for setbacks and lot coverage in that zoning district,

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

Joe DiBernardo said there was a 24-inch culvert on Lovers Lane Road. Harry Goodell pointed out a culvert on the easement for Lot 1 road access across Lot 2. Joe DiBernardo noted a second culvert across the access road. Carla Westine asked to have those labeled. Harry Goodell said the sizes would be needed as well. Carla Westine asked about drains. He said there were no swales or drains present and none were planned.

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

Carla Westine said it didn't look like there were any new roads proposed, it looked like only existing road would be used. Joe DiBernardo confirmed that was correct.

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

Several Board members confirmed that the contour lines were at 5-foot intervals.

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

Mark Curran confirmed these were present.

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

These items were located in the Notes, Reference Plans and Reference Deeds.

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

Carla located the presence of the well on Lot 1 beside the barn. Joe DiBernardo said Lot 2 will be a vacant lot and will not have a well or wastewater system.

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

Joe DiBernardo said he wasn't sure where the existing septic system on Lot 1 was. He noted the two test pits for the proposed replacement system by the utility pole on Lot 1. He said the building was an old farmhouse and, short of using a camera, locating the existing system would be very difficult. Carla asked about a state permit for Lot 1. Joe DiBernardo said a permit would be necessary because the house would be less than 500 feet from the new boundary. The permit would include a wastewater permit for lot 1.

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

Joe DiBernardo said nothing was changing as far as drainage was concerned. Harry Goodell moved to waive the requirement for a drainage plan. Mark Curran seconded the motion. A vote was taken and the motion to waive the drainage plan passed.

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

Joe DiBernardo said no new bridges or culverts were proposed.

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

Carla Westine noted measurements on all boundaries. She confirmed with Joe DiBernardo that pins had been set. She noted that the old farmhouse was located on the Plat and that Lot 2 would be left vacant to be part of a larger land holding.

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

Carla recalled that ribbons marked the site of pins at the site visit. Mark Curran pointed out the notation on the map of 320 feet to Wheeler Road, the nearest road intersection.

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

Carla asked Joe DiBernardo if, at this point, any lands were going to be dedicated to public use. He said there were no plans to dedicate any lands to public use.

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

Joe DiBernardo confirmed that at this point no roads were planned for the property.

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

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

Carla noted the vicinity map in the upper right corner of the map.

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

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

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

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

\_\_\_\_\_

Carla Westine noted the presence of the endorsement block.

Carla Westine then concluded that the Preliminary Plat was complete except for the Wastewater Permit for Lot 1 and the labeling of culverts with their size. No members of the Board had any further questions. Harry Goodell moved to close the hearing. Mark Curran seconded the motion. A vote was taken and the motion passed.

### **Agenda Item 5 Reconvene Conditional Use Review #507 Jacques Dodier**

Chair Carla Westine reminded the citizens present who had been sworn in during an earlier portion of this hearing that they were still under oath. Amy O’Neil rejoined the board for this hearing.

She asked Amanda George if any word had been received from the Agency of Transportation about the entry to the property from Route 103. Amanda George said she has not received anything official from the Agency of Transportation. The application has been accepted and the application fee has been accepted. The man in charge of the project at the Agency of Transportation has had surgery on his foot and has not been in the office very often. He did send engineer Tim Knapp an e-mail which said the application looked good, that there may be some small changes and that the AOT may require paving the apron of the driveway. Tim Knapp said, based on the e-mail, he will have to make some changes to the site plan.

Carla Westine asked Amanda George if she was, therefore, looking for a continuation for the hearing. Amanda George said she was, and thought she would have something for the October 23, 2017 meeting. Michael Normyle said he felt there would be time on October 23rd, to reconvene the hearing.

Payne Junker asked what the Board had determined about the drainage situation. Carla Westine said that the engineer had testified that the changes to the building do not change the amount of water leaving the site and that the drainage plan will sheet the water across to the Parker property.

Payne Junker said he didn’t believe the engineer’s report and that there will be an increase to water flow through the culvert once excavation to create the new parking spaces was complete. Carla Westine explained that the Zoning Administrator had found the permits issued in 1990 for the sub-division of the Parker property and in 2004 the conditional use on the Junker property. A culvert is shown on the drainage plan for the Parker property. The culvert was only on the Parker property, it didn’t extend to the now-Dodier property. The culvert directed the water to the current Junker property. The conditional use permit issued in 2004 had a drainage plan drawn by Payne Junker showing swales and retention areas to handle the water coming through the aforementioned culvert on the Parker property. Payne Junker acknowledged that water does flow through the culvert. Carla Westine said the culvert is not on the Dodier property and the

task of maintaining the culvert does not fall to Jacques Dodier.

Carla Westine said that currently the Dodier property is receiving storm runoff from the Mountain View area. The amount of water has not changed. The engineer has testified that the proposed changes to the Dodier property do change the amount of water leaving the property to the south. Amy O'Neil pointed out that when the engineer developed the drainage plan for the Dodier property, he did not have clear information about the capabilities of the Parker or Junker drainage plans. He could not determine how much water they could handle. He therefore did not plan to alter the current flow of water from the property by directing it to a culvert Jacques Dodier does not own and cannot maintain. The engineer felt that letting the water sheet onto the neighboring properties was the best course of action to take.

Payne Junker asked if there were any plans for a holding area for water on the Dodier property. Carla Westine replied that the engineer had reported the soils on the property are not good for drainage and any water held would become stagnant. Carla Westine said that, during the portion of the hearing on September 25, 2017, the Board had asked the engineer if re-engineering the former swale and culvert on the Dodier property would help the drainage plan. The engineer stated that, without engineering information about those structures and the drainage plans for the properties below the Dodier property, he was reluctant to discharge water in that manner.

Payne Junker said he favored letting the water sheet instead of concentrating the flow. Carla Westine said Jacques Dodier had presented a drainage plan to the Board from an engineer who testified that the proposed changes to the Dodier property would not change the amount of water being currently being shed by the property. In creating the plan, the engineer used the same standards he would have used for a storm water permit in designing the drainage plan. Payne Junker said, that if that was the case he had no objections to the permit.

Robert Parker said that the water will be flowing across the property whether a restaurant opens or not. He had hoped that a retention pond or chamber would help the drainage, but he understood that they would only create stagnant water which is not wanted.

Amy O'Neil said that the Parker and Junker properties had drainage plans in place, and that they only could make changes to the drainage structures on their property. The property owners could choose to collaborate on handling the drainage issues.

Randy Miles said he could not believe that the larger building on the Dodier lot did not increase the amount of water shed off the property because the open ground available to absorb the water will be reduced. He also said filling in the existing swale to make more parking would affect the water flow. Aside from the drainage issues, he wanted conditions put in place to hold the applicant responsible for completion of the project. Carla Westine answered the first of Randy's questions, saying the Board had questioned the engineer specifically about the increased size of the building and whether that would increase the flow of water. The engineer had testified that the flow would not increase.

To address Randy Miles' second point, completion of the project, she read a portion of section 4.2 of the Chester Unified Development Bylaws, Substantial Completion:

All development authorized by a zoning permit shall be substantially completed with 2 years from the date of issuance of the permit or the zoning permit shall become null and void. If a permit expires, the applicant shall begin the application and approval process anew.

She also noted that Section 3.6 of the Bylaws, Damaged, Unfinished and Abandoned Structures would apply if the project goes unfinished.

Carla said this issue of an abandoned or unfinished structure was addressed by the Zoning Administrator and if the issue could not be resolved it would go to the Environmental Court. Michael Normyle said that another potential resolution for the problem was to use section 4.7 of the bylaws and require the applicant to post a bond.

Payne Junker said he would prefer to see the exterior completed and a roof put on before any more work is done. Randy Miles voiced concern about the second and third floor apartments not having a second exit. Earlier in the hearing, the single exit had been justified by the presence of a sprinkler system. Randy Miles said he looked at International Building codes. Those codes required a second mode of egress, regardless of whether the building had sprinklers. Carla Westine replied that the Board deferred those decisions to the Chester Fire Chief who has, in the past imposed conditions on a permit. Harry Goodell said the building will also be inspected by the state Fire Marshall. The building will have to have a permit from the Vermont Department of Public Safety, Division of Fire Safety. Randy could find the rules governing fire safety there. Randy also asked about the building's structural integrity. Was that also something examined by the State of Vermont? Carla Westine said it was.

Harry Goodell moved to recess the hearing until October 23, 2017. Amy O'Neil seconded the motion. A vote was taken and the motion passed.

### **Agenda Item 6 Deliberation on Previous Matters**

The meeting went into deliberative session and was closed at the end of it.