

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD
MINUTES

July 23, 2018

BOARD MEMBERS PRESENT: Carla Westine, Gary Cogger, Harry Goodell and Phil Perlah.

STAFF PRESENT: Cathy Hasbrouck, Recording Secretary.

OTHERS PRESENT: Scott and Leslie Blair

Call to Order

The meeting was called to order at 6:00 PM by Chair Carla Westine. She introduced the members of the Board and staff. She noted that a site visit had taken place at 5:25 PM at 94 The Common. She then read the meeting's agenda. Everyone joined in reciting the Pledge of Allegiance.

Agenda Item 1 Review draft minutes from July 9, 2018 meeting

No changes were proposed to the minutes. Gary Cogger moved to accept the minutes as written. Harry Goodell seconded the motion. A vote was taken and the motion passed.

Agenda Item 2 Citizen Comments

The Board had reason to expect a citizen to attend and discuss an existing permit. That citizen had not arrived. Thinking that the citizen expected a 7:00 PM meeting start time, Chair Carla Westine decided to table the agenda item until after 7:00 PM.

Agenda Item 3 Conditional Use application 526 by Scott and Leslie Blair

Chair Carla Westine asked the Board members if they had any potential conflict of interest to report or if they had had any ex-parte communication on this matter. None of the other Board members did. Carla Westine explained that she had received an e-mail on the day of the hearing from Tory Spater. Ms. Spater represents the Thomas C. Spater Trust, which owns the parcel to the southeast of the project property. She had sent an e-mail to Zoning Administrator Michael Normyle telling him she could not attend the hearing but had some concerns she would like addressed and wanted to be registered as an interested party in the matter. When she called to be sure Michael Normyle had received the e-mail, she discovered he was away, so she sent a copy of the e-mail to Carla Westine. Phil Perlah said that, for the record, he did not consider the e-mail a disqualifying ex-parte communication.

The Board then considered the documents presented in evidence. The first document was an application for a hearing before the Development Review Board. Carla Westine read several items from the application aloud. The appeal number is 526, the appellant names are Scott and Leslie Blair, the appellant address is Cavendish Road, the landowner name is Paul and Tisha Chevalier, the location of the property is 94 Common Street, and the description of the project is, "We will be turning the retail space into a coffee shop and ice cream parlor with small baked goods, i.e. muffins, brownies, etc. and seating. Acoustical entertainment at a later date is also a possibility." The application is signed by Leslie Blair and Michael Normyle.

Chair Carla Westine noted that the sentence about acoustical entertainment on the application was written in a different hand. It appeared to be Michael Normyle's writing. She asked the applicants if they approved that change to the application. Scott and Leslie Blair said they did. Phil Perlah said that he had heard the applicants state at the site visit that they would be serving breakfast sandwiches and asked if that should be considered an amendment to the application as well. Chair Carla Westine said it could be an amendment. She pointed out that the permit would be for a restaurant, and that the restaurant conditional use would cover all manner of food. Phil Perlah said he didn't want the application to limit what the applicants can serve. Harry Goodell moved to accept the application as Exhibit A. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The second document presented was a Notice of Public Hearing before the Development Review Board dated June 26, 2018. Carla Westine read several items from the notice aloud. The site visit was scheduled for 5:25 PM on July 23, 2018 and the hearing at 6:00 PM. The property owners are Paul and Tisha Chevalier, the applicant is Scott and Leslie Blair, the location is 94 Common Street. The District is the Village Center. The action requested is, "Renovating the old retail space into a coffee shop with baked goods and ice cream parlor with residential spaces on the second and third floors. Acoustical entertainment at a later date is also a possibility." The notice is signed by Michael Normyle. Phil Perlah moved to accept the notice as Exhibit B. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The third document presented was a narrative about the project. Leslie Blair read the document aloud. The narrative said the hours of operation would be 6:00 AM to 8:00 PM seven days a week. There would be seating for 30-40 customers. The second floor of the building had a 2-bedroom apartment where the Blairs would be living. The third floor had a studio apartment which is currently leased. Harry Goodell moved to accept the narrative as Exhibit C. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fourth document presented was a letter from Jeff Holden, Water/Sewer Superintendent for the Town of Chester addressed to the Development Review Board and dated July 18, 2018. Carla Westine read the letter aloud. Jeff Holden said in the letter that a grease trap system must be in working order, sized and inspected by a licensed plumber before the business could open. He had no objections to the project and welcomed the applicant's occupancy of the building. Harry Goodell moved to accept the letter as Exhibit D. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fifth document presented was a site plan prepared on 7/17/18. The drawing showed the building with an alleyway on one side and a 25-foot driveway on the other. A small shed is shown behind the building. Harry Goodell moved to accept the drawing as Exhibit E. Phil Perlah seconded the motion. A vote was taken and the motion passed.

The sixth document presented was a Project Review Sheet from the State of Vermont. Carla Westine read several pieces of information from the sheet aloud, including the Project name as Blair – The Southern Pie, new location for coffee shop/ice cream parlor, the project description, "Reopen commercial space on first floor as a coffee shop/ice cream parlor. Currently vacant,

last use was retail space for Mountain Leather (prior to 2007 until recently), and it was a restaurant before Mountain Leather. Second floor will continue to be a 2-bedroom residence, for the owners, and the third floor is studio apartment. Both residences in use during and since 2007. Will be putting in a 3-bay sink. Seating for 26 – 50 guests. No construction besides plumbing and painting. On municipal water and sewer.” The sheet indicates that an Act 250 permit is not required, that the property is less than 10 acres and has municipal water and sewer service. Phil Perlah moved to accept the Project Review sheet as Exhibit F. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The seventh document presented was a letter on Town of Chester Police Department stationery dated July 17, 2018, from Chester Police Chief Richard Cloud to Zoning Administrator Michael Normyle. Carla Westine read the letter aloud. Chief Cloud said that, in his opinion, traffic safety and/or parking would not be affected by the project. Gary Coger moved to accept the letter as Exhibit G. Harry Goodell seconded the motion. A vote was taken and the letter was accepted.

The eighth document presented was a letter on Town of Chester Fire Department stationery dated July 23, 2018, from Chester Fire Chief Matthew Wilson to the applicants, Scott and Leslie Blair. Carla Westine read the letter aloud. Chief Wilson stated that he saw little impact to the Chester Fire Department from the project. He reminded the applicants that they must be inspected by the State Fire Marshall’s office before opening for business, and he requested that he be given a walk-through of the premises to plan a response prior to the opening as well. Harry Goodell moved to accept the letter as Exhibit H. Gary Coger seconded the motion. A vote was taken and the letter was accepted.

The last document presented was an e-mail addressed to Zoning Administrator Michael Normyle from Tory Spater, who represents the Thomas C. Spater Trust, an abutting property. Carla Westine read the e-mail aloud. In the e-mail, Ms. Spater voiced her support for the project, noted that the driveway between the two buildings is a right of way for her property, asked about the building toward the back of the property which she felt was unsightly, and stated that she had tenants in her building whom she didn’t want disturbed by the acoustical music. Phil Perlah moved to accept the e-mail as Exhibit I. Harry Goodell seconded the motion. A vote was taken and the e-mail was accepted.

Carla Westine then swore in Scott and Leslie Blair to give testimony. The Blairs declined to expand further on their narrative so Chair Carla Westine began the formal evaluation of the application beginning with Section 4.8, General Standards.

Section 4.8 of the Chester Unified Development Bylaws.

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;

Leslie Blair stated that the building was on municipal water and sewer and she didn't think the project would impact town services. Carla Westine noted that letters have been received from the Fire and Police Chiefs and the Water/Sewer Department stating this project would not have an adverse effect on Town facilities.

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

Carla Westine read the purpose of the Village Center from the bylaws, "To provide a mix of commercial, residential and civic uses that are consistent with the traditional compact Village Center as described in *the Chester Town Plan*. Development in this District shall be of the highest density in the Town, preserve historic character, and provide a pedestrian-friendly streetscape that accommodates public transportation." Leslie Blair said that there were other businesses on the green providing restaurants and shopping. She hoped the shop would attract families and groups of people who would linger on the green and in the shop to enjoy each other's company. Carla Westine added that there are two residences above the shop which makes the building mixed-use, a stated purpose of the Village Center district.

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

Leslie Blair said her expectation is that traffic already passing will stop at the shop. Scott Blair said he hoped the shop would bring more foot and vehicle traffic to that end of the green. Neither Scott nor Leslie expected a noticeable increase in traffic on the surrounding roads. Carla Westine added that the Chester Chief of Police concurred that the project will not have a negative effect on traffic.

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

Carla Westine noted that the lot and the building are pre-existing. She asked Leslie and Scott Blair if they were making any changes to the building's exterior footprint. They said they were not. Scott Blair said they would only be painting the outside of the building.

- e. Utilization of renewable energy resources.

Leslie Blair said the building is an old building and the current owners, the Chevaliers, have maintained it well. She said she hoped in the future to find ways to make it more energy efficient. Phil Perlah asked why the question is part of the General Standards because applicants rarely, if ever, have plans to add renewable energy resources. Carla Westine said the Town Plan is trying to encourage clean or renewable energy sources.

2. Specific Standards

Specific standards will include consideration with respect to:

- a. Minimum lot size;

Carla Westine noted that the lot is an existing lot and building's footprint is not being changed.

b. Distance from adjacent or nearby uses;

Leslie Blair said that the Free Range restaurant is beside them across the alley. On the other side of the building, across the right of way is the Vintage Vermont shop and Eclipz, a beauty salon. Scott Blair said the distance from the building to the property boundary at the back is 30 feet. There are residences on the property that abuts the back of the lot. Carla Westine said the exhibit from Tory Spater said there were residences above the Vintage Vermont shop. Phil Perlah noted there is a residence above the Free Range restaurant.

c. Minimum off-street parking and loading facilities;

Carla Westine began by saying that it is difficult to pinpoint parking in the village green area because there is parking along the green, along Main Street and side streets, and behind some of the buildings, that is shared by all. She counted three spaces on the lot according to the site plan. She said the Chester bylaws require two parking spaces for each residence. This property would require four spaces for the two apartments.

Carla said it was her understanding that the buildings along the green all own the green acreage and parking together. Scott Blair said that was correct. She asked the Blairs whether the count of 30-40 seats for the restaurant given in the project narrative was accurate or if the count of 26-50 seats shown on the Project Review Sheet was correct. Scott Blair explained that the 26-50 count on the Project Review Sheet reflected a category in the state regulations and that the 30-40 count was accurate. Carla Westine said the Chester bylaws require one parking space for every three restaurant seats, making the number of spaces needed for the ice cream shop 10 - 13. Given that the properties on the green share parking, that there is overflow space on the surrounding streets, and that the bylaws accommodate the mix of uses in the Village Center she felt the parking available was adequate.

Phil Perlah said he could see that if the restaurant was filled to capacity there could be some difficulty with parking. The previous business, Mountain Leather seldom had more than 3 cars parked outside it. He said he has parked in that area in the evening and found few spaces available. He agreed with Carla's conclusion that the application could take advantage of the town-wide parking in that area.

Harry Goodell pointed out that there is parking across Main Street by the cemetery. Phil agreed and said there was also parking on Cobleigh Street. Gary Cogger and Harry Goodell said there was some parking on School Street. Carla Westine said it was possible some patrons would arrive on foot. Leslie Blair said that she has seen people park in front of the pie shop on the northwest end of the green and walk southeast along the green. Phil Perlah said he agreed that there were many spaces available, but parking was something he ultimately had some concern about.

d. Landscaping and fencing;

Scott Blair said he planned to put in a gated white picket fence to separate the back of the property, which would be part of their private living space from the driveway. He

said there would be gates to allow cars to drive through on the right of way and to allow for snow plowing.

Carla Westine asked if there was any landscaping along the boundary with Tory Spater. Scott said there was none because the building abutted the property boundary.

Harry Goodell asked if it was possible for cars to drive down the driveway on the southeast side of the building, continue behind the building and enter the driveway on the far side of the Free Range building. Scott said there was room for a car to pass and there is a right of way to allow traffic to flow in a horseshoe around the buildings.

e. Design and location of structures and service area;

Carla Westine said Blairs have testified that they will be dressing up the small building in the back to be a chicken coop. At the site visit the Blairs mentioned adding railing to the front deck of the building to define 2 bistro table areas.

Carla Westine asked about the dumpster. Scott Blair said the dumpster is located near the Country on the Common building on the far side of the Free Range building and that all the businesses in that corner of the common shared it.

f. Size, location and design of signs;

Scott Blair said they are still working on the design of the sign and that he is aware of the bylaws regarding signs.

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.

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.

Scott Blair said that noise would come from kitchen equipment running in the back of the building. He said the first floor did not have any windows that opened to the outside so noise would not be escaping. He said there would be people talking to each other and soft music coming from wireless speakers. He said live acoustical music was a project for the future. He

knew he would need permission from the Selectboard for live music. Carla Westine read aloud items 1 and 2 of Article 4.9.A above. Scott Blair said the shop would be closed by 8:00 PM.

Phil Perlah said he thought that if the board approved the application it would also be approving acoustical music, since it is mentioned in the application. He said there is no testimony on the issue, apart from the mention of a guitarist. He felt the Board should keep in mind that it was approving acoustical music, subject to whatever other regulations there may be, aside from the UDB's. Carla Westine said the Board could condition the permit to say the noise may not exceed 70 dB during the day and 60 dB at night. That would give neighbors the right to measure the noise and lodge a complaint if they felt it was too loud. Harry Goodell asked about the air conditioner. Scott Blair said there was one air conditioner present now, built into the side wall. Harry asked if they will be adding any more. Scott said they would not.

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.

Scott Blair said the cooking range would be ventless and would have a convection oven. He did not expect to produce air pollution.

C. Glare, Light or Reflection: illumination from lighting fixtures or other light sources shall be shielded or of such low intensity as not to cause undue glare, reflected glare, sky glow or a nuisance to traffic or abutting properties. Lights used to illuminate parking areas and drives shall be so arranged and designed as to deflect light downward and away from adjacent residential areas and public highways. Lights shall be of a "down shield luminaire" type where the light source is not visible from any public highway or from adjacent properties. Only fixtures which are shielded to not expose a light source, and which do not allow light to "flood" the property, are permitted to be attached to buildings. Searchlights are not permitted. The Development Review Board may require a lighting plan under conditional use or planned unit development review procedures.

Carla Westine said she noted one exterior light above the door to the apartment at the site visit, which had a white globe around the light bulb. She said Scott Blair pointed out a junction box, also at the site visit, where a light was formerly above the exterior sign, and that he had plans to put a light over the sign. Scott Blair confirmed that he knew the light would need to be downward facing and shielded.

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.

Scott Blair said he did not anticipate any safety hazards. Carla Westine stated that Fire Chief Matt Wilson had requested a walk-through of the property before the business was opened. She reminded Scott Blair that a final inspection by the state Fire and Safety Department would be needed.

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.

Scott Blair said he did not expect to generate any electromagnetic disturbances.

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.

Scott Blair said there were no underground tanks. Harry Goodell asked how the building was heated. Scott Blair said it was oil heat with a tank in the basement. He also said the cookstove was electric.

3. Special Criteria

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

Carla Westine asked Scott Blair if he planned to paint the building and he said that he did. She noted that he also planned to add a light over the sign.

Carla Westine read this portion of the special criteria bylaw aloud:

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.

Carla said she realized that no changes beyond a railing around the small decks in front of the building were proposed, but she wanted the Blairs to keep the list of special criteria in mind if they decided to do more extensive renovations in the future. This concluded the evaluation of the application under the bylaws.

No one on the Board or in the Audience had any further questions or comments for the applicants. Harry Goodell moved to close the hearing. Phil Perlah seconded the motion. A vote was taken and the hearing was closed.

Agenda Item 4 Conditional Use Application #527 by Christen Clapp (which has been withdrawn by applicant)

Chair Carla Westine stated that the applicant had withdrawn the application.

Agenda Item 5 confirm the next meeting date(s)

The Board decided that it would meet on August 13, 2018 for a deliberative session to consider previous matters.

It was still before 7:00 PM and no citizens had appeared to give citizen comments, so the Board decided to go into deliberative session for other matters and re-open the meeting after 7:00 PM.

Agenda Item 6 Deliberative session to review previous matters.

The Board went into deliberative session. At the end of the session the meeting resumed.

Agenda Item 2 Citizen Comments

At this point, it being after 7:00 PM, Carla Westine opened the meeting to citizen comments. There being no citizens present, there were no comments. Phil Perlah moved to adjourn the meeting. Harry Goodell seconded the motion. A vote was taken and the meeting was adjourned.