

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

*September 10, 2018*

**BOARD MEMBERS PRESENT:** Carla Westine, Gary Coger, Mark Curran and Larry Semones.

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

**CITIZENS PRESENT:** William Smith. Rene Melanson.

**CALL TO ORDER**

Chair Carla Westine called the meeting to order at 6:00 PM. She read the meeting's agenda aloud and noted that a site visit had taken place at 4:45 PM that evening at 3668 VT Route 103 North. She then introduced the Development Review Board members and staff. Everyone joined in reciting the pledge of allegiance.

**Agenda Item 1 Review draft minutes from August 27, 2018 meeting**

Carla Westine asked about a passage on page 5 that discussed the state's right of way along Route 103. The minutes said the state right of way was between lots 3 and 4. Recording Secretary Cathy Hasbrouck agreed to double check the words spoken on the tape. She also agreed the minutes could be amended to simply state that the state had a right of way along Route 103. Gary Coger moved to accept the minutes with that correction. Mark Curran seconded the motion. A vote was taken and the motion passed.

**Agenda Item 2 Citizen Comments.**

There were no citizen comments. The only citizens present were attending the hearing.

**Agenda Item 3 Conditional Use application #530 by William Smith**

Bill Smith and Rene Melanson were sworn in to give testimony at the hearing. The following documents were then examined.

The first document was a Town of Chester Application for a hearing before the Development Review Board. Carla Westine read parts of the application aloud. The Appeal number is 530, the date is July 10, 2018, the appellant name is William A. Smith. Carla Westine noted that the appellant address and the location of the property were switched on the application. She verified with Bill Smith that the landowner, entered as Shibley on the application, had changed to William A. Smith since the application had been filed. She also verified that Michael Normyle had re-written the description of the project to clarify what was originally written on the application. The description of the project was, "owner-occupied residence and mixed use to go with lobster pound take-outs and retail/antiques." Gary Coger moved to accept the application as Exhibit A. Mark Curran seconded the motion. A vote was taken and the motion passed.

The second document presented was a Town of Chester Notice of Public Hearing Before the Development Review Board dated August 14, 2018. Carla Westine read parts of the notice aloud. The notice stated that a site visit will be held at 4:45 PM on September 10, 2018. The Property owner was Bill Smith, the Applicant was Bill Smith, the location was 3668 VT Route 103 North, the District was Residential Commercial and the Action Requested was Owner occupied residence and mixed uses to go with Lobster Pound Take-Out and retail antiques. The notice was signed by Michael Normyle. Gary Cogger moved to accept the notice as Exhibit B. Mark Curran seconded the motion. A vote was taken and the motion passed.

The third exhibit presented was a narrative written by Bill Smith describing the proposed business. Carla Westine read the narrative aloud. The narrative states that the property has its own well and septic system, that there is parking for 18 vehicles, that the hours of operation will be from 10:00 AM to 8:30 PM and that trash will be held in a 2-yard dumpster. Gary Cogger moved to accept the narrative as Exhibit C. Mark Curran seconded the motion. A vote was taken and the motion passed.

The fourth document presented was a letter on Town of Chester Police Department stationery dated August 21, 2018, addressed to Michael Normyle, Zoning Administrator and signed by Richard Cloud, Chief of Police. Carla Westine read the letter aloud. Richard Cloud stated that traffic safety and parking would not be a problem for this project. Gary Cogger moved to accept the letter as Exhibit D. Mark Curran seconded the motion. A vote was taken and the motion passed.

The fifth exhibit presented was a letter on Town of Chester Fire Department stationery dated August 21, 2018, addressed to Bill Smith and signed by Matthew S. Wilson, Fire Chief. Carla Westine read the letter aloud. Matthew Wilson stated that he saw little impact of this project on the Fire Department and requested a walk-through of the business before it opened so he or someone in his department could plan a response in case of fire. Gary Cogger moved to accept the document as Exhibit E. Mark Curran seconded the motion. A vote was taken and the motion passed.

The site plan dated 8/14/18 submitted as an exhibit was supplemented by a revised drawing dated 9/10/18. The updated site plan shows the location of two existing buildings, a house and barn, two proposed buildings, a lobster pound and shed, the driveway, parking area and a dumpster. Gary Cogger moved to disregard the plan dated 8/14/18 and accept the plan dated 9/10/18 as Exhibit F. Mark Curran seconded the motion. A vote was taken and the motion passed.

Carla Westine reviewed the purpose and uses of the Residential-Commercial zoning district, Section 2.4 of the Chester Unified Development Bylaws. She read the purpose at the beginning of the section aloud as "To provide a mix of higher-density residential and commercial uses in an area that is centrally located within municipal water and sewer service areas." Carla Westine noted that this part of the district is not served by municipal water or sewer.

Carla Westine discussed the proposed uses with Bill Smith. She noted that on the application Bill Smith stated he would be living in the building and that he had mentioned at the site visit he

would be living in a studio apartment on the first floor. Bill Smith agreed that this was his plan. Carla Westine also recalled Bill Smith had said at the site visit there would be an apartment on the second floor. Bill Smith said that was correct, there was a two-bedroom apartment on the second floor which he planned to rent. Carla Westine stated that Residential – Single- and Two-Family was a permitted use in the Residential-Commercial district.

Carla Westine said that Retail Store was a conditional use in the district and other conditional uses that may be considered as part of the application were Home Business and Mixed Use. Bill Smith testified that he planned to restore and refinish furniture and antiques in a bay of the barn in which the DRB members took shelter from the rain at the site visit. Carla Westine asked Bill Smith if he only worked on items that were part of his retail antiques business or if he also worked on items that people brought to him. He said that he did work on items that were not part of his retail business. Carla Westine said that Personal Services Shop conditional use would cover that part of the business.

Carla Westine reviewed the Dimensional Standards for the property, noting that the lot, barn and house are pre-existing. She said the two proposed new buildings appeared to meet the front and side setbacks and that, combined with the existing buildings, they would not exceed the 35% lot coverage requirement. The new buildings did not exceed the maximum height standard of 35 feet. The minimum lot size of 20,000 square feet and the frontage requirement of 120 feet were also met.

Carla Westine then read the supplemental standards for this part of the zoning district aloud: ‘New development and redevelopment in this area shall continue in the current moderate density, with a mix of commercial, light industrial and residential uses. 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 stated that two driveway entrances were observed at the site visit. She asked Bill Smith if he planned to do any major reconstruction of the driveways and if he had discussed the driveways with anyone at the Agency of Transportation. Bill Smith said he had not spoken to the Agency of Transportation. He said he planned to keep the two driveway entrances as they are with signs indicating which was an entrance and which was an exit. Carla Westine noted that a substantial change to the driveway would require Agency of Transportation approval.

Sections 4.8.C, General Standards, were then addressed.

## **4.8 CONDITIONAL USES**

**C**, The Development Review Board shall act to approve or disapprove any such requested conditional use within forty-five (45) days after the date of the final public hearing held under this Section, and failure to so act within such period shall be deemed approval.

## 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 from the Chester Fire and Police Departments stating the project would have no adverse effect on the community. Bill Smith testified that there was no municipal water or sewer available in that area. He also testified he had met with Bruce Martin of the Division of Fire and Safety and has begun the application process for a state inspection with him.

**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 recapped the purpose of the Residential Commercial district as fostering a mix of commercial and residential uses. Bill Smith said he thought his proposed project would improve the area. The house has been closed since March and has not been maintained for many years. He said he will be working with his neighbor Hugh Pennell and the owner of the quarry across the road to market the area as Gassetts Junction.

Rene Melanson testified that sight lines from his driveway, which is north of the property in question, are essential and he is concerned that signage or buildings or other structures on the Smith property will limit the existing sight lines from the end of his driveway. He noted that the dumpster placement shown on the site plan is far enough away from the road that it will not impact his sight lines.

Carla Westine said that both the Town of Chester has setback requirements and the State of Vermont has a right of way along the road which gives them some control over signs. Rene Melanson said he was particularly concerned with sandwich board signs and signs mounted on trailers which are parked close to the road.

Bill Smith testified that he would not have a sign on a trailer. He said his sign would be at least 150 feet from the Melanson driveway and would not restrict visibility from that driveway. Rene Melanson said the problem of visibility came to light this year with the many temporary construction signs that were put up during the repaving of VT 103.

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

Carla Westine said the Board had received a letter from the Chester Police chief stating that traffic would not be a problem for the project. Bill Smith testified that there is 600 feet of visibility from the driveway entrance.

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

Carla Westine stated that the bylaws and ordinances had been reviewed earlier in the hearing and the proposed uses (residential, retail and personal services) were all permitted or conditional uses in the Residential-Commercial District.

**e. Utilization of renewable energy resources.**

Bill Smith said renewable energy resources were not practical for this project.

## **2. Specific Standards**

Specific standards will include consideration with respect to:

**a. Minimum lot size;**

Carla Westine noted that the lot is pre-existing and exceeds the 20,000 square foot minimum.

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

Bill Smith estimated that it was over 100 feet from his property to the residence to the north. The existing house is 10 feet from the property boundary to the south. His neighbor to the south is a mixed use commercial and residential building and across Route 103 is a commercial building which is planned to have a retail shop in it.

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

The parking area shown on the site map has 14 spaces delineated on it. Carla Westine said she saw seven cars parked in that area during the site visit. She also noted that there was a large expanse of level ground that could be converted to parking space if needed.

She counted four spaces needed for the two residential units. She asked Bill Smith for an estimate of the square footage devoted to retail. He said there would be about 1200 square feet of retail for the antiques and a negligible amount in the Lobster Pound. Carla Westine and Michael Normyle concluded that four parking spaces would be needed for the retail portion of the business, for a total of eight spaces. The 14 spaces shown on the site plan meet this requirement.

Carla Westine asked how the dumpster will be emptied. Bill Smith testified that the dumpster can be reached by a truck and the truck would have space to turn around before re-entering the road.

**d. Landscaping and fencing;**

Carla Westine recapped Bill Smith's earlier testimony about removing brush and tree branches from the south side of the house. Bill Smith said he planned to clear brush and overgrown shrubs from the lot. Carla Westine asked Rene Melanson if the trees at the boundary between his property and the Smith

property belonged to him. Rene Melanson said the trees belonged to the state of Vermont.

Carla Westine asked Bill Smith if he was going to do anything to screen the dumpster. Bill Smith said he has a couple of sections of stockade fence he could put up but he did not think it was necessary. Carla Westine asked Rene Melanson if the dumpster was visible from his property. Rene Melanson said he did not think he could see the place where the dumpster would be put. No one on the Board felt that screening should be required for the dumpster.

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

Carla Westine said the house and barn are pre-existing and not being moved. She discussed the two proposed smaller buildings added to the site plan after the site visit. She asked about the purpose of the 10' x 12' structure that would be brought to the site from the Depot Street property. Bill Smith said it was used to store furniture that was awaiting reconditioning or had been restored. Carla Westin asked about the exterior of the two buildings. Bill Smith said one was barn red and the second one was a tan color.

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

Carla Westine reminded Bill Smith that he would need to fill out a separate application for a sign permit. Michael Normyle said it was important to place the sign far enough back from the highway. Bill Smith said he had thought of placing the sign on the stone island that separated the two driveway entrances. Michael Normyle agreed that it was likely that location would meet the setback requirements.

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

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

Carla Westine then examined the Performance Standards and began by reading section 4.9.A, Noise aloud.

## **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.

Bill Smith testified that no one would be making noise past 5:00 PM. The loudest noises he could imagine would be cutting a board on the table saw which is kept inside the building. He said all the work is done inside a building. No power tools are operated outdoors.

**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.

Bill Smith said he understood his signs could not be internally lit. He said he would be installing two lanterns on the front of the barn. The light source would be shielded and downward facing. He said a spotlight somewhere on the building and the light on the porch of the house will meet the downward facing shielded requirement. He said he will be setting up a flagpole and lighting the American flag at night.

**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.

Bill Smith testified that the paint and varnish removers he used were not flammable. Carla Westine said she assumed he would be working with the state Fire Marshalls office on safety issues.

**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.

Bill Smith said he knew of no electromagnetic disturbances generated by his businesses.

**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.

Bill Smith said he was not aware of any tanks and he could find nothing on record about underground storage tanks.

Carla Westine turned to the Special Criteria in Section 4.8 because this project is in the Residential-Commercial District. She asked Bill Smith if he planned any changes to the exterior. He said he was only planning needed repairs, such as a piece of missing flashing, or replacing the front steps. Carla Westine pointed to the Special Criteria on page 66 of the Unified Development Bylaws, which would apply if major changes were made to the property. She read many of the entries listed below and noted those that were already present in the house and barn.

### 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:

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.

Carla Westine concluded the examination of the bylaws and addressed Bill Smith's next steps with regard to permits and requirements of the State of Vermont. Bill Smith said the septic system and well must be inspected. He has been told he will need a caterer's license to sell live and cooked lobster and other seafood products. He will also need to complete a Fire and Safety inspection as part of the building permits for his two new buildings.

An informal poll of the Board indicated that the permit will be issued.

Gary Cogger moved to close the hearing. Larry Semones seconded the motion. A vote was taken and the motion passed.

**Agenda Item 4 Confirm next meeting date(s).**

Michael Normyle said there were no hearings scheduled for September 24, 2018, and the next hearing could be either October 8, which was Columbus Day or October 22, 2018. It was agreed that the Board will meet September 24, 2018 in a deliberative session to discuss the Findings and Conclusions for this hearing. As at least one member of the DRB said he will not be available for October 8<sup>th</sup>, the next meeting will be October 22, 2018.

**Agenda Item 5, Deliberative session to review previous matters.**

The Board went into deliberative session at this point and the meeting was adjourned at the end of it.