

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD
MINUTES

September 23, 2019

BOARD MEMBERS PRESENT: Carla Westine, Gary Coger, Harry Goodell, Robert Greenfield and Phil Perlah.

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

CITIZENS PRESENT: Jeff Holden, Amy O’Neil, Bill Lindsay, and Nancy Lindsay.

Call to Order

Chair Carla Westine called the meeting to order at 6:00 PM upstairs in the Hall. She introduced the members of the Development Review Board and staff, then read the meeting’s agenda

Agenda Item 1 Review draft minutes from August 26, 2019 meeting

A problem with the copier resulted in two pages of the August 26th minutes being left out of the packet. Michael Normyle asked if the Board could table discussing the minutes until after Agenda Item 3 was complete and copies of the two missing pages could be distributed for discussion. The Board agreed.

Agenda Item 2, Citizen comments

None of the citizens present had any comments about issues not already on the agenda.

Agenda Item 3, Final Plat Review for Gold River Partners LLC Major Sub-division (#531)

Four citizens, Jeff Holden, Amy O’Neil, Bill Lindsay and Nancy Lindsay were sworn in for the hearing. The Board proceeded to accept the documents presented in evidence.

The first document considered was a Town of Chester Development Review Board Application for Sub-Division. The applicant was Gold River Partners, LLC. The phase chosen was Final Plat. The Zoning District was CI (Commercial-Industrial). Total acreage before the division was 15.47, the number of lots after division was 7 and the specific size of each new lots was listed. Harry Goodell moved to accept the application as Exhibit A. Gary Coger seconded the motion. A vote was taken and the application was accepted as Exhibit A.

The second document considered was a Town of Chester Notice of Public Hearing before the Development Review Board, dated September 3, 2019. The Property Owners were Gold River Partners, LLC. The Applicants were Amy and Mike O’Neil. The location was Gold River Extension. The District was Commercial Industrial and the Action Requested was to sub-divide the property into seven lots. Harry Goodell moved to accept the Notice as Exhibit B. Gary Coger seconded the motion. A vote was taken and the Notice was accepted as Exhibit B.

The third document considered was a letter from Amy O’Neil to the Development Review Board dated August 12, 2019, summarizing the history of the project so far and giving details of the

status of the state permit applications. Amy O'Neil read the letter aloud. Carla Westine pointed out that there was a delay between the date the preliminary application was approved on February 12, 2019 and April 2, 2019, the date the decision was delivered to the applicant. This application for a final plat hearing was made within the 6-month window allowed by the bylaws. Harry Goodell moved to accept the letter as Exhibit C. Gary Coger seconded the motion. A vote was taken and the letter was accepted as Exhibit C.

The fourth document considered was a letter from Jeff Holden, Water/Wastewater Superintendent of the Town of Chester Water Department, dated March 12, 2019. Carla Westine read the letter aloud. The letter stated the projected water usage for all seven lots was 1,575 gallons per day and that the Town of Chester has both water and sewage capacity for that amount, which is more than double the current allocation. The letter also listed the additional infrastructure requirements for the increase in service. Harry Goodell moved to accept the letter as Exhibit D. Gary Coger seconded the motion. A vote was taken and the letter was accepted as Exhibit D.

The fifth document considered was a letter from Jeff Holden, Water/Wastewater Superintendent of the Town of Chester Water Department, dated April 9, 2019. Carla Westine read the letter aloud. At present, operation and maintenance of the pumping station is the responsibility of the owners of the seven parcels. The letter discussed the conditions under which the Town of Chester would be willing to accept responsibility for the wastewater pumping station at some point in the future. Harry Goodell moved to accept the letter as Exhibit E. Gary Coger seconded the motion. A vote was taken and the letter was accepted as Exhibit E. Jeff Holden said he wrote the letter to be sure the parameters under which the town would accept responsibility for the pump station were part of the sub-division permit's conditions.

The sixth document considered was a Public Water System Construction Permit. It was 6 sides on 3 sheets of paper. The Project Number was C-3679-19.0, the Water System was the Town of Chester the Permittees were the Town of Chester and Gold River Partners. The WSID was VT0005318. Carla Westine read the following portions of the document aloud, "This permit is issued by the Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division, on behalf of the Secretary of the Agency of Natural Resources. . . The applicants propose to install approximately 1,325 linear feet of 8-inch diameter distribution main piping as part of a subdivision project, the project proposed connection of the proposed distribution main to the Chester Water Department's existing distribution pipe network. The proposed project includes installation of two fire hydrants and six service connections, including corporation stops, service lines and curb stops. The proposed project involves the modification of the Chester Water Department Water System, a Public Community Water System in Chester, Vermont." She also read parts of the second page, "This permit does not authorize operation of the permitted modifications. . . Following receipt of this Construction Completion Certification, the Division will issue a Permit to Operate to the Water System that formally recognizes the construction activities authorized by this Permit." Carla Westine said the construction permit had been signed by Brian Redmond on May 30, 2019. Amy O'Neil noted that this permit number had been added to the plat, but other required permits had not yet been issued by the state and were not on the plat. Harry Goodell moved to accept the construction permit as Exhibit F. Gary Coger seconded the motion. A vote was taken and the permit was accepted as Exhibit F.

The seventh document considered was a Public Water System Construction Permit Public Comment Response from the Vermont Department of Environmental Conservation, Drinking Water and Groundwater Protection Division. The document indicated that there were no public comments made on this project. Harry Goodell moved to accept the Public Comment Response document as Exhibit G. Gary Cogger seconded the motion. A vote was taken and the document was accepted as Exhibit G.

The eighth document considered was the Preliminary Plat Review for this project. The Board decided it was not necessary to enter the document into evidence.

The final document considered was a 3-page plat prepared by David H. Rose of Rose Land Surveying, titled Preliminary Subdivision Plat in Chester Windsor County Vermont. The block listing revisions showed a Permit Summary on Sheet 2 was revised 8/9/19. Carla Westine noted that the State of Vermont Public Water System Construction Permit project number had been added to the Project Permit Summary table on Sheet 2. Harry Goodell moved to accept the plat as Exhibit H. Gary Cogger seconded the motion. A vote was taken and the motion passed.

Carla Westine reviewed to the conditions listed in the Preliminary Plat Review. The second condition, "All necessary federal, state and local permits shall be obtained and abided by prior to commencement of operation" had not been met. Carla Westine asked Amy O'Neil if the state of Vermont was having time issues. Amy O'Neil said it just takes more than six months to obtain permits.

The third condition on the Preliminary Review, an endorsement block with room for six signatures, was met. The fourth condition, "The Plat shall contain the requirements of the Unified Development Bylaws, except for those items waived by the Development Review Board" was met by the box on the left side of sheet 2, which lists the standards for the Commercial-Industrial district. The fifth condition, "Wastewater, potable water and stormwater permits will be obtained from the state of Vermont and the permit numbers with the book and page number where they are recorded will be added to the plat.", has not been met. Carla Westine suggested that the condition be carried forward in the Final Plat conditions. She noted the mylar could not be recorded until the permits are obtained.

Amy O'Neil said she did not expect the Board to close the hearing that evening because the permits were not yet available. If she hadn't applied for a Final Permit Review, the six-month period between the issue of the Preliminary Plat Review and the Final Plat Review would have expired and she would have had to begin with a new Preliminary Plat Review. She expected to recess the hearing to a date certain, perhaps in three months, in the hope that the needed permits will be issued during that time. If the permits are not ready the hearing could be recessed again. Phil Perlah confirmed that the application would be kept open until the state issues the needed permits. Amy O'Neil said the delay wasn't entirely the state's fault, but she did want to keep the hearing open until the permits are issued.

Carla Westine said the other conditions on the Preliminary Review address permits. The exception was condition 8, which asked that a new Declaration of Covenants be recorded in the Chester Land Records. Carla Westine asked Amy O'Neil if the document was ready to be recorded. Amy O'Neil said she had the covenants ready, but didn't want to record them until she had an Act 250 permit, which could require changes to the covenant.

Amy O'Neil said she was concerned about the requirements set forth in Jeff Holden's letter which must be met before the Town of Chester would accept responsibility for maintaining the wastewater pump station. She said the pump presently in place is capable of handling the full load projected for all seven lots operating businesses at the same time. She wanted to verify the conditions under which she could connect to the municipal wastewater system and the requirements for an additional pump and other equipment in order to turn the pump station over to the town for ongoing maintenance.

Carla Westine said she understood that Amy O'Neil could go forward with the sub-division using the pump in place. She also understood that the town will not accept maintenance responsibility for the pump that is in place now. The town will require a second pump and other supporting equipment before it will accept responsibility for the pump station.

Amy O'Neil noted that the requests from Jeff Holden were made after the Preliminary Hearing was closed and the Findings and Conclusions document was signed. She asked Carla Westine how the request from Jeff Holden, made after the Preliminary Review and hearing was closed, would be handled in the Final Plat hearing. Carla Westine said that at the Preliminary Review the Board was operating under the assumption that the improvements Gold River Partners LLC made to the wastewater and potable water systems would be their responsibility. She said the Board did not expect the town would be involved in those plans. Carla Westine recalled Amy O'Neil saying at the Preliminary Hearing that the water systems would not be extended until some lots had been sold.

Carla Westine did not recall a discussion of the town taking over any part of the water systems from Gold River Partners during the Preliminary Hearing. Phil Perlah said the Final Hearing will be kept open and the conditions for the town taking over the pumping station will be determined during the hearing and included in the Final Findings and Conclusions document. Amy O'Neil asked whether the conditions would be written on the Plat or just on the Findings and Conclusions document. Carla Westine said if the conditions are only on the document, the terms of maintaining the pump station may not be clear to someone buying a lot in the sub-division in the distant future. Harry Goodell said it should be in the document and on the plat, as well, so it could be more easily seen. Amy O'Neil said she wants to be sure that Gold River Partners LLC and the Development Review Board are in agreement on the wording of the conditions before the Findings document is issued and recorded, and the plat is recorded.

Carla Westine said she wanted it to be clear that responsibility for the water systems will belong to the owners of the land until they owners formally request that the town takes it over. Carla Westine said the specifics of the terms for the town to take over the pumping station troubled her. She thought it was possible that the equipment specified in 2019 could be obsolete 20 years from 2019, when the property owners ask the town to take over the pump station. She would want to make the requirements less specific.

Michael Normyle suggested the conditions could list 3 or 4 bullet points of performance standards and acknowledge that ways to meet those standards may change over time.

Amy O'Neil said a permit with undefined standards could be manipulated by any number of people to stop the project.

Phil Perlah said large building projects ran into the issue of regulations changing while a project is ongoing happens frequently. If it was critically important for Amy O'Neil to lock down the

requirements then she could install the equipment now and be done with the issue. He said if she gave up the opportunity to install the equipment now, she must accept the risk of new rules being written before she is ready to finish the project. Rules could change so much that the required equipment could become illegal, and she would be asking the town of Chester to accept illegal equipment, if the equipment existed at all.

Amy O'Neil asked the record to show that the request from Jeff Holden for specific equipment installed at the pump station before the town would accept responsibility for maintenance of the system was made after the Preliminary Hearing was closed. She was willing to comply to the request as a gesture of courtesy. She did not want to allow the town to make the hand-off of the pump station more difficult by changing the standards for the hand-off that had been agreed to.

Carla Westine suggested that the hearing be recessed until a date certain. During that interval the Board will re-examine the documents, minutes and Findings of Fact from the Preliminary Hearing to determine what the plans for wastewater were at the time of the Preliminary Hearing.

The Board and Amy O'Neil agreed to recess the hearing until December 9, 2019 at 6:00 PM. Phil Perlah asked Bill and Nancy Lindsay if they had any comments before the hearing was recessed. They did not. Phil Perlah moved to recess the hearing until December 9th at 6:00 PM. Gary Coger seconded the motion. A vote was taken and the hearing was closed.

Agenda Item 4, Confirm next meeting date(s)

Carla Westine said there would be a meeting on Monday September 30, 2019 to consider the Town of Chester gravel pit application. Michael Normyle said he has received the application for the Zachary's Pizza property to be converted to a veterinary hospital. The meeting will be scheduled for November 11, 2019. Phil Perlah said he would be away for both those meetings.

The Board Resumed consideration of Agenda Item 1, **Review draft minutes from the August 26, 2019 meeting**

Michael Normyle had provided the missing pages from the August 26, 2019 minutes. Harry Goodell moved to accept the minutes as written. Gary Coger seconded the motion. There was no discussion. A vote was taken and the minutes were accepted as written.

Agenda Item 5, Deliberative session to review previous matters

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