

TOWN OF CHESTER
DEVELOPMENT REVIEW BOARD
MINUTES

October 28, 2019

BOARD MEMBERS PRESENT: Carla Westine, Gary Coger, Robert Greenfield and Larry Semones.

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

CITIZENS PRESENT: Frank Bidwell, Harold Roeder, Vincent DiBernardo, Brandi Smith, Jerilyn Jacobs, Richard Farnum.

Call to Order

Chair Carla Westine called the meeting to order at 6:00 PM upstairs at the Town Hall. She introduced the members of the Development Review Board and Staff. She noted that a site visit had taken place at 5:15 that afternoon at 319 South Main Street. She then read the agenda.

Agenda Item 1, Review draft minutes from October 14, 2019

Gary Coger moved to accept the draft minutes from October 14, 2019. Larry Semones seconded the motion. There was no discussion. A vote was taken and the minutes were accepted as written.

Agenda Item 2, Citizen Comments

There were no comments from citizens.

Agenda Item 3, Conditional Use Application (540) Renovate former Zachary's Pizza building into a companion animal veterinary hospital

Chair Carla Westine opened the hearing by asking members of the Board if they had any conflict of interest in this matter to disclose. No one did. She asked if any member had had any ex-parte communication in this matter. No one did. She then examined the exhibits submitted by the applicant.

The first document was a Town of Chester Application for hearing before the Development Review Board. Carla Westine read portions of the document aloud. The project number was 540. The applicant name was Ted Zachary/Harold Roeder Franklin Tower LLC. The landowner name was Ted Zachary. The location was given as 319 Main Street. The tax map parcel number was 61-50-15. The Description of the Project was "renovation of former Zachary's Pizza building into a companion animal veterinary hospital. The type of application was Conditional Use approval. The application was signed by Harold Roeder on August 28, 2019 and Zoning Administrator Michael Normyle on September 2, 2019. Gary Coger moved to accept the application as Exhibit A. Robert Greenfield seconded the motion. A vote was taken and the application was accepted as Exhibit A.

The second document was a Town of Chester Notice of Public Hearing before the Development Review Board dated September 10, 2019. Carla Westine read portions of the document aloud. The date and time of the site visit and Public Hearing were 5:15 PM and 6:00 PM respectively on

October 28, 2019. The Property Owner was Ted Zachary, the Applicant was Ted Zachary/Harold Roeder, the location was 319 South Main Street, the District was Residential Commercial. The Action Requested was “Renovation of former Zachary’s Pizza into a companion animal veterinary hospital.” Gary Coger moved to accept the notice as Exhibit B. Robert Greenfield seconded the motion. A vote was taken and the notice was accepted as Exhibit B.

The third document was a 3-page narrative about the project written by Harold Roeder. He read the narrative aloud into the record. Harold Roeder mentioned during his reading of the exhibit that the hospital will employ 8 – 10 full- and part-time employees initially and 12 – 15 full- and part-time employees after 3 – 5 years. He added that he believed the Chester school system could absorb any added students as a result of these new jobs, based on analysis of the Dollar General proposal that cited decreasing school enrollment. Gary Coger moved to accept the narrative as Exhibit C. Robert Greenfield seconded the motion. A vote was taken and the narrative was accepted as Exhibit C.

The fourth document was a 3-sided Project Review Sheet on 2 pages from the State of Vermont Department of Environmental Conservation and Natural Resources Board. Carla Westine read parts of the document aloud. The project was a commercial project. An Act 250 permit was required because the proposed project is a material change to a permitted development. A wastewater system and potable water supply permit was marked not required because the property has municipal water and sewer. The project was marked as requiring waste management for the demolition waste. It was marked as needing to contact the Watershed Management Division for Stormwater Developments, despite having no plans to change the parking lot. It was also marked as requiring a construction permit from the Department of Public Safety and a consultation with the Vermont Energy Code Assistance Center. The project was named Roeder – Vet office in old Zachary’s Restaurant. The project description was, “Butch is thinking of purchasing this property (just the old pizza house and farmer’s market lot, the Dollar General is a separate property now) and renovating it into a small animal veterinarians office. Renovation work would include: removal of a portion of the parking lot, resurface the roof; and interior work to make into vet office. Lot is 8.72± acres, served by municipal water and sewer.” Gary Coger moved to accept the Project Review Sheet as Exhibit D. Larry Semones seconded the motion. A vote was taken and the document was accepted as Exhibit D.

The fifth document was an e-mail exchange between Zoning Administrator Michael Normyle and Chester Fire Chief Matt Wilson. Carla Westine read the e-mail aloud. Matt Wilson said he believed the project would have little effect on the Fire Department. He requested that he be given a walk-through of the premises after construction was complete and before the facility opened for business. He also asked that the fire hydrant next to the building be put back in service, removed, or be covered by a proper out of service bag. Gary Coger moved to accept the e-mail exchange as Exhibit E. Robert Greenfield seconded the motion. A vote was taken and the motion passed.

The sixth document was a letter on Chester Police Department stationery from Chester Police Chief Richard Cloud to the Development Review Board, dated October 15, 2019. The letter states that, in Chief Cloud’s opinion, traffic safety for this project will not be an issue. Carla

Westine read the letter aloud. Gary Coger moved to accept the letter as Exhibit F. Robert Greenfield seconded the motion. A vote was taken and the letter was accepted as Exhibit F.

The seventh document was a letter from Jeff Holden of the Town of Chester Water Department to the Development Review Board dated October 15, 2019. Carla Westine read the letter aloud. Jeff Holden stated in the letter that the Water and Wastewater Departments had adequate capacity for the project. Robert Greenfield clarified that Harold Roeder was the person applying for the Conditional Use permit, not Brandi Smith as stated in the letter. Gary Coger moved to accept the letter as Exhibit G. Robert Greenfield seconded the motion. A vote was taken and the letter was accepted as Exhibit G with the correction to the applicant's name.

The eighth document was four 11x17 sheets of architectural drawings and a site plan for the project. The Board decided to accept the four pages as one exhibit. Carla Westine assigned page numbers to the drawings. The site plan was page 1, the south and east elevations were page 2, the north and west elevations were page 3 and the proposed floor plan was page 4. Gary Coger moved to accept the drawings as Exhibit H. Robert Greenfield seconded the motion. A vote was taken and the drawings were accepted as Exhibit H.

Carla Westine then swore in all the citizens who wished to give testimony during the hearing. They included Harold Roeder, Dr. Jerilyn Jacobs, Richard Farnsworth, Dr. Brandi Smith and Dr. Vincent DiBernardo.

Michael Normyle gave a history of the project. He received the application on September 2, 2019. He considered it complete on September 10, 2019 and created the notice of the public hearing. There were 9 abutters to be notified. Those letters went out on October 2, 2019. He said he had not had any communication from abutters. John Wolos, who attended the site visit and lives on Cummings Road, asked about the possibility of animal feces getting into the stream on the northern edge of the property.

Carla Westine turned to Section 2-4 of the Chester Unified Development Bylaws, the Residential Commercial District. She noted that the first conditional use listed for the district is animal hospital. She read the purpose of the district aloud, "To provide a mix of higher density residential and commercial uses in an area that is centrally located within municipal water and sewer service area." She pointed out that the building in question is a pre-existing building which is already connected to the municipal water and sewer systems. The application is a change of use for an existing building.

She then turned to Section 4.8 of the Bylaws, Conditional Uses, read section 4.8.A, B and C, aloud and then addressed the General Standards listed in 4.8.C.

4.8 CONDITIONAL USES

Specific conditional uses are permitted only by approval of the Development Review Board, providing that General standards, Specific Standards, Performance Standards and Special Criteria, as herein provided are met, and further provided that:

- A. The Development Review Board after public notice and public hearing determines that the proposed use will conform to such standards.
- B. In granting such conditional use, the Board may attach such additional reasonable conditions and safeguards as it may deem necessary to implement the purpose of the law and these Bylaws.
- 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 testimony from the Chester Police, Fire and Water/Wastewater departments. All agreed that their departments had the capacity to support the proposed project. Harold Roeder could think of nothing to add to Carla's summary.
- b. The character of the area affected, as defined by the purpose or purposes of the zoning district within which the project is located,
Harold Roeder said he did not plan to substantially change the existing building. He would clean it and dress it a bit more. He said he would also clean up and maintain the landscaping.
- c. Traffic on roads and highways in the vicinity;
Carla Westine said that the Board had received a letter from the Chester Police Department stating that traffic would not be a problem. Harold Roeder said he felt the traffic for a Veterinary Hospital would be much less than the original planned traffic volume for the restaurant. He did not expect that they would reach the maximum of 100 visits per day he mentioned in the narrative. He did not plan to change the existing driveway, parking area and entrance to the facility at this time. He hoped to remove some of the paving in the future. He said trucks will be delivering oxygen and other supplies and picking up trash, medical waste and recyclables on a regular basis.
- d. Bylaws and ordinances then in effect; and,
Carla Westine said that the Board had already checked to see that Animal Hospital is a conditional use in the Residential-Commercial District. She read the definition of Animal Hospital aloud: ANIMAL HOSPITAL: A facility that provides a range of animal or veterinary services including medical care and short-term boarding that is incidental to animal medical services. This does not include animal shelters or kennels.

Carla Westine asked Harold Roeder a question brought up by a citizen at the site visit. The citizen wanted to know how dogs would be handled at the hospital. Would they be allowed to run outside? Harold Roeder said dogs would be at the facility for medical care only. This would not be a boarding facility. Dogs would always be restrained between the car and the office. There was a fenced area at the back for dogs to relieve themselves. Dogs would also be restrained in the fenced area. The feces would be immediately picked up and put in the trash to prevent ground water pollution and parasite contamination.

- e. Utilization of renewable energy resources.

Harold Roeder said the current HVAC system will be completely replaced with more efficient equipment. He had no plans for solar panels or wind power at this time.

2. Specific Standards

Specific standards will include consideration with respect to:

- a. Minimum lot size;

Carla Westine said the lot is 8.72 acres and exceeds the minimum of 20,000 square feet.

- b. Distance from adjacent or nearby uses;

Carla Westine looked at the site plan and noted that the person living in the house closest to the project, John Hurd, had attended the site visit. That property abuts the project to the northwest. Carla Westine noted that to the southeast was Dollar General, a retail store. Across Route 103 was some more commercial property and a small residence. Behind the property to the east at least 250 feet or more was the land of Richard Farnsworth. Michael Normyle said the Mikkelsen family owned a piece of land that also abutted the property to the east.

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

Carla Westine said there was a large existing parking lot that was built to accommodate the restaurant. There was also an existing gravel driveway that went behind the building for deliveries and pickups. Harold Roeder said the site plan in Exhibit H shows the gravel driveway on the south side of the building circling around to the east side. He said he would like to extend the driveway 30 feet to the north along the back of the building to facilitate oxygen tank delivery. Carla Westine asked if the dumpsters would remain. Harold Roeder said there would be two dumpsters in the area shown on the site plan, one for trash and one for recyclables. Carla Westine asked if trucks will be able to turn around behind the building and enter the parking area in a forward motion. Harold Roeder said that was the goal. He said he did not expect tractor trailers making deliveries.

Frank Bidwell asked how big the truck that delivered oxygen tanks would be. Harold Roeder said it was the size of a U-Haul rental truck big enough to move a family. Frank Bidwell said he was concerned about the turning radius for the

trucks. Carla Westine said the area behind the building was flat, grass covered and large enough for trucks to turn around in. Larry Semones asked if the oxygen tanks were simply exchanged or if an oxygen concentrator machine would be used. Dr. Jerilyn Jacobs said the business currently has 3 tanks and they are exchanged once every 10 to 14 days.

d. Landscaping and fencing;

Harold Roeder said the fencing he plans on installing is at the rear of the building and should not be visible from the road. It may be visible from the back of the Dollar General store. The fenced area would be just outside the hospital ward and is intended only to allow patients to relieve themselves while on a leash. The fenced area would encompass the exit door.

Carla Westine said there was a great deal of landscaping added to the property when the restaurant was started: trees and plantings in the parking lot. There were a number of trees and brush and along the boundary between the subject property and the property where John Hurd lives. She asked if any trees would be removed. Harold Roeder said no trees would be removed. He expected that the plantings would be pruned, new mulch would be laid down and the edges would be refreshed.

Carla Westine asked if there would be any changes to the landscaping at the rear of the building. Harold Roeder said he did not plan any changes to the current landscaping. He listed the equipment to be installed and changes to be made in that area: the fencing, a generator, dumpsters and extending the gravel road to the north.

Larry Semones asked if Harold Roeder planned to mow the meadow behind the building. Harold Roeder said he was unsure about the meadow's role in stormwater control after the changes made for Dollar General. He said he did not plan to mow the field. Carla Westine said that issue would be addressed as part of the Act 250 hearing.

e. Design and location of structures and service area;

Carla Westine said the changes proposed to the exterior were mainly of an aesthetic nature and asked Harold Roeder to describe them. Harold Roeder said that on the front side of the building marked east in the drawing, the current green fabric awning would be replaced by a gabled roof. The columns on the right side of the building marked south in the drawing would be replaced. The asphalt roof and trim would be replaced. He said the sheds at the back of the building which had been walk-in coolers and storage areas would be removed. The doors at the back would have a roof with gables over them to deflect rain and snow.

f. Size, location and design of signs;

Harold Roeder said he will use the existing sign support structure near Main Street for the present. Carla Westine told him he needed to work with Zoning Administrator Michael Normyle when he was ready to design and install a sign. A separate sign permit is needed.

g. Performance Standards under Section 4.9 and,

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

Carla Westine read Section 4.9.A 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.

Carla Westine noted that the narrative presented said there would be conversation while people brought their pets in and out of the building and that dogs may occasionally bark while they are being brought in or out by their owners at the front of the building or by the hospital staff at the back of the building. She said the narrative also mentions noise from testing the generator on a regular basis. She asked if there were any other sources of noise to be discussed. Harold Roeder said that Carla Westine’s summary was accurate and complete. He deferred to Dr. Vincent DiBernardo and Dr. Brandi Smith, founder and operator respectively of the current business for more information. He said the practice on Lower Bartonsville Road kenneled animals in addition to housing them for treatment.

Dr. Brandi Smith said she preferred to walk the patients as opposed to keeping them in runs and converted the runs at the Lower Bartonsville Road building to more clinic space. She said she had not had any problems with noise at the building, even before she removed the runs.

Carla Westine said she believed the most important factor is that are no plans for outside kenneling of dogs and no dogs will be left unattended while outside. Richard Farnsworth said he was concerned that dogs would be left in the fenced area unattended for many minutes particularly in the evening when there would be fewer staff on hand to attend to anything but emergencies. Dr. Jerilyn Jacobs, who will be operating the facility, said dogs will not be turned out in the fenced area unattended. They will be on a leash and accompanied by a staff member.

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;

Decibel (dB) Levels:
10 dB = normal breathing
30 dB = soft whisper
40 dB = quiet residential area, library
60 dB = normal conversation
70 dB = TV audio, human voice at 10 feet
80 dB = doorbell, machine tools, car at 10 feet
90 dB = lawn mower, tractor, blender
100 dB = snowmobile, factory machinery,
110 dB = leaf blower, power saw, nightclub band
120 dB = chain saw, rock concert, pain threshold
130 dB = stock car race,

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.

Carla Westine read Section 4.9.B aloud. Harold Roeder said the project would not be producing the cooking odors created by the former restaurant. The new hospital will not have a crematory. Richard Farnsworth asked how feces would be disposed of. Dr. Jerilyn Jacobs said feces are placed in a bucket with a plastic liner. The liner will be tied shut and the bag will be placed in the trash daily. She said the hospital staff also hates the smell of dog feces and works to keep it in check. In response to a question from Carla Westine, Dr. Jacobs said the current dumpster is emptied at least once a week.

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 read Section 4.9.C on Glare, Light or Reflection aloud. She said at the site visit the Board noted exterior lights that were permitted when the restaurant business was started many years ago. She said that light pollution has become a concern since the 1980's and currently exterior lights must be shielded and downward facing. Harold Roeder said he planned to swap out the exterior lights due to their age and unreliability. He distributed a packet of drawings that depicted the interior of many of the proposed rooms in the building and included a drawing of and specifications for the proposed exterior lights. The lights would be placed near the doors for safety reasons. Gary Coger moved to accept the packet of interior room drawings and exterior lighting specifications. Larry Semones seconded the motion. A vote was taken and the packet was accepted as Exhibit I.

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.

Carla Westine read Section 4.9.D aloud. She asked if there were any safety hazards that should be considered. Dr. Jacobs said the oxygen tanks raised some concerns. She said there was a protocol in place to keep the danger to a minimum. The tanks are chained in place against a wall. Carla Westine noted that Matt Wilson, the Chester Fire Chief had requested a walk-through of the business after construction was complete and before it opened so he could plan a response in the event of a fire.

Frank Bidwell asked how used sharps would be handled. Dr. Jacobs said sharps are placed in special secure containers. The containers are collected in a box and sent to a disposal facility.

Gary Coger asked what happened when a patient dies at the hospital since there will be no crematory on the premises. Dr. Jacobs said the owner was allowed to remove the body if they

chose, or the hospital would store the body in a freezer for pickup by a cremation service, which happens twice a week.

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.

Harold Roeder said there will be no MRI or CT scan equipment at the hospital.

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.

Carla Westine asked if there were any underground storage tanks on the premises. Harold Roeder said he had not been told of any. Carla Westine said the issue of surface water pollution had been addressed earlier when the disposal of feces had been outlined.

Carla Westine said that because the property is in the Residential-Commercial district Special Criteria apply. She read paragraph 3.a aloud.

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".

Carla Westine recapped the proposed changes to the building: removing the green awning in the front, extending the roof, and replacing the columns with posts. Larry Semones said the changes were not as much renovations as repairing what is present. There was no further discussion of Special Criteria.

Harold Roeder said he had asked Drs. Brandi Smith and Jerilyn Jacobs to attend the hearing because there were a lot of moving parts in the business and he wanted their expertise available to address questions he, as the real estate expert, could not answer. He said both veterinarians thought this would be an improvement to veterinary services available in Chester.

Michael Normyle asked if the Board could be polled informally to indicate what they thought of the application. Carla Westine said the applicants had answered all questions and brought in all the information needed. She polled the board. Larry Semones applauded the efforts made by the applicant to supply all the information required. Gary Coger agreed that the application was well presented. All members of the Board indicated a positive outcome for the application. Carla Westine said that the likely conditions to be imposed on the project are that the Fire Chief is given a walk-through as requested and the exterior lights will be downward facing and shielded.

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