

1 **TOWN OF CHESTER**
2 **DEVELOPMENT REVIEW BOARD**
3 **DRAFT MINUTES**

4 *May 10, 2021*

5 **BOARD MEMBERS PRESENT:** Harry Goodell, Scott MacDonald, Gary Coger and Robert
6 Greenfield, at the Town Hall, Phil Perlah via Zoom teleconference.

7 **STAFF PRESENT:** Cathy Hasbrouck, Recording Secretary at the Town Hall and Zoning
8 Administrator.

9 **CITIZENS PRESENT:** John Winter, Kathleen Walsh, Ken Walker, Naomi Johnson, Arne
10 Jonynas, Ruth Holleran.

11 **Call to Order**

12 Bob Greenfield, as acting chair, called the meeting to order at 6:01 PM. He introduced the
13 members of the Development Review Board, staff and citizens attending the meeting. He led the
14 group in the Pledge of Allegiance.

15 **Agenda Item 1 Reorganizational Meeting**

16 Bob Greenfield opened the reorganizational meeting. Harry Goodell asked Bob Greenfield if he
17 had not agreed to be the chair. Bob Greenfield said he had not volunteered, but he would act as
18 chair under the condition that the other members help, support and assist his efforts. He said he
19 had only been part of the board for a short time and had learned only about 1/100 of what others
20 knew. He said he was a firm believer in erasers because everyone makes mistakes. The other
21 members agreed to help and support him.

22 Harry Goodell nominated Phil Perlah as vice chair. Phil graciously accepted and the
23 reorganization was complete.

24 **Agenda Item 2 Review minutes of April 12, 2021 meeting**

25 Harry Goodell moved to accept the minutes of the April 12, 2021 meeting. Gary Coger
26 seconded the motion. There was no discussion. A vote was taken and the minutes were
27 accepted as written.

28 **Agenda Item 3 Citizen's comments**

29 There were no citizen comments.

30 **Agenda Item 4 Flood Hazard Area Review (#564) Pedestrian Bridge over Lovers Lane**
31 **Brook 230 Main Street**

32 Naomi Johnson with Dufresne Group said her company's role in the project was to provide the
33 hydrological and hydraulic analysis to support the application for a proposed bridge. She said
34 the application is for a Flood Hazard Area Review. The documents provided for the application
35 were correspondence with the state permit review specialist, drawings for the project and the
36 report from Dufresne Group on hydrology and hydraulics. She said the review was fairly
37 straightforward. It needs to show that a 100-year flood event will not be impacted by the
38 proposed bridge. She said the meaning of the words not impacted was that the height of the 100-
39 year flood would not be increased by the presence of the bridge in the floodway. She said the

1 detailed report concluded that there would be no impact on the level of a 100-year flood. She
2 offered to answer any questions the Board had.

3 Phil Perlah suggested that the exhibits offered by accepted and the Board be polled for any
4 conflict of interest or ex-parte communication that may have taken place.

5 The first exhibit to be considered was the Hydrology and Hydraulics Report from Dufresne
6 Group. The written report was 2 pages with a separate map of the area from the Vermont
7 Agency of Natural Resources. Harry Goodell moved to accept the report as Exhibit A. Gary
8 Cogger seconded the motion. A vote was taken and the report was accepted as Exhibit A.

9 The second exhibit to be considered was the Appendix of the Dufresne Group report showing 31
10 pages of HEC-RAS project data. Harry Goodell moved to accept the report as Exhibit B. Gary
11 Cogger seconded the motion. A vote was taken and the HEC-RAS report was accepted as Exhibit
12 B.

13 The third exhibit to be considered was a map on 11 x 17 paper showing the Proposed Bridge
14 Plan and Sections, dated March 2, 2021. Harry Goodell moved to accept the map as Exhibit C.
15 Gary Cogger seconded the motion. A vote was taken and the map was accepted as Exhibit C.

16 The fourth exhibit to be considered was a map on 11 x 17 paper showing the Brookside
17 Cemetery Lot Dimensions. Harry Goodell moved to accept the map as Exhibit D. Gary Cogger
18 seconded the motion. A vote was taken and the map was accepted as Exhibit D.

19 The fifth exhibit was an e-mail from Rick Oberkirch, permit specialist at the Vermont
20 Department of Environmental Conservation, forwarded by Matthew Bissell of Dufresne Group
21 to Chester Town Manager Julie Hance. The e-mail advised the applicant to contact Scott Jensen,
22 Agency of Natural Resources River Management Engineer, to determine whether a Stream
23 Alteration Permit would be required and said no other state permits would be needed. Harry
24 Goodell moved to accept the e-mail as Exhibit E. Gary Cogger seconded the motion. A vote was
25 taken and the e-mail was accepted as Exhibit E.

26 The sixth exhibit to be considered was an application for a hearing before the Development
27 Review Board. Bob Greenfield read the description of the project aloud, "Pedestrian bridge
28 crossing Lovers Lane Brook." He noted the type of application was a Flood Hazard Area
29 Review and the application had been signed by the applicant Julie Hance on April 14, 2021 and
30 by Zoning Administrator Catherine A. Hasbrouck on April 19, 2021. Harry Goodell moved to
31 accept the application as Exhibit F. Gary Cogger seconded the motion. A vote was taken and the
32 application was accepted as Exhibit F.

33 The seventh exhibit to be considered was a Notice of Public Hearing Before the Development
34 Review Board. The notice was dated April 16, 2021. Bob Greenfield read the action requested
35 aloud. Harry Goodell moved to accept the Notice as Exhibit G. Gary Cogger seconded the
36 motion. A vote was taken and the Notice was accepted as Exhibit G.

37 Bob Greenfield asked if any members had a conflict of interest to report. None had. He also
38 asked if any members had had any ex-parte communication on the matter. None had. Naomi
39 Johnson and Arne Jonynas were sworn in to give testimony.

40 The Board turned to Section 4.11 Flood Damage Prevention Measures. Cathy Hasbrouck said
41 that John Broker-Campbell, the flood plain coordinator, had contacted her and said the only item
42 of concern he had about was about anchoring the bridge.

1 Naomi Johnson explained the HEC-RAS information, Exhibit B. She said it was information
2 developed using a program from the Army Corps of Engineers. There were 2 reports in Exhibit
3 B, one shows the existing conditions in the stream and the other shows the conditions with the
4 proposed bridge. She said the program takes cross-sections of the area of the stream being
5 studied and models a 100-year flood event. She said FEMA had modeled the stream and their
6 model information was available to check the measurements they had taken at the stream and
7 input to the Army Corps of Engineers program. She said they added data that simulated the
8 proposed bridge elevation and the mass of the structure. She said the brook flood elevation was
9 614 feet and the local, state and federal criteria did not allow any elevation rise to be caused by
10 the bridge. She said they used a computer to simulate the bridge and adjusted the bridge
11 structure until no rise was projected to be caused by the bridge. The model told them that they
12 needed to clear a 22-foot-wide swath near the bridge, which would be maintained with low-
13 growing vegetation. Removing any trees in the 22-foot-wide swath would prevent the bridge
14 structure from raising the 100-year flood elevation. Phil Perlah asked if this was the only change
15 that needed to be made to allow the bridge to be built. Naomi said it was.

16 Naomi Johnson pointed to Section 6.2.B of the bylaws, which states:

17 **B. Floodway Areas.**

- 18 1. Development within the regulatory floodway, as determined by Section 6.1, is
19 prohibited unless it has been demonstrated through hydrologic and hydraulic
20 analyses performed in accordance with standard engineering practice by a
21 registered professional engineer certifying that the proposed development will
22 result in no increase in flood levels during the occurrence of the base flood.
23

24 Naomi said that the base flood referred to is, by definition, the 100-year flood.

25 There being no more questions. Harry Goodell moved to close the hearing. Gary Coger
26 seconded the motion. A vote was taken and the hearing was closed.

27 **Agenda Item 5 Conditional Use Review for Tourist Lodging 397 Peck Road**

28 Bob Greenfield asked if any Board members have any conflict of interest to report. None did.
29 He then asked if anyone had had any ex-parte communications on the matter. None did. John
30 Winter, Kathleen Walsh and Ruth Holleran were sworn in to give testimony.

31 The first document considered for an exhibit was an Application for a hearing before the
32 Development Review Board. Bob Greenfield read the following items: the Appeal number was
33 563, the Date was 4/15/2021, the Appellant name was Farm at Williams River House, the
34 Appellant address was 397 Peck Road, Chester, the Landowner name was John Winter and
35 Kathleen Walsh. The type of application was Conditional Use approval. Harry Goodell moved
36 to accept the application as Exhibit A. Gary Coger seconded the motion. The application was
37 accepted as Exhibit A.

38 The second document considered was a Notice of Public Hearing before the Development
39 Review Board. Bob Greenfield read the following items: The property owners and applicants
40 were John Winter and Kathleen Walsh, the location was 397 Peck Road, the district was R-120
41 and the action requested was Resume Tourist Lodging use with 3-room Bed and Breakfast and
42 act as venue for catered gatherings such as weddings under tents. Harry Goodell moved to

1 accept the Notice as Exhibit B. Gary Coger seconded the motion. A vote was taken and the
2 Notice was accepted as Exhibit B.

3 The third document presented was a narrative about the proposed use. John Winter read the first
4 2 paragraphs aloud. The narrative had a total of 5 pages of text. Harry Goodell moved to accept
5 the 5 pages of narrative as Exhibit C. Gary Coger seconded the motion. A vote was taken and
6 the narrative was accepted as Exhibit C.

7 The fourth document presented was an aerial photograph of the property from Google Maps,
8 which had been marked to show parking areas, event areas and the main buildings. Harry
9 Goodell moved to accept the photograph as Exhibit D. Gary Coger seconded the motion. A vote
10 was taken and the photograph was accepted as Exhibit D.

11 42:46The fifth document was a page showing a photograph of the former sign for the property on
12 one side and a drawing of the sign proposed to replace it on the other. Harry Goodell moved to
13 accept the page as Exhibit E. Gary Coger seconded the motion. A vote was taken and the page
14 was accepted as Exhibit E.

15 The sixth document was a letter dated April 22, 2021 from Richard Cloud, Chief of the Chester
16 Police Department. Bob Greenfield read the letter aloud. The letter stated that, in Chief Cloud's
17 opinion, traffic safety will not be an issue.

18 The seventh document was a letter dated May2, 2021 from Matthew Wilson, Chester Fire Chief.
19 Bob Greenfield read the letter aloud. In the letter, Matt Wilson stated that he did not see a
20 problem with the project as described in the narrative. He said that all state Fire and Safety
21 regulations must be followed, and that he would need to reevaluate the project if it changed from
22 what was described. He also requested a walk-through of the property before it opened for
23 events so he could pre-plan a response to a fire. Harry Goodell moved to accept the letter as
24 Exhibit G. Gary Coger seconded the motion. A vote was taken, and the letter was accepted as
25 Exhibit G.

26 The eighth exhibit was a tax map of the parcel with features labeled and a legend listing the
27 parcels surrounding 397 Peck Road and their uses. Harry Goodell moved to accept the map as
28 Exhibit H. Gary Coger seconded the motion. A vote was taken and the map was accepted as
29 Exhibit H.

30 46:10

31 Bob Greenfield read the purpose of the R-120 district, section 2.10 of the bylaws aloud:

32 **A. Purpose: To provide lower-density residential neighborhoods with compatible home**
33 **businesses and working landscape uses that are consistent with the Chester Town**
34 **Plan.**

35 He then discussed the uses listed in the R-120 which would cover the proposed project. Tourist
36 Lodging was the use that fit the best. He read the dimensional standards for the district:

37

1 D. Dimensional Standards:

Minimum Lot Size	3 acres
Minimum Lot Frontage	200 ft.
Minimum Front Yard Setback	50 ft.
Minimum Side Yard Setback	50 ft.
Minimum Rear Yard Setback	50 ft.
Maximum Lot Coverage	10%
Maximum Building Height	35 ft.

2

3 He said there doesn't appear to be a problem with any of the dimensional standards. Zoning
4 Administrator Cathy Hasbrouck noted that no new buildings were proposed.

5 Bob Greenfield read from the narrative prepared by the applicant:

6 We are seeking conditional use based on the following identified conditional uses: tourist
7 lodging (through our bed-and-breakfast); recreation (weddings are becoming weekend-long
8 events, and they and B + B guests may enjoy such varied activities as nature walks, birding,
9 Nordic skiing or snowshoeing, s'mores around the fire pit, fishing or swimming); and home
10 business (run from our home), operated by our family. We intend to continue with current
11 agricultural use for the property throughout our ownership tenure.

12 He also read the applicant's response to the Dimensional Standards: None of our proposed uses
13 would affect the dimensions of the property, which is a 46-acer farm at the end of Peck Road.
14 Lot size and setbacks all exceed the standards.

15 Bob Greenfield then read the applicant's response to the general standards:

16 **1. General Standards**

17 **These general standards shall require that any conditional use proposed for**
18 **any district created under these Bylaws shall not result in an undue adverse**
19 **effect to:**

20 **a. The capacity of existing or planned community facilities;**

21 None of our activities would have an impact on the local school system, and we are
22 not attached to the local water or sewerage systems. Events would be weekend
23 affairs that would not require police traffic control and we will not have bonfires or
24 fireworks that would increase the likelihood of a fire incident.

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

3 As described under 2.10.A, our intended uses have already been a part of the
4 neighborhood, and are fully compatible with the low-density community of farmers,
5 foresters, farm laborers, carpenters, second home owners, and short-term rental
6 properties.

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

8 We anticipate hosting weekend events that should not overburden Peck Road or the
9 bridge. Guests will either park on site in our fields or be brought in by shuttle bus
10 from area lodgings.

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

12 We agree to follow all relevant bylaws and ordinances, including but not limited to
13 noise, light, waste, and trash disposal standards.

14 Cathy Hasbrouck directed the Board’s attention to Section 2.10.E Supplemental
15 Standards. She noted that the driveway on the property already exists, that the
16 applicants have gone to some trouble to document the uses on the surrounding
17 properties, which are compatible with the proposed Tourist Lodging use, and will not
18 require screening to separate uses between this parcel and those abutting it.

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

20 Bob Greenfield read the applicant’s response out loud: We do not anticipate that any
21 of our intended uses will have a negative impact on renewable energy standards. We
22 have sought to reduce the carbon footprint of our property through updated insulation
23 based on an energy audit with Efficiency Vermont, installation of heat pumps and a
24 solar array to reduce or eliminate our use of oil and wood for heating, and
25 replacement of incandescent lights with LEDs whenever possible.

26
27 **2. Specific Standards**

28 **Specific standards will include consideration with respect to:**

29
30 **a. Minimum lot size;**

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

32 Cathy Hasbrouck pointed out a portion of the tax map included in the documents
33 listed the uses of the surrounding parcels.

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

35 Bob Greenfield read a portion of the applicant’s narrative that addressed parking:
36 There is parking available for caterers and rental companies along the side of the
37 lower field, to the side of the small barn.

38 **d. Landscaping and fencing;**

39 Bob Greenfield read the following from the applicant’s narrative:

1 Fields are divided and outlined by a combination of wooden fences and old stone
2 walls. Additional landscaping features include shrubs, berry vines, large stone
3 terrace, apple and pear orchard, flower, vegetable and herb gardens and a mown
4 path wending through the hay field.

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

6 Bob Greenfield read the following from the applicant's document: No new
7 permanent structures are included in this proposal. Event, portable restroom,
8 loading and parking locations, as well as parking for the bed and breakfast, are
9 included on the map. We intend to designate a handicapped parking spot for the
10 bed and breakfast, as we are applying for a permit to update the first-floor
11 bedroom to make it ADA compliant.

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

13 Bob Greenfield read the following from the applicant's document: The previous
14 owners had a sign at the top of the Peck Road driveway. It had deteriorated over
15 time, so we are replacing it with a very similar sign in size and design in the same
16 location. Its dimensions are 24" x 14". It is painted wood, with no lighting. We
17 have submitted a separate application for the sign.

18 **g. Performance Standards under Section 4.9 addressed below**

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

20
21 **4.9 PERFORMANCE STANDARDS**

22 In accordance with §4414(5) of the Act, the following standards must be met and
23 maintained by all uses in all districts that are subject to a permit under these Bylaws.

24
25 **A. Noise: noise volume shall be limited to the specified decibel levels listed below**
26 **measured at the property line. (The sidebar is shown only as a reference to illustrate**
27 **the decibel levels of typical activities.) Noise levels or frequencies which are not**
28 **customary in the district or neighborhood or which represent a repeated disturbance**
29 **to others shall not be permitted. Limited exceptions are allowed for incidental and**
30 **customary activities, such as the occasional use of lawn mowers and snow blowers**
31 **for regular property maintenance.**

32 1. Noise shall not exceed 60 dB between 8:00 p.m. and 7 a.m.;

33 2. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

34 Bob Greenfield read the applicant's response as follows:

35 "Bed and breakfast activities will most certainly not violate this standard. Events are to
36 be staged well away from neighbors. In meeting with our neighbors to discuss restarting
37 the wedding venue, we specifically asked about noise, and were assured by all that it had
38 never been an issue with the venue in the past.

1 To test sound, ambient sound was first measured using the smartphone monitoring app
2 Sound Meter at three locations (see locations on attachment 2): at the edge of the
3 property at the creek side nearest the proposed event area (A), in the southwest corner of
4 the property at the edge of the parking lot (B), and at the top of our driveway (C). Then a
5 car stereo at the event location was played with the doors and window open. Sound at
6 just outside the vehicle was measured at 89 dB.

7 All measurements were taken between 3:30 and 4:00 PM on 4/20/21.

8 The data clearly show that the ambient noise of the highway and creek are far more of a
9 factor than the music that might come from an event. Never-the-less, we will monitor the
10 volume on event days and require that the DJs or bands stay within the designated limit,
11 both before and after 8:00 PM.

12 Phil Perlah suggested a curfew for the band at 10:00 or 10:30 PM. John Winter said he
13 would be happy to have the word of law support closing down the noise a 10:00 PM. He
14 said he would be comfortable with a reduction of noise to the level of singing around a
15 campfire.

16 Scott MacDonald quoted the applicant's document, "In meeting with our neighbors to
17 discuss restarting the wedding venue, we specifically asked about noise, and were assured
18 by all that it had never been an issue with the venue in the past" and asked whether the
19 applicant was referring to weddings or wedding receptions, as there is a difference
20 between the two. John Winter assured him they would be hosting wedding receptions.

21 Ruth Holleran, an abutter, gave some history. She said an early event during the previous
22 owner's tenure had been extremely loud and the police were eventually called. The
23 previous owners had apologized to the neighbors the next day and said the acoustics of
24 the valley had amplified and directed the sound toward their neighbors. Since that time,
25 the site of the music was moved and noise had seldom been a problem. Ruth asked that
26 the new owners pay attention to that problem.

27 Scott MacDonald verified where Ruth Holleran lived. He said he was concerned about
28 noise. Ruth said the valley was shaped like a bowl, which could focus and amplify
29 sound. Scott said he thought the proposed curfew would address the problem. Kathleen
30 Walsh said she hoped one day to have a building that could contain the sound. She
31 agreed that the proposed curfew would be helpful.

32 Harry Goodell and Bob Greenfield showed Scott MacDonald the portion of the bylaws
33 that contains the noise limits. Phil Perlah said there was a difference between a string
34 quartet and a heavy metal rock band. Kathleen Walsh said it was important to note that
35 the ambient highway and river noise already exceeded the permissible noise level.

36 **B. Air Pollution: no use shall create emissions, such as dust, fly ash, fumes, vapors,
37 gases and other forms of air pollution, which:**

- 38 1. **Constitute a nuisance to other landowners, businesses or residents;**
- 39 2. **Endanger or adversely affect public health, safety or welfare;**
- 40 3. **Cause damage to property or vegetation; or,**
- 41 4. **Are offensive or uncharacteristic of the area.**

1 **Outdoor wood-fired boilers are exempt from this provision.**

2 Bob Greenfield read the response from the applicant aloud: None of our activities should
3 produce any of the listed forms of air pollution. We will not allow fireworks, unless we first
4 apply for and receive a separate permit.

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

16 Bob Greenfield read the response from the applicant aloud: We use only low voltage shielded
17 LED lighting in the event area to illuminate path and steps. The exterior of the house (doorways,
18 paths) is accented with electrified period style lamps. Existing exterior barn lights are being
19 replaced with vintage-style downward facing gooseneck barn lights using Dark Sky certified
20 LEDs.

21 **D. Safety Hazards: Fire, explosive and similar safety hazards which would substantially**
22 **increase the risk to an abutting property, or which would place an unreasonable**
23 **burden on the Fire Department, shall be prohibited.**

24 Bob Greenfield read the response from the applicant aloud: We anticipate no safety hazards from
25 our proposed uses. We will not allow bonfires or fireworks.

26 **E. Electromagnetic disturbances: any electromagnetic disturbances or electronic**
27 **emissions or signals which will repeatedly and substantially interfere with the**
28 **reception of radio, television, or other electronic signals, or which are otherwise**
29 **detrimental to the public health, safety and welfare, beyond the property lines of the**
30 **property on which it is located, except as specifically licensed and regulated through**
31 **the Federal Communications Commission.**

32 Bob Greenfield read the response from the applicant aloud: Not applicable.

33 **F. Underground Storage Tanks, Ground/Surface Water Pollution: No use shall result in**
34 **burying or seepage into the ground of material which endangers the health, comfort,**
35 **safety or welfare of any person, or which has a tendency to cause injury or damage to**
36 **property, plants or animals. Commercial, industrial or institutional facilities having**
37 **underground fuel storage shall maintain all tanks and related equipment with leak**
38 **detection and spill control systems incorporating the best available safety practices**
39 **and technology, consistent with government and industry standards.**

1 Bob Greenfield read the response from the applicant aloud: We have no underground storage
2 tanks on the property. Our oil tanks are located in the basement. All events will include portable
3 restroom facilities.

4 Cathy Hasbrouck pointed out that the Special Criteria (4.8.C.3) did not apply to the R-120
5 district.

6 There being no further questions from the Board, applicant or audience, Harry Goodell moved to
7 close the hearing. Gary Coger seconded the motion. A vote was taken and the hearing was
8 closed.

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11 **Agenda Item 6 Deliberative session to review previous or current matters**

12 The DRB then went into Deliberative session. The meeting was adjourned at the end of it.

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