

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

4 *November 8, 2021*

5 **BOARD MEMBERS PRESENT:** Harry Goodell, Scott MacDonald, Bob Greenfield Gary  
6 Coger, and Phil Perlah, all at the Town Hall.

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

9 **CITIZENS PRESENT:** Jessica and Paul Frasca at the Town Hall.

10 **Call to Order**

11 Phil Perlah called the meeting to order at 6:00 PM. He introduced the members of the  
12 Development Review Board. He led the group in the Pledge of Allegiance.

13 **Agenda Item 1 Review minutes of the October 25, 2021 meeting**

14 Harry Goodell moved to accept the minutes of the October 25, 2021 meeting. Gary Coger  
15 seconded the motion. There was no discussion. A vote was taken and the minutes were  
16 accepted as written.

17 **Agenda Item 2 Citizen's comments**

18 There were no citizen comments.

19 **Agenda Item 3 Conditional Use Review for 46 Route 103 South**

20 Phil Perlah asked if any board members had a conflict of interest in this hearing or had had any  
21 ex-parte communication about the application. None had.

22 Phil Perlah swore in Paul and Jessica Frasca to give testimony. The exhibits were then entered  
23 into evidence.

24 The first document to be considered was an application for a public hearing before the  
25 Development Review Board. The purpose of the hearing was to allow the addition of an 8' x 10'  
26 walk in cooler to the south end of the building on a concrete pad with a roof over it to protect it  
27 from snow. Harry Goodell moved to accept the application+ as Exhibit A. Gary Coger  
28 seconded the motion. A vote was taken and the application was accepted as Exhibit A.

29 The second document presented was a Town of Chester Notice of Public Hearing before the  
30 Development Review Board issued by Preston Bristow on behalf of the Town of Chester. Harry  
31 Goodell moved to accept the notice as Exhibit B. Gary Coger seconded the motion. A vote was  
32 taken and the notice was accepted as Exhibit B.

33 The third exhibit was a sketch of the site of the Country Girl Diner and a more formal survey of  
34 the property with the proposed cooler and entry way depicted. Harry Goodell moved to accept  
35 the two maps as Exhibit C. Gary Coger seconded the motion. A vote was taken and the two  
36 maps were accepted as Exhibit C.

37 Phil Perla asked about the use of a platform on the other side of the building. Jessica Frasca said  
38 it was a stage used for bands on cruise-in and bike-in nights and occasional Saturday night

1 entertainment. Phil Perlah suggested that Preston Bristow have a separate conversation with  
2 Jesse and Paul Frasca about the stage.

3 The fourth document was a schematic diagram of the proposed cooler. Harry Goodell moved to  
4 accept the diagram as Exhibit D. Gary Coger seconded the motion. A vote was taken and the  
5 diagram was accepted as Exhibit D.

6 The fifth document was a map from the Agency of Natural Resources showing the parcel, the  
7 Williams River, Route 103 and the flood hazard area which does not touch the property. Harry  
8 Goodell moved to accept the map as Exhibit E. Gary Coger seconded the motion. A vote was  
9 taken and the map was accepted as Exhibit E.

10 The sixth document was an e-mail conversation between Zoning Administrator Preston Bristow  
11 and Chester Police Chief Rick Cloud concerning the addition of the cooler. Chief Wilson said he  
12 had no concerns at all with the project. Harry Goodell moved to accept the map as Exhibit F.  
13 Gary Coger seconded the motion. A vote was taken and the map was accepted as Exhibit F.

14 The seventh document was an e-mail conversation between Zoning Administrator Preston  
15 Bristow and Chester Fire Chief Matt Wilson concerning the addition of the cooler. Chief Wilson  
16 said he had no problem with the project. Harry Goodell moved to accept the map as Exhibit G.  
17 Gary Coger seconded the motion. A vote was taken and the map was accepted as Exhibit G.

18 An e-mail conversation between Preston Bristow and Joseph Ruzzo of the Agency of  
19 Transportation concerning the highway access for the parcel was not entered into evidence as the  
20 Board decided the proposed cooler had no impact on highway access. Preston Bristow said he  
21 had also spoken to Jeff Holden of Chester Water Department and Kirby Putnam of the Chester  
22 Highway Department. Jeff Holden said there was no concern for his department.

23 Phil Perlah said the parcel is in the Residential-Commercial district and restaurant is a  
24 conditional use in that district. Phil Perlah asked if the cooler was considered part of the  
25 restaurant. Preston Bristow said it was. Preston gave a history of the parcel and said the diner  
26 was first created in 1965, well before Chester had any zoning bylaws. Preston confirmed that the  
27 diner is a conforming use and was duly permitted at the time the business was started.

28 The Board then considered the requirements for a conditional use permit.

29 **1. General Standards**

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

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

33 Phil Perlah said the Board had heard from the Police, Fire, Sanitation and Highway  
34 Department heads that this was not a problem for community facilities.

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

37 Phil Perlah said he observed at the site visit that the parcel was at a busy intersection  
38 and listed the neighboring uses: retail store, gas station, veterinarian, and residences.  
39 He felt the additional cooler space would not impact the surrounding businesses and  
40 residences.

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

1 Phil Perlah said the Chester Police Chief had stated the cooler would have no impact  
2 on traffic.

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

4 Harry Goodell said he felt there was no need to discuss all the dimensional standards  
5 on the zoning district page as approval was only being sought for an addition. The  
6 cooler was not changing the coverage of the lot and it was outside the setbacks.

## 7 **2. Specific Standards**

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

9 a. **Minimum lot size;**

10 Phil Perlah said the lot size was not a problem.

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

12 Phil Perlah said the building was not close to any abutting uses

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

14 Phil Perlah said there was plenty of off-street parking and space for loading  
15 facilities on the parcel.

16 d. **Landscaping and fencing;**

17 Phil Perlah said there were no important changes to the building. He asked if  
18 there were any exterior lights involved in the change. Jessica Frasca said  
19 there would be a light to illuminate the doorway. Scott MacDonald asked  
20 whether there was any structure associated with the cooler aside from the  
21 concrete pad. Harry Goodell said there was a structure around the cooler and  
22 Preston Bristow said the roof line of the building would be extended over the  
23 cooler. Jessica said the silver side of the cooler would match the silver  
24 exterior of the diner itself.

25 **Design and location of structures and service area;**

26 e. **Size, location and design of signs;**

27 Phil Perlah asked if there would be any signs on the cooler and Jessica said  
28 there would not.

29 f. **Performance Standards under Section 4.9 and,**

30 g. **Other such factors as these Bylaws may include.**

## 31 32 **4.9 PERFORMANCE STANDARDS**

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

- 1       1. Noise shall not exceed 60 dB between 8:00 p.m. and 7 a.m.;
- 2       2. Noise shall not exceed 70 dB during the day between 7 a.m. and 8:00 p.m.

3 Phil Perlah said he assumed the cooler would make a faint hum. Jessica Frasca agreed. Harry  
4 Goodell asked where the condenser for the cooler would be. Jessica said it would be above the  
5 cooler under the roof. Harry Goodell confirmed it would not extend beyond the side of the  
6 building.

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

- 9       1. Constitute a nuisance to other landowners, businesses or residents;
- 10       2. Endanger or adversely affect public health, safety or welfare;
- 11       3. Cause damage to property or vegetation; or,
- 12       4. Are offensive or uncharacteristic of the area.

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

14 Phil Perlah said there was no air pollution associated with the cooler.

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

26 Phil Perlah noted that there would be no new lights associated with the cooler.

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

30 Jessica said the location of the cooler will make deliveries safer. Currently the cooler items are  
31 stored in the basement and hundreds of pounds of produce are trundled down the basement stairs.  
32 With the cooler on the same level as the kitchen, produce may be rolled off the truck straight into  
33 the cooler.

34 Scott MacDonald asked whether the heat from the condenser would be a safety hazard. Did the  
35 Fire Marshall know about it? Jessica said the company builds the cooler on site. Harry Goodell  
36 said the open sides of the roof would allow the heat to escape. There should never be a problem  
37 with heat.

38 **E. Electromagnetic disturbances: any electromagnetic disturbances or electronic**  
39 **emissions or signals which will repeatedly and substantially interfere with the**

1 reception of radio, television, or other electronic signals, or which are otherwise  
2 detrimental to the public health, safety and welfare, beyond the property lines of the  
3 property on which it is located, except as specifically licensed and regulated through  
4 the Federal Communications Commission.

5 Jessica said she knew nothing about electromagnetic disturbances. Harry Goodell said, in his  
6 honest opinion, there would be no electromagnetic disturbances.

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

14 Jessica said there were no underground storage tanks.

15 The board discussed Special Criteria and the New England Architectural standard which would  
16 apply to a building in the Residential-Commercial District. It was agreed that the diner had a  
17 unique historic importance, though it did not meet the New England Architectural standards. It  
18 was noted that the additions to the original diner car were painted to coordinate with the trim and  
19 the cooler itself matched the stainless-steel exterior of the dining car portion of the building.

20 Phil Perlah explained the procedures involved in completing the application review and issuing  
21 of the permit. He noted that no citizen appeared at the site visit or the hearing and no one had  
22 contacted the Zoning Administrator with regard to the hearing. There was no one who could  
23 appeal the Board's decision once it was issued. Harry Goodell moved to close the hearing. Gary  
24 Coger seconded the motion. A vote was taken and the hearing was closed.

25 **Agenda Item 4 Review of zoning permit procedures by Preston Bristow.**

26 Preston Bristow discussed the many requirements he checks before issuing a zoning permit. He  
27 noted differences between the applications and paperwork done 20 years ago and current  
28 requirements. He said Chester has relatively recently begun recording zoning permits in the land  
29 records as required by state statute. Zoning permits would be issued for simple building permits  
30 but also for conditional use permits, subdivisions, boundary adjustments, variances and waivers.  
31 He showed an example of a zoning permit and pointed out the space where the Zoning  
32 Administrator would explain the reasoning behind issuing the permit and note any conditions  
33 attached to the permit.

34 Cathy Hasbrouck said she had asked Preston to make the presentation in her role as chair of the  
35 Planning Commission. He had made a similar presentation to them and it had been very helpful  
36 to that board. She wanted the DRB members to be aware of the thought that goes into even a  
37 simple building permit.

38 Phil Perlah asked if a permit could be refused if the applicant had delinquent taxes. Preston said  
39 he never asks that question. He said courts have ruled that a permit may not be withheld if the  
40 property has a zoning violation which is not related to the permit applied for. He doubted that a  
41 permit could be withheld for overdue taxes. He offered to ask at the next class he attends. Cathy  
42 Hasbrouck said the bylaws do not allow a permit to be withheld because of overdue taxes. Bob

1 Greenfield asked whether the listers would have noticed the foundation on Farrar Road that was  
2 not built to the specification on the permit. An informative discussion of the interactions  
3 between the listers and the zoning administrator in a town ensued. A good time was had by all.

4

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

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