

1 **TOWN OF CHESTER**

2 **DEVELOPMENT REVIEW BOARD**

3 Draft Minutes for January 9, 2023 Meeting

4 **BOARD MEMBERS PRESENT:** Harry Goodell, Bob Greenfield, Scott MacDonald, Larry  
5 Semones and Gary Coger at the Town Hall.

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

8 **CITIZENS PRESENT:** Brian Post, Melissa Post, Hugh Quinn and Peter Hudkins at the Town  
9 Hall. Lee Demarest via Zoom

10 **Call to Order**

11 Bob Greenfield called the meeting to order at 6:04 PM. He led the group in the Pledge of  
12 Allegiance and introduced the members of the Development Review Board and staff.

13 **Agenda Item 1 Review minutes of the December 12, 2022 meeting**

14 Harry Goodell moved to accept the minutes as written. Scott MacDonald asked that the minutes  
15 indicate the questions he asked, noted on page three, (about remote workers and the applicability  
16 of the proposed bylaws to this permit) were asked out of concern that the permit was valid and  
17 not vulnerable to future challenges. He felt the minutes portrayed the questions as a challenge to  
18 the permit when, in fact he was trying to protect the applicant. Gary Coger seconded the motion  
19 to approve the minutes. There was no discussion. A vote was taken and the minutes were  
20 approved as amended unanimously.

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

22 No citizens had comments.

23 **Agenda Item 3 Conditional Use Hearing #586 Building and Construction Trades at 1996**  
24 **Trebo Road**

25 Bob Greenfield asked if any Development Review Board member had had any ex-parte  
26 communication about the hearing. None present did. He asked if any Board member had had  
27 any conflict of interest to report. None did. He introduced the members of the Development  
28 Review Board and staff.

29 Brian Post then gave an introduction to his application. He said he has had a business since  
30 2010, focusing on dry-laid stone. He started the business in 2010 and has been based in on a dirt  
31 road in Springfield for many years. He said he keeps some equipment and small amounts of  
32 materials at his business. Most deliveries and employees go to his project site. He has a home  
33 office. He believes there will be little impact to the neighborhood. He is accustomed to  
34 working around mud season.

35 The following exhibits were entered in evidence:

36 The first document was an Application for Hearing before the Development Review Board dated  
37 January 3, 2023. Phil Perlah moved to accept the Application as Exhibit A. Harry Goodell  
38 seconded the motion. A vote was taken and the Application was accepted as Exhibit A.

1 The second document was a sketch of the property showing the locations of driveways, houses  
2 and storage sheds. Phil Perlah moved to accept the sketch as Exhibit B. Harry Goodell  
3 seconded the motion. A vote was taken and the sketch was accepted as Exhibit B.

4 The third document was a one-page addendum to the Application which described the proposal  
5 in greater detail. Phil Perlah moved to accept the document as Exhibit C. Harry Goodell  
6 seconded the motion. A vote was taken and the document was accepted as Exhibit C.

7 The fourth document was a portion of the tax map showing the property in question. Phil Perlah  
8 moved to accept the map as Exhibit D. Harry Goodell seconded the motion. A vote was taken  
9 and the map was accepted as Exhibit D. Phil Perlah asked about the parcels abutting the  
10 largest solid yellow parcel. The smaller parcels were bounded by dotted lines. Brian Post said  
11 he believed the parcels were owned by Melissa Post, who owns the largest parcel. Melissa  
12 confirmed that the two smaller parcels had been purchased with the largest parcel. Cathy  
13 Hasbrouck, as a lister confirmed the explanation.

14 The fifth document was three pages of screen shots from the Standing Stone website. Bob  
15 Greenfield proposed the pages be accepted as Exhibits E1, 2 and 3. Phil Perlah made the motion  
16 and Harry Goodell seconded it. A vote was taken and the screen shots were accepted as Exhibits  
17 E1, 2 and 3.

18 The sixth document was a Notice of Hearing for a conditional use permit hearing dated  
19 December 15, 2022. The permit was for 1998 Trebo Road. Phil Perlah moved to accept the  
20 Notice as Exhibit F. Harry Goodell seconded the motion. A vote was taken, and the Notice was  
21 accepted as Exhibit F.

22 The seventh document was a list of 100-foot abutters to 1998 Trebo Road who were notified of  
23 the hearing via mail on 12/19/22. Phil Perlah moved to accept the list as Exhibit G. Harry  
24 Goodell seconded the motion. A vote was taken, and the list was accepted as Exhibit G.

25 Melissa Post explained that the Post Office required 2 house numbers for the two different  
26 dwellings on the property. Both 1996 and 1998 Trebo Road apply to the same parcel.

27 Bob Greenfield said the maps indicate there are no issues with setback distances or lot size. He  
28 noted there would be no changes to the exteriors or placement of the buildings. Brian Post said  
29 the property line was 300 – 400 feet from the closest corner of any building. In response to a  
30 question from Phil Perlah, Brian Post said the parcel had 186 acres.

31 Bob Greenfield verified with Brian Post that there was no shortage of room for parking. Brian  
32 said that was true. The parking area was not visible from Trebo Road and he did not have clients  
33 coming to his site. Brian Post said he had no sign advertising the business.

34 Bob Greenfield asked about the cut-off saw Brian Post said he occasionally used. He asked how  
35 often it was used. Brian estimated that he used it about 10 days per year at most, likely far less.  
36 Scott MacDonald asked if the use of the saw would be during the week as opposed to on the  
37 week end. Brian said it would be during the week.

38 Bob Greenfield said the police and fire chiefs had been consulted and they had no concerns about  
39 the use. Brian Post said he was familiar with Trebo Road and he directed large trucks making  
40 deliveries to avoid the intersection of Trebo Road and Route 103.

41 Bob Greenfield asked Brian about lights on the property. Brian said he preferred working in the  
42 daylight and did not use searchlights or other lights that would violate the Performance

1 Standards. Brian said he did not think he created any electromagnetic disturbances. Bob  
2 Greenfield asked Brian if he stored anything at the property. Brian said he stored stone and soil  
3 occasionally. He had a diesel tank in the fuel shed for his equipment.

4 Phil Perlah said the applicant was obliged to bring forward evidence that the proposal met all the  
5 performance standards. Phil was concerned about the stone shaping activity that would take  
6 place at the business. He asked what kind of equipment was used and how much noise was  
7 produced. Brian Post said a lot of the activity was hand-held hammers and chisels. He said he  
8 sometimes used a power drill for holes and occasionally a hand held cutoff saw. He said his  
9 business was not fabrication, such activity was not usual. He said the saw was about as noisy as  
10 a large chain saw, and the drill was much quieter. He did wear ear protection when he operated  
11 the drill. He said he used a tractor to move and load material. Phil Perlah asked if Brian did any  
12 crushing. Brian said he did not.

13 Lee Demarest, a neighbor on Trebo Road. He asked how much stone would be stored on the  
14 property. Brian said the most he stored on his previous site was about 5 dump truck loads, or  
15 about 100 tons. That was a one-time event. He said generally he has deliveries made to the  
16 project site and only stores left overs at his business. He may have a delivery made to the  
17 business if it cannot be made directly to the project site. He said the business was not a stone  
18 supplier or quarry.

19 There being no further questions Phil Perlah moved to close the hearing. Harry Goodell  
20 seconded the motion. A vote was taken and the hearing was closed.

21 **Agenda Item 4 Discussion of proposed administrative amendments to Chester Unified**  
22 **Development bylaws with Planning Commission members.**

23 Peter Hudkins and Hugh Quinn joined the meeting to present proposed changes to the  
24 administrative portions of the Unified Development Bylaws. Hugh Quinn explained the process  
25 the Planning Commission is using to update the bylaws. He said the work has been divided into  
26 chunks and each chunk will be adopted before moving on to the next chunk. The segment to be  
27 discussed that evening concerned administrative aspects of the bylaws. He said the changes  
28 were mainly authored by Preston Bristow, Chester's Zoning Administrator, assisted by Jason  
29 Rasmussen, the head of the Mount Ascutney Regional Planning Commission. Hugh said the  
30 purpose of the meeting was to get feedback from the Development Review Board on the  
31 proposed changes. Phil Perlah asked whether the DRB members could make suggestions on the  
32 General Use standards or if the discussion would be limited to the areas addressed by the  
33 Planning Commission only. Hugh suggested that the meeting focus on the changes presented  
34 and address other areas once those are complete.

35 Phil Perlah began by asking whether the Zoning Administrator or the Development Review  
36 Board would decide that an area on the flood insurance maps was incorrectly determined to be in  
37 the Special Flood Hazard Area. The following points were raised during the discussion

- 38 • This applies to the A-zone of the flood hazard area, where no measurements have been  
39 done
- 40 • This applies only to non-residential structures

- 1 • Allowing a single person (the Zoning Administrator) to make such a decision would give  
2 that person the ability to allow one structure and disallow another which could be seen as  
3 unfair.
- 4 • If the DRB or the Zoning Administrator were allowed to make this determination, it  
5 would relieve the applicant of the burden of doing a survey to prove that an area in the A-  
6 zone was not actually below the base flood elevation in order to construct a non-  
7 residential building.
- 8 • There was no readily available map of the A-zone.

9 It was resolved that such a decision belongs with the DRB only.

10 Peter Hudkins continued to discuss the changes. No one objected to a second accessory dwelling  
11 unit (ADU) being allowed on a single-family home with Development Review Board approval.  
12 Currently only one ADU may be added to a single-family home.

13 Peter Hudkins proposed that instead of the current two levels of Home Occupation and Home  
14 Business that are allowed in residential zones, a third level be created. The simplest level would  
15 not require a permit and would allow an individual to have a business in up to 25% of their home  
16 with no other employees, not even household members. The second level (a Home Occupation)  
17 would allow a business with up to two employees and would require a permit issued by the  
18 Zoning Administrator. The third level (a Home Business) would allow up to five employees and  
19 would require a hearing before the DRB. Points raised during the discussion included:

- 20 • The term Home Business does not refer to the tax formalities of business such as filing  
21 payroll taxes. The discussion only involves uses of land.
- 22 • The town of Chester had waived the fee for obtaining a home occupation permit to  
23 encourage people to register their very small businesses.
- 24 • The DRB had had a hearing recently for a Home Business only because there was one  
25 employee who was not a member of the household. If the proposed change to Home  
26 Occupation that would allow up to two employees were enacted, the Home Business  
27 hearing would not have taken place.
- 28 • Someone who has a job in an office outside of their home, but who brings work to their  
29 home to do off-hours does not have a home occupation.
- 30 • There are rules that apply to a Home Occupation to protect the residential nature of the  
31 neighborhood. This is the reason that a Home Occupation requires a permit.
- 32 • Insurance rates could go up if a Home Business is recognized by the insurance company.
- 33 • Obtaining a permit for a Home Occupation or Home Business, which runs with the land  
34 and not the property owner, can be an advantage when selling the property.

35 It was resolved to define home office in the bylaws and make it clear that a permit is not needed  
36 for a home office. The changes to the number of employees allowed were accepted as proposed.

37 Phil Perlah pointed out a discrepancy between the height of fences allowed in 3.14, Lot and Yard  
38 Requirements and 4.3.B.14. Limitations and Exemptions as it applies to fences. In 3.14 there is a  
39 height limit of 6 feet for fences at the boundary line. The implication is that a fence may be  
40 taller than that if a conditional use permit is obtained and the fence is within the setback. In

1 4.3.B.14 no permit is required for a fence that is up to 4.5 feet high in the Village Center and  
2 Village Green districts and up to 8 feet high elsewhere.

3 Points raised during the discussion included

- 4 • The difficulties of regulating fences and setbacks, which can end up creating no-man's  
5 land between properties when a setback is required.
- 6 • The inability of a fence to hide an undesirable view if it is less than 8 feet high
- 7 • The difficulty of maintaining a fence if it on the property line itself
- 8 • A fence can obstruct the view from another property.
- 9 • The current bylaws do not regulate the placement of the “ugly” side of the fence.

10 It was resolved to correct 3.14.C.10 to limit fences to 8 feet in height.

11 Section 3.19 addresses non-conforming lots and the setbacks for those lots. Points raised during  
12 the discussion included

- 13 • Small setbacks could allow a fire to spread easily to other buildings on nearby parcels.
- 14 • There were only a few tiny non-conforming lots in the R120 where this exception would  
15 apply
- 16 • The approval process could be perceived as uneven if it were always left to the Zoning  
17 Administrator.
- 18 • A non-conformity for a commercial building could be thought of as a more serious issue  
19 requiring oversight from the DRB than for a residential building which could be  
20 approved by the Zoning Administrator.
- 21 • The current setbacks are likely to be changed as the work on specific zoning districts  
22 goes ahead. Adjustments to setbacks in non-conforming lots may need to be revised as a  
23 result of these changes.

24 It was resolved that the setbacks on non-conforming lots be handled by the DRB and not the  
25 Zoning Administrator.

26 There was no substantial discussion about the proposed changes to Section 3.20, Off-street  
27 Parking. Preston Bristow noted that the major change was the shift from the required 2 cars per  
28 household to one car per household. Phil Perlah said he didn't think the 1 car per residential unit  
29 was realistic, but he did not oppose it.

30 The note inserted in Section 3.22 Renewable energy was briefly discussed. Preston Bristow  
31 explained that the code in 3.22 would rarely be used, but he felt it was helpful to leave it in the  
32 bylaw to cover this rare event. The note added helped explain that this code did not apply to the  
33 most common situation, where a renewable energy installation had a certificate of public good.

34 Phil Perlah wondered at why the Performance Standards mention renewable energy. (Editor's  
35 note: renewable energy is mentioned in Section 4.8.C, General Standards). He said he has never  
36 seen a conditional use application that included renewable energy and there was no consequence  
37 whether renewable energy was used or not.

1 Preston Bristow explained that Section 3.30, Short Term Rentals was added so that Chester could  
2 regulate short term rentals with an ordinance.

3 The list of limitations and exemptions in Section 4.3 was discussed briefly. Preston highlighted  
4 the issues the Planning Commission spent the most time discussing. The most controversial  
5 issue was 4.3.B.19, self-contained campers and travel trailers. Chester does have citizens living  
6 in these now. Social service organizations have asked that this be allowed to continue in the  
7 interest of preventing homelessness.

8 Phil Perlah asked about item 26 about mobile food services. H noted the text was hard to  
9 understand as it used so many negatives. Preston offered to change the phraseology to make it  
10 clearer,

11 Preston explained the changes made to the Planned Unit Development section (4.10) were  
12 mainly made to explain how it could be used and encourage this type of development.

13 Preston discussed the changes suggested for Subdivision Review (4.12). Under the current  
14 bylaw a proposed subdivision is to be discussed at a meeting of the DRB, then a preliminary  
15 hearing held, then a second discussion at a second meeting before a final hearing was held.  
16 Harry Goodell pointed out that the DRB could waive any number of the hearings if they so  
17 chose. The delay to schedule the meetings and warn the hearings was substantial. The changes  
18 allow a pre-application meeting with the DRB, which will not require a Notice of Hearing. The  
19 meeting would be the applicant's choice. A Preliminary Hearing would be required. A Final  
20 Hearing could be waived if the DRB wishes.

21 No changes to the proposal were requested.

22 Section 5.2 addresses roads. Peter Hudkins explained that the road standards are governed by  
23 the Selectboard. The change to the bylaws refers any driveway with more than one lot to the  
24 Town Road Standards. The driveway must meet the town road standards. A driveway with more  
25 than 3 lots must have a name in the 911 system. No changes were requested for Section 5.2.

26 Section 7.16 Waivers has language to allow the DRB to waive some dimensional standards for  
27 low- and moderate-income housing projects. No changes were requested for Section 7.16.

28 In Article 8 definitions, the maximum size of accessory dwelling units was increased to 1,000  
29 square feet. A definition of a primitive camp was added because of the number of permits issued  
30 for primitive camps. No changes were requested for Section 8.

31 Having reviewed all the changes proposed by the Planning Commission, the Board then went  
32 into deliberative session. The meeting was adjourned at the end of it.