

1 **TOWN OF CHESTER**  
2 **DEVELOPMENT REVIEW BOARD**  
3 **DRAFT MINUTES**  
4 *April 1, 2024*  
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7 **BOARD MEMBERS PRESENT:** Robert Greenfield, Harry Goodell, Scott MacDonald, Phil  
8 Perlah and Gary Coger all at the Town Hall,

9 **STAFF PRESENT:** Zoning Administrator Preston Bristow and Assistant Town Clerk Amie  
10 Record at the Town Hall and Cathy Hasbrouck, Recording Secretary on Zoom.

11 **CITIZENS PRESENT:** Jim Carroll, Steve Ankuda, Mike LeClaire, Priscilla and Rene  
12 Melanson, Barry Goodrich, Matt Gorsky, Bill Gorsky, Roberta Alexander, Leslie Thorsen, Scott  
13 Kilgus at Town Hall. James Dumont, Mark Hall, Michaela Stickney, Jenny Ronis, Jason  
14 Waysville, Joseph McLean, Arne Jonynas, Barre Pinske, Hugh Quinn, Jonathan Patrick  
15 representing Julian Materials/Allstone on Zoom.

16 **Call to Order**

17 5:57Chair Bob Greenfield called the meeting to order at 6:03 PM. He led the group in the  
18 Pledge of Allegiance. He introduced the members of the Development Review Board and staff.

19 **Agenda Item 1 Review minutes of the March 25, 2024 meeting**

20 The minutes from the March 25, 2024 meeting were not available and were not reviewed.

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

22 There were no citizen comments.

23 **Agenda Item 3 Appeal of Notice of Violation to Julian Materials, LLC regarding Allstone**  
24 **quarries at 3643 VT RT 103 North and 137 Chandler Road**

25 7:47The public hearing was opened and Bob Greenfield asked Jim Carroll to swear in those who  
26 wanted to give testimony. Jim Carroll announced a Stipulation arrived at via discussions between  
27 himself, representing Zoning Administrator Preston Bristow who filed the Notice of Violation;  
28 James Dumont, representing Leslie Thorsen and Scott Kilgus; Steve Ankuda representing several  
29 other concerned citizens; and Mark Hall representing Julian Materials, LLC and Andrew and  
30 Jason Julian. Jim Carroll said the Stipulation puts into place guardrails which the town had been  
31 looking for in connection with stopping and preventing any of the activities at the quarries for  
32 which the Notice of Violation had been issued. Specifically included in the Stipulation, and now  
33 forbidden, are the hammering and the integration of the three quarries that began when Julian  
34 Materials acquired the Chandler Road property. Integration included transportation of material  
35 between the quarries and mechanized processing of the stone, as well as quarrying. Discharge  
36 either by point source or by sheeting of material into the brook bordering the 137 Chandler Road

1 facility was forbidden. Some structures on the properties must be removed within 30 days. These  
2 activities and structures are forbidden by the Stipulation until applications for permits have been  
3 filed, reviewed and approved by the appropriate regulatory agencies including the State of  
4 Vermont. The jurisdictional opinion issued in March 2024 by the Environmental Court  
5 determined that state land use permits were needed for these activities. The Stipulation is an  
6 agreement between the parties to resolve the violations as named in the Notice of Violation. The  
7 Stipulation concludes the hearing process. 11:29 Jim Carroll said he had also written a Decision  
8 and Order for the Development Review Board to sign, affirming the Notice of Violation filed by  
9 Preston Bristow, Chester's Zoning Administrator and the Stipulation presented at the hearing on  
10 April 1, 2024. If the Stipulation is violated by the quarry operators the Town of Chester could  
11 immediately appeal to the Environmental Court for relief. The administrative process for the  
12 Town of Chester is now complete.

13 12:30 Jim Carroll asked the members of the Development Review Board if they had had an  
14 opportunity to review the Stipulation and Order. Jim Carroll said the Stipulation would end the  
15 need for a hearing on the Notice of Violation, but citizens could still make comments on the  
16 record if they wished.

17 Bob Greenfield said he knew the attorneys had discussed the Stipulation extensively over the  
18 past few days. The members of the Development Review Board had received copies of the  
19 Stipulation at 4:15 that afternoon and had not had much time to review it. He said the Stipulation  
20 will be published on Chester's website Tuesday morning. He opened the floor to comments by  
21 citizens.

22 13:47 Mike LeClair said in the past three and a half years the quarry operators have polluted  
23 rivers, made his life miserable, devalued his property and threatened the safety of residents by  
24 unannounced blasting. The Julians had violated every permit they had. He did not trust the  
25 Julians to honor any forthcoming permit. He said if the dust and noise created at the quarry had  
26 taken place in the center of Chester, the quarry operation would have been stopped immediately.  
27 He wanted the boards reviewing the permits to support the citizens and abutters and not the  
28 quarry operators.

29 17:02 Leslie Thorsen thanked everyone for their efforts and wanted to know the status of the  
30 Chandler Road quarry permit. She understood that the Stipulation allows continued quarrying  
31 there and the use of guillotines to cut stone.

32 18:00 Bob Greenfield said he was not familiar with the Stipulation. Jim Carroll said the only  
33 permit he was familiar with on Chandler Road was for the construction of a storage building  
34 only, not a manufacturing facility. The Stipulation prevents the use of the storage building for  
35 anything other than storage. The pre-existing rights that may have accumulated before Chester  
36 had zoning bylaws remain with the parcel. Evaluating the precise nature of those rights would  
37 require historical analysis. The Stipulation forbids hammering. Splitting rock using the  
38 guillotines present when the Chandler property was purchased may continue, but not within the  
39 storage building. Watching for violations of this provision will take vigilance on the town's part.  
40 The benefit of the Stipulation is that the town may go directly to the Environmental Court with  
41 evidence of violations to seek fines, penalties and injunctive relief.

1 20:38 Mike LeClair said he had read the Stipulation and sees that Julian Materials will continue  
2 to process stone at the Chandler quarry. He said he looked at the buildings on Chandler Road that  
3 day and did not see that any had been torn down. He said that waste from the Chandler quarry  
4 operation have been dumped in the Dean Brook and transported by truck to the South Quarry and  
5 dumped there.

6 Bob Greenfield asked Mike LeClair if he was referring to Stipulation 4 which says, “The shed  
7 attached to the building at Chandler Road has already been removed.” Bob asked Mark Hall  
8 about the building. Mark Hall said his understanding was that the building had been removed  
9 after checking to see if a demolition permit was needed. He said it was determined that no permit  
10 was needed and he was told the building had been removed. Mark Hall said if the building hasn’t  
11 been removed, it will be removed.

12 Jim Carroll said that if the building was not removed Chester will go to the environmental court.  
13 Mark Hall said the full intent was that the building was gone. Bob Greenfield asked if there was  
14 a time constraint attached to this. Jim Carroll said the Stipulation states the building has been  
15 torn down. If the building wasn’t gone that would be a violation of the Stipulation.

16 25:21 Bill Gorsky on Dean Brook Road said the quarry was in full operation the day of the  
17 hearing. A fully loaded trailer, probably about 98,000 pounds was sent out on the posted road.  
18 He thought there had been an injunction to stop work at the quarry. Bob Greenfield said the  
19 Stipulation honored permits that were in place before the property was purchased by the Julian  
20 brothers. Bill Gorsky said the quarry was not running when he purchased his house in 2009.  
21 There was only a small shack. Bob Greenfield said the permits in place run with the land. Jim  
22 Carroll said there was only one permit in place. Whatever rights that exist there came with the  
23 land by way of pre-existing use. Jim said there are time limitations on pre-existing use in state  
24 statute and the analysis of existing rights can be complicated. Jim Carroll said he is endeavoring  
25 to put guardrails around what is allowed at the quarries. He said the Stipulation forbids transport  
26 of rock between quarries. It does not prohibit the sale and transport of rock out of the quarry.

27 Bill Gorsky said the quarry had been shut down for some time, but it was now operating. He said  
28 they were quarrying near his neighbor’s property under the power lines. Bill Gorsky said he was  
29 not notified about the construction of the storage building. He said no one from the town has  
30 enforced the permits and road posting violations. He called the Chester Police about the loaded  
31 trucks driving on posted roads and was told the town was acquiring a scale. He said he quarry  
32 operators do not follow any rules put down. He wanted the town to start forcing the quarry  
33 operators to obey the laws.

34 30:05 James Dumont said he thought the Stipulation that Attorney Carroll had worked out was a  
35 good settlement on the Notice of Violation. He said this hearing only concerns the issues in the  
36 Notice of Violation. The hearing cannot go beyond the issues in the Notice of Violation.

37 31:15 Roberta Alexander asked if the quarry is still discharging white water into the brook. Jim  
38 Carroll said today he was trying to get the Stipulation affirmed by the Development Review  
39 Board. The Stipulation will allow him to enforce the terms of the permits and laws that govern  
40 the operation of the quarries. It is advantageous for the Town of Chester to have the Stipulation

1 in place. It will allow the town to go directly to the Environmental Court and avoid all the  
2 administrative processes they have been working through to date.

3 It will give the town tools to address the infractions. Roberta Alexander said the stream continues  
4 to be polluted, sometimes blue and sometimes white. Bob Greenfield read item 3 of the  
5 Stipulation that forbids discharging substances into the stream.

6 Scott MacDonald said he understood the task of the DRB was to affirm the Stipulation. He asked  
7 what would happen if the building which was purported to have been removed in the Stipulation  
8 was not actually removed. Mark Hall said he had a photograph showing that the building  
9 mentioned in the Stipulation as removed has actually been removed. He said issues like the  
10 building not being demolished would be an occasion for enforcement.

11 38:50 Jim Carroll said the removal of the building could be checked immediately.

12 39:29 Matthew Gorsky said venting the spleen about what has happened over the last 3 years will  
13 not help the process that is before the Board today: that of affirming the Stipulation agreed to by  
14 all parties. Matthew said the Allstone and Julian quarries have consistently disregarded the laws  
15 of the state and he considers them bad actors. They only observe laws only when faced with legal  
16 action. Therefore, Matthew was in favor of affirming the Stipulation agreement so that when the  
17 agreement is broken the town can act (“We can nail them to a wall”) instead of being forced to  
18 take more administrative steps (“instead of trying to nail Jello to a tree”).

19

20 Priscilla Melanson asked if the Stipulation agreement is affirmed and a violation of the  
21 agreement is found, can the Town of Chester take the offenders to Environmental Court. Jim  
22 Carroll said that was exactly what the agreement was for. Jim did not choose to discuss the  
23 administrative issues of the Environmental Court. He wanted to consider, as Jim Dumont  
24 recommended, whether to affirm the Stipulation. He wanted everyone who is a daily witness to  
25 the actions of the quarry owners to report every time they see a violation of the Stipulation  
26 agreement. That way he, with the Selectboard and the Zoning Administrator, can decide whether  
27 to take the violation directly to court.

28 43:44 Phil Perlah asked Jim Carroll whether the agreement had been signed by only by Jim  
29 Dumont. The draft document given to the DRB members had only one signature on it. Jim  
30 Carroll said it was a conformed copy with separate signature pages. He said the agreement has  
31 been signed by Mr. Dumont, Mr. Ankuda, Mr. Hall and himself. Zoning Administrator Preston  
32 Bristow noted that item 7 of the agreement gives him the right to inspect the premises with 24  
33 hours’ notice, which is a right he has not had.

34 44:48 Rene Melanson said it looked like getting permits would take a long time. Did Jim Carroll  
35 know how long it would be? Jim Carroll said yes, it could take a long time to get permits. As far  
36 as he knows, no permits have been applied for yet. The applicant may be rethinking the plan. A  
37 new conditional use permit will be needed from the Town of Chester. The Jurisdictional Opinion  
38 requires a new Act 250 application.

1 Rene asked whether any fines imposed would be retroactive to the first violations. Jim Carroll  
2 said the calculation of fines by the Environmental Court uses a complex formula. A fine could  
3 have a per diem feature, but it will probably not be retroactive.

4 47:21 Rene asked whether the residents could expect more noise from Chandler Road when the  
5 guillotines are moved out of the storage building. He assumes that most of the current activity at  
6 Chandler Road will continue except the contamination of the brook. Jim Carroll said rock  
7 hammering and crushing are prohibited at Chandler Road until a new permit is in place. Rene  
8 said if the rock hammer is not allowed then the residents don't know how stone will be removed  
9 from the ground and get to market. Jim Carroll said he didn't either. He said the Stipulation  
10 prohibits them from transferring stone from one quarry to another. The quarries will have to be  
11 managed separately. Rene asked where the citizens should take their questions once the  
12 stipulation is signed. Jim Carroll said questions should go to the Zoning Administrator.

13 50:08 Barre Pinske said he lives in town and is a sculptor. He said he feels badly for the quarry  
14 neighbors and the noise they have had to endure. He said Vermont is known for quarried stone.  
15 Much of the marble on buildings in Washington D.C. came from Vermont. Vermont  
16 Glimmerstone is a special building material. One of the biggest tourist attractions in Vermont is  
17 the Rock of Ages quarry which has plans to continue quarrying for years into the future. He felt  
18 the DRB should affirm the Stipulation. He hoped the rancor could be put aside and the Julians  
19 could work on being good neighbors once the Stipulation is in place. He said Chester needs  
20 commerce and he didn't want to see the quarries shut down.

21 53:20 Steve Ankuda said the Stipulation forces the guillotines to be used outside. They can only  
22 be stored in the building. Only Chandler Road rock can be processed by the guillotine. Rock  
23 from other quarries cannot be brought in.

24 54:45 Barry Goodrich asked whether the water filtration system at Chandler Road was  
25 functioning. Mark Hall said he understood they were doing frequent reporting, and it was  
26 working quite well. Barry Goodrich asked if the engineering company TCE was in charge of it.  
27 Mark Hall said Jonathan Patrick was in charge of it. Barry Goodrich said on May 25, 2023 TCE  
28 said the water system was working properly. Mark Hall agreed and said the system then broke  
29 down during a period of heavy rain. Barry Goodrich said he has pictures of the water in the  
30 stream being white taken in May 2023. Barry said the stream was showing white in 2024. Mark  
31 Hall said he was not aware that the water system was not working currently.

32 57:20 Mike Kenworthy said he brought up the issue of the permit for the storage building at  
33 Chandler Road at the last meeting. Within three months of completion the building was being  
34 used to process stone. He felt the town should be able to stop use of a building that violates a  
35 permit issued by the town. He believed the town had the right to stop activity in violation of a  
36 permit. Jim Carroll said the town's right to stop such activity is through the Environmental  
37 Court. Steve Ankuda referred to the Banyia issue in Pawlet as an example of how long it takes to  
38 arrest someone for a zoning violation.

39 Scott MacDonald said the DRB has worked hard and did what they were allowed to do. Preston  
40 Bristow had done what he was allowed to do. This Stipulation brings those efforts to fruition.

1 Bill Gorsky asked how long it will take to stop someone who is violating the Stipulation. Jim  
2 Carroll said it would depend on the violation. In some cases, the town can go directly to the  
3 Environmental Court and get an injunction. Other cases could take longer. Assuming that the  
4 DRB affirms the Notices of Violation and the Stipulation agreement, the court will need to hear  
5 testimony from citizens about the violations: when and where they took place, what it looked  
6 like, what it smelled like etc.

7 Phil Perlah moved to accept the Stipulation. Jim Carroll pointed out that there are two documents  
8 to be accepted, the Stipulation which is signed by all parties and the Decision and Order prepared  
9 by Jim Carroll. Phil amended his motion to include the Decision and Order. Scott MacDonald  
10 seconded the motion. There being no further discussion a vote was taken, and the motion passed  
11 unanimously.

12 Jim Carroll asked for phone numbers from all the citizens who live near the quarry. He wanted  
13 to be able to reach citizens in order to compile evidence.

14 Roberta Alexander asked if the Stipulation could be read aloud. After some discussion it was  
15 established that she wanted to see the Decision and Order, not the Stipulation. It was announced  
16 that the Stipulation and the Decision and Order would be published on the town website on  
17 Tuesday morning. Paper copies of the Stipulation were available at the hearing.

18 Phil Perlah moved to close the public hearing and go into deliberative session to discuss and sign  
19 the Decision and Order at 7:15 PM, and Harry Goodell seconded the motion. The vote was  
20 unanimous. In deliberative session, Harry Goodell moved to end the session at 7:22, and Gary  
21 Coger seconded the motion. The vote was unanimous. In open session, Bob Greenfield  
22 announced that the Decision and Order had been approved unanimously and signed by all DRB  
23 members. Harry Goodell moved to adjourn the meeting at 7:23, and Gary Coger seconded the  
24 motion. The vote was unanimous, and the meeting was closed.