

**TOWN OF CHESTER**  
**DEVELOPMENT REVIEW BOARD**  
**MINUTES**

*November 13, 2017*

**BOARD MEMBERS PRESENT:** Carla Westine, Amy O'Neil, Phil Perlah, Harry Goodell and Gary Coger.

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

**OTHERS PRESENT:** Amanda George, Chris McNulty, Carol Jutras, Elizabeth Newell, Paul Nadolski

**CALL TO ORDER**

The meeting was called to order at 6:00 P.M. by Chair Carla Westine. She introduced the members of the Development Review Board and staff. The board and audience members recited the Pledge of Allegiance. Carla Westine stated that there had been a site visit that afternoon at 5:20 PM to the Newell, Downs and Schumann residence at 9 River Street. She then read the meeting agenda.

**Agenda Item 1. Comments from Citizens**

There were no citizen comments.

**Agenda Item 2, Review minutes from the October 23, 2017 meeting**

The Board reviewed the minutes for the October 23, 2017 meeting. Amy O'Neil moved to accept the minutes as written. Gary Coger seconded the motion. There was no discussion. A vote was taken and the motion passed.

**Agenda Item 3, Reconvene Conditional Use Hearing #507, Jacques Dodier**

All the people wishing to give testimony during the hearing had previously been sworn in. Three exhibits were presented.

The first was a Letter of Intent from the Vermont Agency of Transportation to Jacques Dodier stating that his application to construct a new access and install a water service at 524 VT Route 103 South has been reviewed and found to meet requirements for the work within the highway right-of-way. Amanda George said that the letter was not a permit, it only meant that when the conditional use permit was obtained from the town, the Agency of Transportation would issue a permit for the driveway to be constructed as shown in the plans submitted. Amy O'Neil moved to accept the letter as Exhibit V. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The next exhibit submitted had two pages. The first page was a site plan identical to the plan which had been entered into evidence as Exhibit T. The second page was entitled Standards for Residential and Commercial Drives. The page number was B-71. Amy O'Neil moved to accept page B-71 as exhibit W. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The third exhibit was a Wastewater System and Potable Water Supply Permit. The parcel number is 62-50-50, the landowner is Jacques Dodier and the permit number is WW-2-5459. Amy O'Neil moved to accept the permit as Exhibit X. Harry Goodell seconded the motion. A vote was taken and the motion passed.

Carla Westine asked the board members if they had any questions before the hearing was closed. No one had questions. She then asked Amanda George if she would continue to work with Jacques Dodier through the construction phase of the project. She said yes, she would be continuing to work on the project with Jack. Carla asked Amanda whether the zoning administrator should contact her if he had any questions about the project. Amanda said yes, she would be representing Jacques.

Carla then asked Amanda whether she had ever received anything from the Division of Fire and Safety. Amanda said she and Jack were waiting to get the permit from the town so the construction plans could be finalized before bringing in the Division of Fire and Safety.

Chris McNulty, who had been sworn in during the August 28, 2017 portion of the hearing, spoke. He said he owned the Stone House Antique Center and lived in the stone house directly across the street from Jacques Dodier's property. He said he was glad the project was moving forward after being an eyesore for 5 years. He said it had detracted from his business. He did not like the idea of a bar in his neighborhood, or the late hours that would come with it and he did not want overflow customers from the Dodier property to park in his parking lot. He said he would be happy to see a working business in the building again, but he did not want to listen to music piped onto the porch area through speakers.

Carla Westine said that the project as planned does meet the Town of Chester parking requirements. Carla asked Amanda George to discuss the seating in the bar area. Amanda said the bar will have only 10 seats. She said dining on the porch is a possibility. Carla Westine said she did not remember music over speakers being a possibility for this project. Carla said that the restaurant would be open for breakfast, lunch and dinner. The restaurant would be open until 10:00 PM on Friday and Saturday nights. Carla asked Amanda George when she thought the restaurant would open for breakfast. Amanda said, she thought it would open at 7:00 AM. Chris McNulty said he had owned the Antique Center since 2006. He had many customers who would come in and shop in the morning, go across the street to the former diner for lunch and return for more shopping. His customers have been very upset that that the restaurant is no longer open. It was agreed that everyone would like to see the restaurant up and operating again.

There being no more questions from the audience or the Board, Amy O'Neil moved to close the hearing. Harry Goodell seconded the motion. A vote was taken and the motion passed. The hearing was closed.

#### **Agenda Item 4, Conditional Use Application # 512, Burtco Inc. 786 VT Route 103 South**

The applicant was not ready to go forward with the hearing due, in part, to a sudden health problem. It was decided to recess the hearing until December 11, 2017, at which time the applicant could give a firm date to reconvene the hearing. Amy O'Neil moved to recess the hearing until December 11, 2017. Harry Goodell seconded the motion. A vote was taken and the motion passed.

#### **Agenda Item 4 Conditional Use Application # 513, Newell, Downs and Schumann, 9 River Street**

Carol Jutras, Elizabeth Newell and Paul Nadolski were sworn in to give testimony. Michael Normyle gave a history of the project. He said he received the application on October 9, 2017 and it was complete on October 10, 2017. Notices were posted at the Town Hall, sent to the newspaper of record, and sent to the applicant and abutters on October 10, 2017.

The board then examined the nine exhibits submitted by the applicant.

The first exhibit was an Application for hearing before the Development Review Board dated October 9, 2017 signed by Elizabeth Newell and Michael Normyle. The Project Number is 511, the Appellant is Elizabeth Newell, the location of property is 9 River Street. Amy O'Neil noted a problem with the permit number on the document. It was 511 and should be 513. She moved to accept the application as Exhibit A with this amendment. Gary Coger seconded the motion. A vote was taken and the motion passed.

The second exhibit was a Town of Chester Notice of Public Hearing dated October 10, 2017 signed by Michael Normyle. The Property owner is Newell, Downs and Schumann families, the Location is 9 River Street, the district is Residential 20 and the action requested is convert the second floor of the garage into a one-bedroom apartment. Amy O'Neil moved to accept the Notice as Exhibit B. Gary Coger seconded the motion. A vote was taken and the motion passed. A note was made that the permit number needed correcting. It was also listed as 511 and it should have been 513. The Board voted to confirm the correction to the permit number.

The third exhibit was a letter dated October 6, 2017 from Elizabeth Newell to the Chester Department heads and the Development Review Board outlining the changes made and planned for 9 River Street. Amy O'Neil moved to accept the letter as Exhibit C. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The fourth exhibit was a sketched site plan of the property showing the driveway, buildings and parking places. Amy O'Neil moved to accept the site plan as Exhibit D. Gary Coger seconded the motion. A vote was taken and the motion passed.

The fifth exhibit was an aerial view of the property taken from Google Earth. Amy O'Neil moved to accept the photo as Exhibit E. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The sixth exhibit was a Fire Inspection Results report from the Vermont Department of Public Safety Division of Fire Safety. The inspection date was 10/26/17, the inspector was Bruce H. Martin. Amy O'Neil moved to accept the inspection report as Exhibit F. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The seventh document was a letter dated October 31, 2017 from Fire Chief Matthew S. Wilson stating that he sees little impact to the Chester Fire Department based on the letter from Elizabeth Newell. Amy O'Neil move to accept the letter as Exhibit G. Gary Coger seconded the motion. A vote was taken and the motion passed.

The eight exhibit was a letter dated October 26, 2017 from Chester Police Chief Richard Cloud saying traffic safety and parking will not be an issue. Amy O'Neil moved to accept the letter as Exhibit H. Harry Goodell seconded the motion. A vote was taken and the motion passed.

The ninth exhibit was a letter dated November 1, 2017 from Jeff Holden to the Development Review Board stating that the Chester water and wastewater systems had the capacity to supply their needs for water and wastewater. Amy O'Neil move to accept the letter as Exhibit I. Gary Coger seconded the motion. A vote was taken and the motion passed.

Phil Perlah asked about the lease mentioned in Exhibit C. He wanted to know if the lease was a year-to-year lease. Elizabeth Newell said it was. Phil asked if the occupant of the new apartment will be one of the current owners of the house. Elizabeth said it would not be a current owner.

The application was then evaluated beginning with the standards for the Residential 20 District. Carla Westine noted that Residential single- and two-family homes are permitted uses in the district. The property is currently a two-family home. Multi-family is a conditional use in the district. Therefore, the applied-for use is allowed. The Board discussed whether the building was actually multi-family now, in that it is owned and occupied by three families on a part time basis. Michael Normyle suggested the multi-family designation had more to do with the number of kitchens and bathrooms than the relationships of the people living in the building. Amy O'Neil noted that there is no definition of Multi-family in the bylaws.

Carla Westine returned to the R-20 requirements. The lot was observed to be larger than 20,000 square feet at the site visit. Frontage and setbacks are grandfathered in because this is an existing lot. She asked Elizabeth Newell if there would be any exterior additions or a change to the footprint of the building. Elizabeth Newell said there would not be any changes. Carla asked about an interior staircase in the garage she had seen at the site visit. She asked if that staircase would be used to reach the new apartment and whether a new door was going to be installed on the opposite wall from where the door is now. Elizabeth Newell said that was correct. Amy O'Neil asked if the old regulation requiring 10,000 square feet of lot space per dwelling unit was still in force. It was generally agreed that it was no longer a requirement. Carla Westine asked Elizabeth Newell if the property was on town water and

sewer. Elizabeth said it was. Carla noted the letter that had been received from Jeff Holden saying the system had the capacity to support another apartment.

Carla examined the parking requirements for the building. She counted the required spaces as four spaces for the existing and new apartment and three spaces for the main house where the three families would stay. That brought the total required parking to 7. There were 10 spaces laid out on the site plan.

Some lighting was shown on the site plan as attached to the existing house and more lights were to be attached to the barn. The Board explained the specific details of downward facing lights and said that the lights the applicants had wanted to use on the exterior next to the doors would not pass the downward facing shielded requirement.

The Board discussed the General, Specific and Performance Standards as they applied to this project.

### **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;**

Elizabeth Newell said she did not feel the project will adversely affect any community facilities. She had letters from the Fire, Police and Water/Wastewater Departments saying the town had capacity for the proposed use.

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

Elizabeth Newell said the area was residential and her tenants would respect the other residents of the area.

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

Elizabeth Newell said that she did not think an additional tenant would affect traffic in the area. Carla Westine noted that a letter had been received from the Chester Police Chief saying traffic would not be a problem.

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

Carla Westine stated that, since the lot and building were pre-existing structures, any requirements would not need to be met.

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

Elizabeth Newell said they did not plan to use any renewable energy resources.

### **2. Specific Standards**

Specific standards will include consideration with respect to:

**a. Minimum lot size;**

Elizabeth Newell said the lot was a bit more than one acre, which is well in excess of the 20,000-square foot minimum in the zoning district.

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

Elizabeth Newell said that most of the uses are residential homes. Across Route 103 is the Jiffy Mart. A resident in the neighborhood is an attorney who has a home office. She said her neighbors are about 80 – 100 feet away at the front and sides of the lot and about 35 feet away at the back.

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

Carla Westine said the parking facilities have already been verified. Elizabeth Newell said the owners of the building take their own trash away. The tenants use a pickup service that comes to the curb to empty the container.

**d. Landscaping and fencing;**

Elizabeth Newell said there is a fence at the back of the property and some trees along the fence. There are shrubs near the shed. She said they had been clearing out smaller trees and brush to neaten the area and leave natural screening. Some parts of the fence along the back belong to the neighbors, even though the fence is on the subject property.

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

No changes are planned to the existing buildings and the trash barrel which is rolled to the curb will not be changed.

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

No sign is planned.

**g. Performance Standards under Section 4.9 and,**

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

## 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.

Elizabeth Newell said she did not anticipate any noises louder than conversation being generated by the tenants in the apartment.

**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;
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.

Elizabeth Newell said she did not expect any air pollution to be generated by the tenants.

**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.

The downward facing shielded lighting requirement was discussed. The applicant will comply with the regulations. Floodlights on the main house were seen at the site visit and Elizabeth Newell agreed to replace those lights with shielded lights.

**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.

Elizabeth Newell did not think there would be any fire or explosive hazards from the tenants.

**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.

Elizabeth Newell did not think there would be any electromagnetic disturbance from the tenants.

**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.

Elizabeth Newell said there were no underground propane or oil tanks on the property.

Phil Perlah asked if the apartment would have a self-contained bathroom and kitchen. Elizabeth Newell said it did. There being no other questions from the Board or the citizens, Amy O'Neil moved to close the Hearing. Harry Goodell seconded the motion. A vote was taken and the hearing was closed.

**Agenda Item 6, Reconvene Waiver application #511 by Dan Egan**

Michael Normyle explained that Dan Egan had decided on a different structure for the addition to his garage. The new design did not require a waiver so the Waiver application was withdrawn.

**Agenda Item 7, Deliberation on Previous Matters**

The meeting went into deliberative session and was closed at the end of it.