

**TOWN OF CHESTER
PLANNING COMMISSION**

November 10, 2018 Draft Minutes

Commission Members Present: Naomi Johnson, Claudio Veliz, Barre Pinske, Cheryl Joy Lipton.

Staff Present: Cathy Hasbrouck, Recording Secretary, Michael Normyle, Zoning Administrator.

Citizens Present: Brandy Saxton, Julie Hance, Phil Perlah, Carla Westine.

Call to Order

The meeting was called to order at 9:00 AM by Chair Naomi Johnson.

Agenda Item 1 Review proposed zoning bylaw changes with Brandy Saxton

The Commission resumed reviewing the proposed bylaws at sub-section 4204, Amending Permits or Approvals. Brandy Saxton explained this section allows the Zoning Administrator to make minor modifications to permits to accommodate issues that may arise during construction. She explained that the limits set to determine which changes may be made by the Zoning Administrator and which need a hearing from the Development Review Board are not statutory limits and the Commission may modify them if they wish. Claudio Veliz asked why Brandy chose a 5-foot limit on a change in height and Michael Normyle asked if an amendment can allow the height to exceed the height limit set in the bylaws. She said it did not and agreed to add that qualification to the adjustments text.

Claudio Veliz asked how building height would be measured. Brandy referred him to page 2-18, which states height will be measured from the average finished grade at ground level to either the midpoint between the eaves and the ridgeline for buildings with a 5:12 or better roof pitch, or to the highest portion of the structure, excluding some building elements. Naomi Johnson said she thought that allowing small changes to a permit without a DRB review was helpful. There was further discussion of the limits to the size of a change that would trigger a DRB hearing. Barre Pinske wondered if the limits suggested were reasonable and asked Michael Normyle how often changes to permits are requested. Michael said he frequently is asked for small adjustments to building permits. Carla Westine said it was helpful to keep the amount of change allowed small. She cited a restaurant which might ask for an additional 200 square feet of floor space which would allow them to increase the number of tables. An increase in tables would allow more guests to be seated, which would require more parking spaces. Carla said that level of change should be reviewed by the DRB. It was agreed that any change to a permit should not allow any zoning district standards to be exceeded. Cheryl Joy Lipton discussed the impervious surface limit with Brandy Saxton, but no changes were made. This concluded the discussion of sub-section 4204.

Sub-section 4205, Revoking Permits or Approvals, is required by Statute. No changes were suggested. Sub-section 4206, Inspection of Development During Construction brought up the question of whether the Zoning Administrator can walk onto a site without warning the property

owners. Brandy Saxton said the Zoning Administrator can go into any public space without warning the property owners. A building code inspector may go anywhere on a site without warning the property owners. Barre Pinske asked how long these proposed bylaws will remain law and whether Chester would need a building inspector before the bylaws are replaced. If so, he wanted to make some provisions for a building inspector in this version of the bylaws. Brandy said the usual bylaw lifecycle is between 10 – 20 years, but a building inspector would be created in a different ordinance, not as part of the zoning bylaws. Sub-section 4207 covers certificate of compliance, which would be filed when a project that had a zoning permit was complete. Brandy Saxton recommended implementing this procedure to ensure that the permit is properly carried out. Naomi Johnson went over the provisions in 4207 F and G for Temporary Certificates and Phased Development, which are optional. Michael Normyle said he liked the flexibility of this sub-section.

Cheryl Joy Lipton asked why a certificate of occupancy is required for new construction but not for an existing building that is having extensive work done to it and how this certificate of compliance would be different from that. The Commission discussed the situations that will require a certificate of compliance and decided not to change any of the section.

Brandy Saxton said the decision to only require certificates for conditional use and site plan approvals will reduce the amount of administrative work required of the zoning administrator. She said the Commission could decide that every zoning permit must have a certificate of compliance. The Commission did not request changes to sub-sections 4205 – 4207. This completed the discussion of Section 420, Zoning Permits.

Section 430, Development Approvals, addresses the work of the Development Review Board and the supporting duties of the Zoning Administrator. Barre Pinske asked how completeness of an application is assured. He asked Carla Westine about the current process. Carla explained that applicants get help from the Zoning Administrator and other people. Carla asked the Commission about the provision that allows the Zoning Administrator to waive a requirement on the application (sub-section 4301.E). She wanted to know what would happen if a DRB member decided he or she needed to see some kind of site plan and the Zoning Administrator had waived the requirement. Brandy Saxton said the intent was that the DRB may override the waiver from the Zoning Administrator. She agreed to clarify the language that assures the DRB can require something the Zoning Administrator has waived.

Brandy Saxton said the application requirements outlined in this proposal are more specific than what exists now. She said it was possible not to include the application standards in the bylaws themselves. The Commission may decide to do so after they review Section 3, the General Regulations. She said once the Commission understands what the General Regulations require (for things like signs, lighting and parking), they would understand what information is required on an application to ensure all those standards are met.

Claudio asked about a requirement that would identify who created the drawings. Brandy said such a requirement could be included in the bylaws. Claudio Veliz said having it in the bylaws would make them more informative and applicants were likely to consult the bylaws before

beginning the process. Brandy Saxton said it could also be part of a checklist. The bylaws could refer to the checklist.

Barre Pinske said the size of the project could determine how much detail the application needs. Cheryl Joy Lipton said she felt there should be minimum standards for the submissions. Naomi Johnson said she liked the level of detail in these proposed bylaws and she thought a separate checklist with more details would work well. Brandy Saxton said she could add the Zoning Administrator's checklist to the bylaw requirements. She pointed out sub-section 4302.D, which allows the applicant or other interested party to appeal any of the Zoning Administrator's actions with regard to the application process to the Development Review Board.

Sub-section 4303, Sign Review, is to be used when a change to a sign is not part of a site plan review. Brandy Saxton said the Zoning Administrator may act on the application or may refer it to the Development Review Board. Michael Normyle asked about sign lighting. Brandy Saxton said that was addressed in Chapter 3, under outdoor lighting. Barre Pinske went on record to say he broke all the rules. Zoning Administrator Michael Normyle assured him he was on his list of places to be checked. No changes were requested to this sub-section.

Sub-section 4304 discussed site plan review. This applies to all proposed development other than single- or two-family dwellings and accessory uses or structures associated with that dwelling. Brandy Saxton emphasized that the two levels of approval (major and minor site plan review) outlined in sub-section 4304.C determine the standards outlined in Chapter 3 that will apply to the project. She said it was likely the Commission would return to this section and review the criteria that determine whether the project requires a major or minor site plan review.

Barre Pinske asked if adding a handicapped ramp or changing a doorway would qualify for a minor site plan review. Brandy Saxton said it would. She directed the Commission's attention to the criteria for the major site plan review. Julie Hance asked whether the curb cut requirement applied to residential properties. Brandy Saxton said it did not.

Cheryl Joy Lipton asked about 4304.C (e), an increase in impervious surface. Naomi Johnson said the state has an interest in this and has storm water requirements that must be met, separate from what the town may require. Brandy Saxton said a parking space and space to drive into it requires about 400 square feet, so the 2,500 square foot increase in impervious surface, which would trigger a major site plan review, means an addition of 6 parking spaces.

Naomi Johnson said the Commission should consider what the addition of 6 parking spaces would mean to the Development Review Board, separate from storm water issues. Carla Westine said the DRB would be concerned about additional traffic in an out of the parking area and neighbors could have other concerns. The Commission decided that an increase of more than 1500 square feet of impervious surface was a more reasonable trigger for a major site plan review.

Barre Pinske asked who in Vermont determines what needs to be done for a drainage plan. Brandy Saxton said under state regulations only Civil Engineers may design drainage plans. Landscape Architects have only recently become licensed by the State of Vermont. Brandy

Saxton thought that Landscape Architects may soon be permitted by the state to design stormwater systems.

Sub-section 4305, Conditional Use Review, is needed only for major changes to a conditional use. The criteria for establishing what is a major change are listed in sub-section 4305.A. No changes were requested to this sub-section. Sub-section 4306 states that planned unit development will require subdivision approval. No changes were requested for this sub-section.

Sub-section 4307 addresses Sub-Division Review. Brandy Saxton said much of the section is required by statute. She pointed out sub-section 4307.C, which allows the Zoning Administrator to approve the realignment, relocation or elimination of boundary lines on adjoining lots under certain conditions. This is not part of the current bylaws. The Commission discussed who would be authorized to sign a plat showing a merged lot and how the merger would be recorded in the town land records. There have been difficulties in the past with deeds not being updated and recorded when a subdivision or boundary adjustment takes place. The only evidence is the recorded change to the plat. The Commission discussed this but decided that the zoning bylaws could not require that the deeds be recorded. A reminder about changing the deed and recording it could be added to the bylaws. Brandy Saxton said that in Vermont the plat overrules anything on the deed.

Sub-section 4307.D, Sketch Plan Review, is a proposed new required step in the sub-division process. In this step the Zoning Administrator reviews a proposed sub-division, notifies abutters in writing of the proposal and determines whether the sub-division is a major or minor sub-division. Minor sub-divisions may skip the Preliminary Plan Review and go directly to a Final Plan Review in front of the Development Review Board. Naomi Johnson asked how this step will interact with the pre-application conference proposed in sub-section 4301.A. Brandy Saxton said the pre-application conference is optional. The sketch plan review is a required step for a sub-division review. Barre Pinske asked whether a sub-division includes constructing buildings. Brandy Saxton said it only involved sub-dividing existing lots. Cheryl Joy Lipton asked who could create sub-division plats. Naomi Johnson explained that only surveyors may create the plat, and engineers would be involved in fulfilling other sub-division requirements. Cheryl Joy asked if Landscape Architects could create sub-division plats. Brandy Saxton said that currently only surveyors were allowed to do that in the State of Vermont.

Brandy Saxton said the biggest recent change to sub-division regulations Vermont is in the wastewater requirements. Lots can no longer be created without a state sub-division permit. Some exemptions are possible, but most sub-divisions will require an engineer to do the wastewater work. Cathy Hasbrouck asked if the addition of the sketch plan review will lengthen the time it takes to get a sub-division permit. Brandy Saxton said the sketch plan review was not a lengthy process and would not add significantly to the timeline. Phil Perlah said having an early review would help prepare applicants for the formal hearing with the Development Review Board and reduce the number of delays caused by inadequate preparation. Brandy Saxton pointed out that minor sub-divisions under this proposed setup will not have a preliminary plat review step, which will also save time. Phil Perlah said, on a minor review, the informal sketch

plan review replaces the formal preliminary plat hearing which exists now. This change would be agreeable to applicants and the DRB.

Julie Hance asked about the difference in notice requirements for a preliminary and final plat review. She asked whether the preliminary review could be eliminated. Brandy Saxton and Naomi Johnson said that the preliminary review could be skipped as stated in 4307.D(3)(d). Brandy Saxton said the criteria for determining whether a sub-division is major or minor is not based on statute and the Planning Commission could modify what was proposed in this draft of the bylaws. Barre Pinske asked for the differences between a road, a driveway and a curb cut. Brandy Saxton said each term was defined in the bylaw document. No one asked for changes to the classification as stated in 4307.E. Brandy Saxton noted that sub-section 4307.H states that a plat will not expire once lawfully filed. If a plat needs to be changed the entire process beginning with the Sketch Plan Review must be done again.

Brandy Saxton said 4308, Combined Review, is a requirement of statute. 4309, Amending Approved Plans, distinguishes between a change to a project that is limited in scope and a change so extensive the entire project must be reviewed again in a new application. No changes were requested to either of these sections.

Table 4-01 was examined. It lists the criteria the Development Review Board should consider when reviewing an application. Barre Pinske asked who decides whether criteria 12 (traffic) is met. Carla Westine said that the DRB would decide that. They ask for help from the Police Department and the Public Works Department. Sometimes a traffic study is done, as was the case with the Dunkin' Donuts application.

Cheryl Joy Lipton asked how "congestion" is determined. Brandy Saxton said this discussion is context sensitive. Adding a development near an already busy intersection would be looked at in terms of level of service at the intersection, which is how long it takes a vehicle to get through the intersection. Phil Perlah said both the state and an independent engineer did traffic studies for the Jiffy Mart project. Vermont Cannoli, further west on Main Street, and the coffee shop on the green, did not require a traffic study. Brandy Saxton said traffic studies don't work with fewer than 75 trips per hour. Brandy said the level of traffic was one of the reasons to allow a site plan review versus a conditional use approval. Safety of ingress and egress is covered in a site plan review, but whether the use is generating too much traffic is an issue for a conditional use review. No changes were requested to this sub-section.

Brandy Saxton said sub-section 440, Appeals, covered primarily statutory requirements. She noted that each step the Zoning Administrator takes may be appealed to the Development Review Board. Appeals of DRB actions may be made to the Environmental Court.

Brandy Saxton discussed section 4405, Variances, first, in order to lay the groundwork for discussing Waivers, which is a newer statute. The criteria for variances are set in statute and are seldom met. Waivers to dimensional standards were created to allow towns some discretion in the approval process. Brandy Saxton said when writing this section, she used a flat 25% across all dimensional standards. The Planning Commission could change that figure or vary it across some dimensional standards. She said Figure 4-02 lists the criteria the Development Review

Board would use to decide to allow a Variance or a Waiver. Julie Hance said this proposal of a 25% variance is a change from what is currently allowed, which is 10% of the standard. Michael Normyle asked for clarification of whether it is 25% of the existing setback or 25% of the district setback. Brandy Saxton said the percent is applied to the district standard and she would be sure to make that clear in the text. Naomi Johnson pointed out that 4404.A(1) refers to the bylaw and not the district.

Cheryl Joy Lipton asked what the difference between a Waiver and a Variance was. Brandy Saxton said a Variance has no limitation on the relief that the DRB may grant. Waivers have a narrower authority. She reminded the Commission that Vermont does not allow variances for uses.

The Commission and the audience discussed waivers in general. Barre Pinske asked Carla Westine whether she thought a waiver of 25% was sufficient. Carla and Phil Perlah said they thought it was. Carla cited the example of a 30-foot setback. 25% of 30 feet was 7.5 feet, that should be sufficient for a deck or porch. Cheryl Joy Lipton asked why there were setbacks at all. Carla Westine said snow from the roof of a building could create a large pile which could be a problem for a neighbor if it landed on his or her driveway or shed. Julie Hance said the town currently has very unreasonable setbacks for the smaller properties in the village. Brandy Saxton said Chapter 3 will address these smaller lots and remove some of the pressure the current setbacks impose. Claudio Veliz said setbacks also allow for emergency vehicle access.

Claudio Veliz asked to what degree waivers and/or variances impact precedence. Will an applicant cite a waiver issued 20 years before when applying for a waiver? Brandy Saxton said applicants often make those arguments, often citing a situation created decades before zoning rules were in place. She said it is reasonable for an applicant to cite a waiver issued under the same zoning regulations they are applying under. Claudio asked if the precedent of a variance had more weight than of a waiver. Brandy said that in Vermont most of the variances she has seen are illegal. She felt the DRB would be reasonable in refusing to continue that practice. Claudio concluded that waivers and variances would be considered under the wording of the bylaws and not unduly influenced by precedence. Brandy Saxton agreed.

Sub-section 450 lists the detailed requirements for conducting all the hearings discussed in the preceding sub-sections (430 and 440). Brandy Saxton said the notice requirements in sub-section 450 are the minimum required by statute. They cannot be any shorter. Phil Perlah asked if the applicant puts the notice up on the town hall bulletin board. Brandy Saxton said the zoning administrator posts the notices at the zoning office and other public places, and gives the notice to be posted at the property to the applicant for posting.

Brandy Saxton pointed out that conditional use, variance, final sub-divisions and planned unit development had different notice requirements from all other hearings. Cheryl Joy Lipton asked if the 7-day notice of site plan approval only was sufficient. She asked what the impact of having both notice requirements be 15 days. Brandy Saxton said the 7-day notice will apply to the new site plan review procedure, which does not require a DRB hearing. Julie Hance said this procedure does not currently exist in Chester. Cheryl Joy Lipton asked if keeping both notice

requirements to 15 days would make things simpler. Brandy Saxton said it could delay a site plan review by 2 weeks. Michael Normyle said he was accustomed to the 15-day requirement and he was comfortable with it. Cheryl Joy Lipton said she thought the abutters and citizens would appreciate the additional warning time. Brandy Saxton said getting notices into the newspaper caused delays more often than any other requirement and the site plan review did not require a newspaper notice.

Brandy Saxton said the language about site visits was both statutory and advisory. Carla Westine said that the current bylaws require a site visit for every hearing. These proposed bylaws make the site visit optional. Brandy Saxton said that if more than 2 DRB members are at the site at the same time, the open meeting law is invoked. The meeting would have to be warned. She said a danger of having individual DRB members visit the site at random is that they will be given a tour of the site by the applicant or his or her deputy and the tour could present a slanted view of the application.

Barre Pinske asked Carla Westine if the current site visit requirement is burdensome. Carla said it was not burdensome. She said she tells the applicant that the DRB does not take testimony at the site visit, and any questions they ask might be repeated at the hearing.

Claudio Veliz said he didn't think requiring a site visit on the basis of the size of the project was appropriate. Safety issues are a part of every project and need to be seen firsthand. Carla Westine and Phil Perlah pointed out that a tour conducted by an applicant for one DRB member could be seen as ex-parte communication.

Barre Pinske said it seemed like a matter of convenience for the DRB members to visit when they would like, Phil Perlah said he found the group site visit to be more convenient because the applicant and other important persons would be there. Brandy Saxton said not having an open meeting site visit addresses the issue of an applicant wanting to refuse access to his or her property by an abutter. If a site visit is scheduled as an open meeting, no one could be refused entrance to the property.

Claudio Veliz asked Carla Westine and Phil Perlah what the DRB members look at during a site visit. Carla said the DRB generally asks the applicant to point out the boundary lines and markers. While they are at the site, the DRB members note other uses in the area surrounding the property, the proximity of neighbors, the slope of the land, and other details. Michael Normyle said a public site visit also will bring neighbors out to hear details of the project. These people don't often attend the hearing. No changes were requested to the site visit text.

Brandy Saxton said Vermont statute does not currently have a standard for when a hearing must be scheduled once the application is complete. The 60 days written in sub-section 4503.A had been in the statute in the past, but is not present now. She noted that a provision was made in the proposed bylaw to allow for a longer period if needed. Michael Normyle said it was rare that Chester has had to push a hearing out past 60 days.

Brandy Saxton said there was a dispute in the Vermont legal community as to whether the term "recess" or "continue" should be used to describe the action taken when a hearing is stopped

until the next scheduled hearing to allow an applicant time to gather more material. For that reason, she used both “recess” and “continue” in the proposed bylaw. She recommended that the DRB make its decisions in closed deliberative session and had written that into sub-section 4505.A. She noted that sub-section 4505.H addresses what happens to the development (site plan) approval when the project is not commenced or not substantially complete by the time the zoning permit expires. These proposed bylaws make it clear that development approval will expire if the project is not commenced or substantially complete when the zoning permit expires. Carla Westine asked what the duration of a zoning permit was set to. Michael Normyle said in these bylaws, the Planning Commission had agreed a zoning permit will last 2 years with the possibility of a 2-year extension.

Barre Pinske asked if these proposed bylaws are addressing the needs the town has to change the current Development Review Board hearing process. Brandy Saxton said the difference in these proposed bylaws is that smaller projects may be authorized with a site plan review, which is conducted by the Zoning Administrator. The requirements for a site plan review are not as extensive as a hearing in front of the DRB. Almost all commercial projects under the current bylaws require a conditional use hearing.

Barre Pinske said he wanted to be sure these changes are accomplishing the goals the town has for re-writing the bylaws. Julie Hance said allowing a site plan review was a goal for the new bylaws. She said the bylaws haven’t been substantially reviewed and re-written since 1974 and many of the problems the town is experiencing with development have to do with the inadequacy of those old bylaws.

Carla Westine said it was important not to streamline the new bylaws to the point that it denied abutters and other citizens a voice in the process. Julie Hance said the problems she saw were caused by inconsistent regulation which was confusing to developers. Claudio Veliz said that in the Dollar General discussion lawyers and judges kept asking why Chester did not remove the aspirational language in the bylaws. He said that the aspirational language was removed after the Dollar General project had won approval. Julie Hance said smaller developers have been daunted by the requirements of the current bylaws.

Cheryl Joy Lipton asked what happens if someone disapproves of a decision after it is made. Can they appeal the decision? Brandy Saxton said any interested party may appeal. An interested party may file an appeal during the 30 days after the decision is made. Carla Westine said an interested party has to have been present at the hearing or indicated in some other way to the Zoning Administrator that they are interested in the proceeding before the hearing takes place. She referred to the definition of an interested party in both the current and proposed bylaws.

Claudio Veliz asked what would happen to a long-standing safety hazard, such as a light that blinds drivers, under this version of the bylaws. Brandy Saxton said the zoning bylaw would not be the mechanism for addressing a problem like that. Cheryl Joy Lipton asked whether the new junk ordinance would be affected by the 15-year exemption mentioned in 450.C(1). Julie Hance

said the junk ordinance is not connected to the zoning regulations. The town had made that decision in order to give the ordinance more teeth.

The last part of Chapter 4 is 460, Violations and Penalties. Brandy Saxton outlined the process as written. She encouraged the Commission to impose a higher application fee when a project requires a second zoning application to take into account plans that were not disclosed during the original application process. Several different fee structures were suggested, but no decision was made.

The two ways of handling violations were discussed. The first is a municipal civil complaint ticket. Julie Hance said she actually issued one when she was the zoning administrator. Brandy Saxton said the civil complaint ticket was for issues such as signs, that can appear, disappear and reappear quickly. By statute, the fee schedule for the civil complaint ticket has to be part of the bylaw. For that reason, the fees are written into 4604.B(1), (2), and (3).

The notice of violation is used for issues that would require more extensive action to cure, such as possibly removing an entire building. Statute requires that the owner be given notice of the violation and the owner allowed seven days to cure the violation. Statute allows the town to take the violator to the Environmental court if the violation is not cured.

Claudio Veliz asked if it was possible to extend the seven days allowed for fixing the problem. Brandy Saxton said an agreement on how the violation would be addressed needed to be reached in seven days. The work to correct the violation did not have to be complete in seven days. Brandy Saxton said that the Selectboard would have to initiate court action if a violation is not addressed. The Zoning Administrator cannot initiate court action.

Barre Pinske asked whether formal requirements for resolving a violation were needed. Should a written agreement be made between the Zoning Administrator and the landowner? Brandy Saxton said she would define what “cure” meant and add that to the bylaws. Julie Hance said it was important to avoid too much detail. Brandy Saxton said the language requiring a “cure” in seven days was statutory requirement. Barre Pinske asked if seven days was a reasonable time for working out a cure? Should that period be longer?

The Commission discussed the two ways violations of the bylaws could be dealt with: a municipal civil complaint ticket and a notice of violation. Brandy Saxton said the fines listed under the municipal civil complaint ticket were set in state statute and are occasionally updated. Claudio Veliz asked if those fines could be expressed as a percentage of another figure. Brandy Saxton said if they were expressed differently from the state statute the municipal civil complaint ticket could not be used. A percent figure for a fine could be part of the notice of violation procedure. Cheryl Joy Lipton told the story of a project in Valley Forge, PA, where the preservation of a small historic building was a condition for a large drug store permit. The building was destroyed during construction and a fine was paid. Cheryl Joy believed the destruction of the building was intentional and the fine was planned as part of the project budget. She asked how bylaws could prevent something like that.

Brandy Saxton said it was impossible to prevent developers from violating the conditions of a permit, but restitution can sometimes be gained. She cited a project along a lake in Vermont, where a permit was issued for a project. A condition of the permit forbade the removal of trees along the shore. The trees were removed, the issue went to court and the court ordered new trees to be planted where the old trees had been removed. Brandy said this action was typical of how violations were resolved in Vermont. Issues like the destruction of the building would be resolved by the Environmental Court, not by a town's bylaws. Brandy said finding a way to increase the cost of a violation would be done in the fee schedule. This concluded the discussion of Chapter 4.

Chapter 3, Development Standards began with Section 300, General Regulations. Brandy Saxton said these regulations apply to most applications, not just commercial property. Sub-section 3002 covers Access to lots. Brandy Saxton noted that this section (3002.D(c)) did allow the DRB to bring an existing access into greater compliance as part of a project and that there were conditions that would allow an exception to the one curb cut per lot rule. Barre Pinsky asked if the requirement to bring a curb cut into compliance could cost the property owner money. Brandy Saxton said that it could. She said the requirement was used to mitigate dangerous situations, such as a curb cut that ran the length of a parking lot causing chaos and accidents. Naomi Johnson pointed to the permit issued to Jack's Diner which required a parking lot entrance and exit to be created.

Brandy Saxton advised the Commission to have the Fire and Highway Departments review the curb cut requirements to be sure they agree with the proposal. Section 3002.E addresses cross access, where abutting commercial or industrial lots undergoing sub-division must provide 2-way cross access, when physically possible, to minimize the number of curb cuts required. Naomi Johnson pointed out that a project may have to allow for development on abutting lots which hasn't even planned yet in order to be able to provide cross access when the abutting lot is developed.

Sub-section 3002 ends with rules about Class 4 roads. Sub-section 3002.G says Class 4 roads may not be used as road frontage for a lot unless they are brought up to Class 3 standards. Cheryl Joy Lipton asked whether Class 4 roads are defined in the bylaw. Brandy Saxton said that Chester has a Highway map maintained by the Agency of Transportation and that the road classifications were defined on the map. Cheryl Joy Lipton asked if shared driveways were allowed. Brandy Saxton said they were and up to 3 lots could share a driveway. If more than 3 lots share a driveway, the driveway is considered a private road. There is more about shared driveways in the sub-division rules. No changes were requested to sub-section 3002.

Sub-section 3003 addresses accessory structures. Discussion focused on Figure 3-01, Dimensional Standards for Accessory Structures. Michael Normyle said he would like the minimum set back for a fence be 1 foot and the maximum height for a fence be 6 feet. Michael Normyle said he wanted people to be able to stand on their own property while building and maintain the fence. He said there were conflicts in Chester between neighbors over installing and maintain fencing. Brandy Saxton said the zero-foot setback allows the fence to be placed on the property line itself. She said there was some language in the proposed bylaws that will

exempt some fences from needing a permit. Michael Normyle said currently a permit is only required when the fence is over 6 feet tall. The Commission discussed how such conflicts could be dealt with. Barre Pinske pointed out that it would be extremely difficult to anticipate and prevent every conflict. The rules are made expecting the citizens will use their best judgement in following them. Brandy Saxton said, in the case of a conflict that is very bitter, where a buffer is required, one foot is probably not sufficient. It was decided not to change the zero-foot setback rule for fences. If people want more space, they may use it.

Naomi Johnson asked about the stormwater setback of four feet. She thought perhaps zero would be better. Cheryl Joy Lipton said that having something like a rain gardens or a swale right near a property line would not be a problem. Brandy Saxton pointed out that the setback would be eligible for a waiver of a foot. Cheryl Joy Lipton asked about a stormwater management system shared between two adjoining lots. Brandy Saxton offered to make the requirement zero between shared systems and four feet otherwise. Cheryl Joy Lipton said she would like to see what is decided on by the new state Clean Water act before settling on stormwater rules. In the interim, the commission agreed to make the setback for a shared stormwater system zero.

Sub-section 3004 is very similar to the amendment made to the 2017 bylaws for the snowmobile fueling station. Claudio Veliz asked how an astronomical observatory be classified in the proposed bylaws. Brandy Saxton said it could fall under a museum or educational category if it was part of a larger educational facility. If it was on private property, it would be more of a research and development use. Claudio said an observatory could be simply a building with a roll-off roof. It could also have a warm room attached. The warm room could have plumbing and be essentially a small house. Michael Normyle said the building with a roll-back roof could simply be an accessory building. The building with a warm room could be an accessory use, and might fall under conditional use regulation. Michael said it could possibly be classified as a home occupation. Claudio Veliz said no income would be involved, so home occupation did not fit.

Looking at sub-section 3005, camping and camping units, Barre Pinske brought up the storage of campers on town lots. Brandy Saxton said this section addressed the use of land as a campsite. She said, in general, storage of campers, boats, and other items of personal property is treated the same as a car in Vermont. Michael Normyle said current regulations require that the camper be registered. The possibility of limiting the storage of campers to certain districts was discussed. Brandy Saxton said some of this is addressed in the Performance Standards. Michael Normyle suggested the proposed bylaws require that vehicles be registered and stored in the back yard.

Naomi Johnson brought up the issue of an RV that is serving essentially as an extra bedroom for a house. Brandy Saxton said the proposed bylaw would allow the RV to be occupied for up to 120 days per year. The proposed bylaws also said that renting the unit would be a short-term rental, something like Air B&B. Such a rental would be allowed. Brandy Saxton acknowledged that counting the 120 days of allowed occupancy could be difficult. Naomi Johnson said a neighbor had a son sleeping in a trailer unit in her front yard in Springfield. She said it was difficult to manage because the Springfield regulations did not really cover it. Brandy Saxton

said the time limit could be changed. She said the property owner would be required to prove that the unit was not occupied for as long as the complaint stated.

The Commission discussed the issue at some length. Distinctions were drawn between an RV and a mobile home and between camping and living permanently on a piece of property. The group liked the idea of limiting the placement of the unit in a back yard or possibly a side yard. A permit would be required if short term rentals were done. The unit would be an accessory building and subject to the same setback rules. The Commission agreed that the 120-day limit was too long. The Commission also discussed the situation where a piece of property is used as a permanent parking space for an RV which is treated like a summer cottage or camp.

Brandy Saxton pointed out that if someone houses an individual for more than 30 days, they become a tenant under Vermont state law. She also said the state water regulations limits the number of days an RV may be occupied without being hooked up to a wastewater system. She said she thought she could pull apart all the different uses of RV's and campers and come up with clearer rules for this section of the bylaws.

The next meeting of the Planning Commission will be Monday November 19, 2018, which is a hearing for the amended Town Plan. The Planning Commission will meet with Brandy Saxton on Monday December 3, 2018. She is not available for the normal Monday December 17, 2018 meeting. Barre Pinske suggested having the Monday night meeting run longer. It was decided to plan additional meetings at the Monday December 3, 2018 meeting and possibly extend the meeting until 9:00 PM.

Barre Pinske moved to adjourn the meeting Claudio Veliz seconded the motion. The meeting was adjourned.