

**TOWN OF CHESTER
PLANNING COMMISSION**

March 15, 2019 Minutes

Commission Members Present: Naomi Johnson, Barre Pinske, Tim Roper, and Cheryl Joy Lipton.

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

Citizens Present: Brandy Saxton.

Call to Order

Chair Naomi Johnson called the meeting to order at 6:00 PM

Agenda Item 1 Review draft minutes from the February 25, 2019 Workshop

Tim Roper moved to accept the minutes from February 25, 2019. Barre Pinske seconded the motion. There were no corrections or changes requested. Tim Roper said he appreciated the way the minutes recorded the issues discussed at the meetings. A vote was taken and the minutes were accepted.

Agenda Item 2 Citizen Comments

There were no citizen comments.

Agenda Item 3 Continue Work Shop on propose changes to the Unified Development By-Laws.

The Commission resumed review of defined terms at Manufactured Home paragraph 5003.M(2) on page 5-167. Brandy Saxton drew the Commissioner's attention to the definition of Mixed Use and noted that it included both residential and non-residential uses. There were no other questions about definitions of terms beginning with M or N.

Brandy Saxton noted that the definition of Open Space does not include actively managed land used for farming or forestry. Tim Roper said the definition of Open Space (5003.O(1)) was important because it is not intuitive. For example, unmanaged forest land is open space, but pastureland is not, since it is managed by a farmer.

Cheryl Joy Lipton suggested that the use of the term open space in the conservation subdivision section (3404) had a different meaning. It could include pasture or farmland. Brandy Saxton checked on the Conservation Subdivision Planned Unit Development language (Sub-Section 3404) and explained that conservation areas in the subdivision may be actively managed farmlands or forests. The use of the term open space in paragraphs 3404.F(3), 3404.F(4) and 3404.G(1) is intended to refer to the definition in 5300.O(1).

Michael Normyle asked about a definition for the word ‘sound’, given that the word ‘noise’ had been defined. Naomi Johnson and Michael Normyle agreed that during the discussion of noise and sound the Commission had had with experts, ‘noise’ was unwanted sound. ‘Noise’ is being regulated in the bylaws, thus a definition was supplied. Brandy Saxton said the dictionary definition of the word ‘sound’ was adequate for the purposes of the bylaws and the Performance Standards (Sub-Section 3105.B) refer to ‘noise’.

Tim Roper asked about 5003.O(3) and (4), Outdoor Recreation, Active, and Outdoor Recreation, Passive. He wanted to be sure hunting is included as a form or recreation. Brandy Saxton said hunting was exempted from regulation in paragraph 1101.A(34). There were no other questions about sub-section 5003.O.

Brandy Saxton pointed out the definition of the word Pave in paragraph 5003.P(2) and noted that paved surfaces included more than asphalt and concrete. She also pointed out the definition of Public Art in paragraph 5003.P(6). It requires that the Zoning Administrator determine whether an art object is actually a stand-in for a sign. Michael Normyle asked for more clarity about how the Zoning Administrator would decide whether an installation is art or a sign. Would letters or lights be a determining factor? He also wanted to know what would happen if the business owner disagreed with the Zoning Administrator’s decision.

Brandy Saxton said a business owner could appeal a decision to the Development Review Board. She gave an example of the difference between public art and a sign. In the past there have been hay bale sculptures south of Burlington on Route 7. An auto repair business had a hay bale sculpture of a cat which was considered art. The Vermont Teddy Bear Company had a hay bale sculpture of a teddy bear and that was considered signage.

Michael Normyle said a business in Chester had been a source of controversy and complaint about signage when they decorated the exterior of the building with large models of tools used in the business: artist brushes and 3-dimensional splashes of paint. The business owner said there were no letters or numbers in the art work and it should not be counted as a sign. The issue was discussed with the Development Review Board and the town’s lawyer. In the end, the town gave up its complaint because pursuing the matter in the courts would have been costly.

Barre Pinske pointed out that the Commission was considering a definition, not a bylaw defining what would be allowed for signage. Naomi Johnson said she thought the definition was workable. Tim Roper said enforcement of the bylaw and definition would be driven by the number of complaints received. There were no changes requested to the definition Public Art or any other definition in sub-sections 5003.P, 5003.Q, or 5003.R.

Turning to sub-section 5003.S, Brandy Saxton said the definitions of different types of signs will be changed because the Planning Commission has decided not to allow electronic message signs or internally illuminated signs. Cathy Hasbrouck asked if the Abandoned sign paragraph 5003.S(2)(b), “A non-commercial sign whose message pertains to a time, event or purpose that has elapsed or expired in the preceding 30 days” meant that a sign describing an event over 30 days in the past would not be abandoned. Brandy Saxton said she would work on making the meaning clearer. Brandy Saxton reminded the Commission that the sign section (3107, p. 3-76)

has language that describes what parts of the sign has to be removed when a business closes. Cheryl Joy Lipton asked if signs with historic significance may be left in place. She cited the Wannamaker's sign in Philadelphia as an example of an historic sign that had been preserved and the Furman Building sign in Springfield as one that Springfield might like to keep. Naomi Johnson said the Commission could address that when the Signs sub-section is revisited. Brandy Saxton said Montpelier allowed for keeping historic signs in their bylaws.

Brandy Saxton said the smart growth principles and strip development definitions come from Vermont Statute. She said the definition of surface water (5003.S(17)) was important. She agreed to add the adjective natural in front of the word pond in the surface water definition at Tim Roper's request. No other changes were requested for the letter S definitions.

In sub-section 5003.T, Brandy Saxton said the top of bank definition also came from Vermont Statute. The definition was important when measuring setbacks from streams and rivers. Under sub-section 5003.W, she said the definition of working lands is the opposite of the open land definition in paragraph 5003.O (1).

Cheryl Joy Lipton asked if hydric soils should be included in the wetland definition. Tim Roper asked if wetlands had unique soils. Cheryl Joy Lipton said they did. Brandy Saxton said the definition came from Vermont Statute. She said hydric soils are good indicators of wetlands, but not the only indicator. Barre Pinske wanted to know what a fen was. Cheryl Joy Lipton said it was characterized by specific plants and some had calcareous soils. No changes were requested to sub-sections 5003.T through 5003.Z. This concluded the discussion of definitions.

The Commission then took up zoning district boundaries. They gathered around maps prepared by Brandy Saxton which had been updated with changes suggested by the Commission during the Autumn of 2018 and changes that emerged from the discussion of uses that occurred over the winter. Naomi Johnson said the goal of the workshop was to refamiliarize the members with the proposed districts, review the changes made so far and decide if any other adjustments are needed.

Brandy Saxton began by discussing Sub-Section 2001, Establishment of Base Zoning Districts through Sub-Section 2004, Use Standards (pages 2-14 – 2-16). No Commissioners had any questions about sub-sections 2001 – 2003. A question about materially similar uses (sub-section 2004.C) was resolved when the questioner re-read the bylaw. Brandy Saxton emphasized paragraph 2004.D, which allows mixed and multiple uses. She said mixed use meant a combination of residential and commercial uses. Multiple uses meant more than one commercial or residential use on the same parcel of land. No changes were requested to Subsection 2004.

In Sub-Section 2005, Dimensional Standards, the Commission discussed 2005.B Principal Buildings first. Brandy Saxton said that up to two single-family homes or a single-family home and a commercial building would be allowed on one lot, as long as the density and setback standards in 2005.B are met. Michael Normyle asked if the Principal Building paragraph vacated or superseded the rule about an in-law apartment. Brandy Saxton said an in-law apartment is an accessory dwelling, not a principal building.

Barre Pinske asked if this bylaw would limit a family's options if it wanted to build a family compound. Brandy Saxton said a planned unit development offers an option for multiple single-family buildings on a single piece of land. Brandy Saxton said allowing multiple principal buildings on a lot can lead to difficulties when financial or other problems make subdivision desirable. If the buildings are too close together, subdivision may not be possible.

Tim Roper asked about septic provisions for multiple buildings. Brandy Saxton said the recent changes to the state wastewater requirements support multiple buildings using one system. She said that allowing multiple buildings on a lot also supports adding a back house on village lots, which tend to be narrow and deep. No changes were requested to this sub-section.

Sub-section 2005.D, Lot Size, addresses which lot size standard will apply to a lot that is in 2 different zoning districts. Paragraph 2005.D(4) says that the lot size standard will apply based on which zoning district the lot's road frontage is in. Michael Normyle verified that the setbacks which would apply to a building on a lot that spanned 2 districts are based on the zoning district the building is located in. Brandy Saxton said that was correct. No changes were requested for this section.

Sub-section 2005.E addresses road frontage. Brandy Saxton noted that the sub-section provided some flexibility for new lots and allowed a waiver from the Development Review Board for oddly shaped lots. No changes were requested for this section.

In the discussion of Setbacks (sub-section 2005.F) the issue of from where to measure the front setbacks was discussed. Brandy Saxton endorsed measuring the setback from the edge of the road right-of way. She said the pavement width can change over time and the road may be relocated within the right of way. Michael Normyle said Chester had used the edge of pavement standard for 10 years and hadn't had a problem. He didn't see a need to change it.

Brandy Saxton said if the Commission wanted to use the pavement, she recommended that the centerline be the reference point, not the edge. She acknowledged that using the centerline or the paved edge can give an advantage to a lot on one side of the road or the other. She felt that the centerline was a more stable landmark than the edge of the pavement.

Michael Normyle asked how many feet difference there might be between using the centerline, the right of way edge or the edge of the pavement. No one felt the difference would be more than a foot or so until Brandy Saxton told a story about a man who had built a house close to an existing road and wanted to expand the house. He decided to measure the setback from the road right of way and discovered that he had built on a road with a four-rod right of way instead of a three-rod right of way. That put the setback line in the middle of his dining room. If the town had wanted to expand the road it could have forced him to take down his house. Barre Pinske thought that the centerline was a more stable standard than the edge of the pavement because the width of the road, and the resulting edge of the pavement, could be changed easily. The location of the centerline was less likely to change. Tim Roper said that the edge and the centerline are likely to change when a curve is re-surfaced. Naomi Johnson said she always thought measuring from the edge of the pavement didn't make sense because it frequently shifted. Michael Normyle asked if he would have to research the location of the right of way for every request he

receives. Naomi Johnson said the tax maps in Chester did indicate the right of way for each road. Barre Pinske asked Naomi Johnson, in her role as engineer, which method she preferred. She said she preferred the edge of right of way. A vote was taken and the Commissioners agreed to measure front setbacks from the edge of the right of way.

With regard to paragraph 2005.F(5), Brandy Saxton pointed out that when two abutting lots are owned by the same entity (the lots are in common ownership), the setback requirement still apply to each lot. If someone wants to build something on the lots that violates the setback rules, they would have to do a boundary adjustment or merger first to combine the two lots into one. The Commission decided not to make any changes to sub-section 2005.F.

No changes were requested to sub-section 2005.G, Height, or 2006, Density Standards. Michael Normyle discussed how building height is measured with Brandy Saxton. He concluded that the proposed way to measure allows for taller buildings if it has a pitched roof. Brandy Saxton agreed. She said the proposed method of measuring allows for the loss of habitable space under the pitched roof. Barre Pinske asked about the height requirements for industrial buildings. Brandy Saxton said those were addressed in a separate section.

The Commissioners then examined the map of proposed zoning districts. It took some time to figure out where the discussion had ended last fall and to decide what to tackle next. Cheryl Joy Lipton asked to discuss Neighborhood Development Areas. This is a designation given by the state that brings relief from some Act 250 regulations and tax advantages to residential subdivisions. It is meant to encourage walkable village centers and mixed income housing. Brandy Saxton said the zoning district where the Neighborhood Development Area is located must allow four dwelling units per acre. This would require some changes to planned density of the village zoning districts. The water and sewer service must also be verified.

Cheryl Joy Lipton asked whether a Designated Growth Center would be possible for Chester. Brandy Saxton said she thought the amount of work required to set one up would not be reasonable for Chester, and the advantages would be few or non-existent. (There are currently six growth centers in Vermont in Bennington, Williston, Montpelier, St. Albans City, Colchester and Hartford. – Ed.) Barre Pinske asked whether enough people would want to live in Chester to justify the effort. Cheryl Joy Lipton said she read reports from the Village Master Plan that indicated people wanted affordable housing. Tim Roper said the Land Use chapter in the town plan says the same thing. The Neighborhood Development Area could provide this. Barre Pinske questioned whether living on a quarter acre lot was what people wanted in Vermont. Brandy Saxton said typical lots in a village range from one-eighth of an acre to on quarter acre. The Commission sketched the area of town that could qualify for this designation on the maps. Some parts of the area are flood plain, some parts are already heavily developed and some parts are larger hilltop parcels belonging to single entities. So far, they have not been considered for development. Brandy Saxton said a municipality could ask for a Neighborhood Development Area, or a developer could apply for it.

Cathy Hasbrouck spoke of her experiences dealing with a 4-unit former farmhouse she owns on Pleasant Street. She said the lot is open and flat and would be a good place to build some town

houses, but there has been no interest in the land. She said people who do purchase multi-family buildings are charging the renters the full costs of the property plus a profit, which puts most rental units out of reach for people with low incomes.

Naomi Johnson asked whether there are any disadvantages to having a Neighborhood Development Area. Brandy Saxton said it wasn't a case of having or not having the area, it was a case of making sure regulations supported that possibility. The zoning districts around the village center would have to allow the required density. The water and sewer capacity would have to be present. Brandy Saxton volunteered to draw an area that is one-quarter mile outside the designated Village Center. She would also add the water and sewer service areas if she can find that data. This would give the Commissioners a clearer picture of the areas that would be eligible.

Naomi Johnson suggested that this line of inquiry be tabled until maps are available. Barre Pinske asked that the group focus on the task at hand and not spend too much time on side issues. He also wondered how much of an economic boost low income housing could be for the community and whether having more of it would be helpful. Brandy Saxton said she would not be surprised if citizens attending the workshops said they didn't want to see more housing in the village center. In her experience people didn't want to see large houses broken up into apartments and didn't want to see changes to their Vermont village.

Naomi Johnson went over the areas of town that would be eligible for a Neighborhood Development Area. She noted that one of the areas was High Street, and that citizens from High Street had addressed the Commission in the past about not making changes to the village.

The Commission took up Rural districts next. Brandy Saxton explained that the R3, R6 and R18 areas were designated based on the type of road which served the area. The R3 district is served by paved state and town roads. The R6 district is served by unpaved town and private roads. The R18 district is made up of conserved, environmentally sensitive and remote land which is more than 1,000 feet from maintained roads. The R3, R6 and R18 designations reflect density. One house is allowed for every 3 acres in the R3 district, one house is allowed for every six acres in the R6 district and one house is allowed for every 18 acres in the R18 district. Brandy Saxton said she thought septic constraints would place more limits on development than any other factor. Barre Pinske pointed out that the land is steep, wet and rocky and doesn't perc well. Michael Normyle said that in his 10 years as zoning administrator there has only been one subdivision of more than two or three lots, and that was in the commercial industrial zone. Naomi Johnson said the largest subdivision she could recall before that is the Remington Road subdivision, about 75% of which has not sold.

The Commissioners discussed the quality of life in Chester and what the Planning Commission could do to improve it for everyone. Barre Pinske said he felt there wasn't enough art and entertainment choices available. Cheryl Joy Lipton and others disagreed. Cheryl Joy Lipton said she had found many plays and other events to attend. Michael Normyle said that a major employer in the area can't find employees, and potential employees can't find affordable housing. Barre Pinske agreed that it was hard to find workers.

Cheryl Joy Lipton said she was concerned that people who own several acres in the country would, for various legitimate reasons, subdivide their property and sell a building lot which would result in a new house going up. If this goes on for decades, over time the country is peppered with single family houses and the country isn't "country" any more. She acknowledged that it hasn't happened as much in Chester in other places, but it is happening. She expressed concern over forest fragmentation which would occur if this was allowed to continue.

Brandy Saxton said the R18 district, which is generally 1000 feet from any road, has almost all the large forest blocks (over 500 acres of contiguous forest). She said she could verify this for the Commission. Barre Pinske said he was impressed by how few people lived in the forested areas. He had noticed that as he studied Google Earth imagery of the town. He thought people got a skewed view of the situation if they only traveled on main roads. He asked what could be done with all this forested land. Tim Roper said we need to protect it.

Cheryl Joy Lipton and Tim Roper said that even dirt roads disturbed the forest as they were vectors which brought invasive species into the forest. Brandy Saxton pointed to the Class 1V roads drawn on the zoning district map as dotted lines. She reminded the Commissioners a Class 1V road cannot provide access for a subdivision. Cheryl Joy Lipton said even one house every six acres was a problem. Brandy Saxton said she agreed that a house every six acres has an effect on forest fragmentation. She said she did not think it was possible to get people to agree to bylaws that only allows one house per 50 acres along an existing state or town road.

Brandy Saxton pointed out that many of the parcels in the rural districts are already three acres or smaller. She was concerned that someone who owns 9 acres of land in the current R120 district and expected to be able to subdivide it into 3 lots would be very disappointed if that current R120 zoning was changed to R6 and the 9-acre parcel could not be subdivided at all. Brandy Saxton agreed with Cheryl Joy Lipton that it was reasonable to "down-zone" areas of Chester. She said there are people who own parcels of land in the rural districts who are well aware of how difficult it is to put in septic systems or who are in favor of conservation and did not plan on subdividing. At the same time, she felt down-zoning may be a difficult change for some citizens to accept. She acknowledged that the step she is suggesting may not deliver everything that Cheryl Joy Lipton wanted, but it would put Chester in a better position than it is now.

Cheryl Joy Lipton suggested that areas along Route 11 or 103 that are not part of the current population centers be changed so that it could preserve the current separation between population centers such as Chester and Gassetts. Looking at the lots along Route 103, there was a fairly clear line to the north of the Stone Village where the lots became larger. It was suggested that the area of larger lots between Chester and Gassetts be changed from Rural 3 to Rural 6, which would maintain the working farm and forests that are present now. The Commission agreed to discuss that when the proposed changes to the map are put into place.

Brandy Saxton said she would send the Google Earth versions of the maps the Commission was looking at during the meeting to the Commission members. She asked the Commissioners to use

Google Earth to study the maps and come up with concrete suggestions for zoning district boundaries.

Brandy Saxton said that the zoning district labels and the numbers associated with them have an enormous impact on citizens' perceptions of the bylaws, but the standards for subdivision and building envelopes in the bylaws have an even greater impact on what may actually be done with the land and how it is conserved. She recently read an article that said Vermont's population is not expected to increase in the next 40 years. Population outside of Chittenden county is expected to shrink. She doubts Chester will face any pressure from growth in the coming decades.

The Commission will meet next on Thursday March 28, 2019 at 6:00 PM. Brandy Saxton may or may not be able to attend that meeting. The Commission will also meet on Monday April 1, 2019 at 6:00 PM with Brandy Saxton.