

**TOWN OF Chester**  
**PLANNING COMMISSION**  
**February 15, 2021 Minutes**

**Commission Members Present:** Naomi Johnson, Cheryl Joy Lipton, Tim Roper, Peter Hudkins and Barre Pinsky all via Zoom Teleconference.

**Staff Present:** Cathy Hasbrouck, Recording Secretary, Jill Barger Zoning Administrator.

**Citizens Present:** None.

**Call to Order**

Peter Hudkins called the meeting to order shortly after 6:30 PM.

**Agenda Item 1 Review minutes from February 1, 2021.**

Cheryl Joy Lipton moved to review the minutes from February 1, 2021. Naomi Johnson seconded the motion. Cheryl Joy Lipton had corrections for a typo on page 4, a missing word and a word change on page 5, and a missing comma on page 6. Tim Roper noted missing quotes on page 1, a request to add the word “unanimously” on page 2, and an extra “the” on page 4. A vote was taken and the minutes were accepted as amended.

**Agenda Item 2, Citizen Comments**

As there were no citizens present, beyond the Commission members, there were no comments.

**Agenda Item 3, Discuss document which addresses the Selectboard request for “a summary of changes that are being proposed by the Planning Commission” as part of the new bylaws for their 2/17/2021 meeting**

The Commission had two documents to look at. The first was prepared by Cathy Hasbrouck. It enumerated at a high level the differences between the adopted and proposed bylaws. The second was a draft of the Reporting Form which will need to be presented to the Regional Planning Commission when the bylaws are submitted for approval. The Commission considered whether one or the other or both documents should be submitted to the Select Board. Cheryl Joy Lipton suggested that both documents be submitted.

Tim Roper asked for more information about the upcoming Select Board meeting on Wednesday night, noting that an item on that agenda was, “Update from Planning Commission; Peter Hudkins, Chair.” Peter Hudkins said the documents being considered would go in the packet for the Select Board. Peter added that, in the past, when the zoning bylaws were updated by the Planning Commission, other boards, such as the Development Review Boards or the previous organization, the Zoning Board of Appeals, would sit in on the bylaw discussion and offer their counsel. There has been very little of contact with other town boards during the two years he has been a member of the Planning Commission working on the bylaws and Peter said he “had a beef to pick” with the Select Board on that issue. He was concerned that, without input from the Select Board, the proposed bylaws will surprise the Select Board and will not be adopted. Cheryl Joy Lipton said the Select Board was always welcome to attend Planning Commission meetings. She recalled that Phil Perlah had attended the early bylaw workshops frequently.

Naomi Johnson asked whether the Select Board had specifically asked the chairs of the Development Review Board and Planning Commission to come to their meeting to give them input and see how things were going. Peter Hudkins said they had. He said again he wanted to ask that board for more input. Naomi Johnson said Carla Westine and Phil Perlah had attended some Saturday discussions of the proposed bylaws and had told the Planning Commission that writing bylaws was the Planning Commission's job, and Carla Westine did not feel the DRB should participate in writing the bylaws. Peter Hudkins said the Planning Commission is nearing the end of the work and he had hoped that any changes people wanted would have been made known earlier so they could be worked into the document.

Naomi Johnson and Cheryl Joy Lipton asked whether Peter would be discussing the documents under consideration at the meeting. Peter said he would discuss the document and he would also make clear he was concerned about the lack of input from members of other boards. He felt the bylaws would not be adopted without more input from people outside the Planning Commission. He said the equipment needed to allow a mix of in-person and teleconferenced attendance at a meeting was going to be installed and available by March 1<sup>st</sup>.

Tim Roper confirmed with Peter Hudkins that Peter would basically state his concerns about public input at the Select Board meeting on Wednesday. Peter agreed. Tim suggested that both the differences document written by Cathy Hasbrouck and the draft Reporting Form written by Naomi Johnson be given to the Select Board along with the zoning audit Brandy Saxton wrote in August 2018. Tim turned his suggestion into a motion. He moved to make the document written by Brandy Saxton showing the mis-alignment between sections of the Town Plan and the existing the Unified Development Bylaws part of the package sent to the Select Board for their Wednesday meeting. Naomi Johnson seconded the motion. A vote was taken and the motion passed unanimously.

The Commission discussed the summary of differences document drafted by Cathy Hasbrouck. Naomi Johnson asked for a change on page 1 in the first sentence below three-paragraph quote from the audit written by Brandy Saxton. She wanted to add "for non-residential uses" to the end of the sentence that described the minimum lot size for the R-6 and R-18 district. She also asked to insert the word "use" as the second word of the last sentence in the paragraph.

On page 3, Naomi Johnson asked to amend the first sentence at the top of page 3 to include the words, "unless the use requires a major site plan review". This would clarify that a permitted use could still require a major site plan review and thus a hearing before the Development Review Board. On page 4, Naomi asked to have the last paragraph of the document changed so it did not include the word burden. Tim Roper suggested referencing 24 V. S. A §4302. The Commission agreed on the following closing statement. "The proposed bylaws in their current state have been written to comply with 24 V. S. A §4302, the state statute guiding municipal and regional planning and development." Tim Roper said he believed that if someone read the statute and then read the proposed bylaws, they will see that the statute and the bylaws are in alignment.

Cheryl Joy Lipton said she thought the Commission could do better regarding some of the issues it was charged to deal with and regarding the issues outlined in the statute, meaning reducing land development in rural districts and increasing opportunities for development in the village centers. She said she understood it was difficult to move things away so quickly. She said she believed the Planning Commission should be a little bit stricter with some of the issues. She

understood that some citizens did not want to go that far, and things would have to be done incrementally.

Tim Roper agreed that the Planning Commission has been less strict than the aspirations of the statute quoted. He said he thought almost every debate the Planning Commission had was about how strict the bylaws should be. How could the Planning Commission move the bylaws forward, expect them to be adopted and still meet the spirit the statute? He suggested that the closing paragraph could say, "This is our attempt to balance the statute with what the Commission believes will be palatable to the citizens of Chester."

Barre Pinske said the town had spent money hiring a consultant, had done surveys and research, and compared the proposal to bylaws in other communities. He felt that the Planning Commission was doing what it should be doing. Cheryl Joy Lipton said she was not comparing the Chester bylaws to other communities; she was comparing them to the statute. Naomi Johnson reminded the Commission that this report was just for the Select Board and it could be changed later if need be. She suggested a simple summary of the effort put into the project so far would be enough. Barre Pinske agreed.

Cheryl Joy Lipton asked to change the first paragraph of the Smart Growth Principles section by removing the word "much" from the description of the less dense rural areas. She believed the rural areas were still too dense and she thought the Planning Commission should work on making them less dense. Tim Roper agreed that the rural areas were too dense, and the word "much" should be removed.

Tim also asked that the following sentence, "Rural commercial opportunities are limited by fewer allowed uses, whether permitted or conditional" be changed. Cheryl Joy agreed the sentence should be changed and asked for proof that there were fewer uses allowed than before.

Naomi Johnson asked if Cathy Hasbrouck had any analysis that showed a decrease in the number of uses in the rural districts. Cathy Hasbrouck said there were 7 permitted uses and 18 conditional uses in the adopted R-120 district and the proposed bylaws have more uses in general, 72 in the proposed (versus 40 in the adopted). The R-18 district had 10 permitted uses and 2 conditional uses. (Editor's note the count of conditional uses was in error due to an extra page break character. The actual number of conditional uses in the R-18 is 15.) Tim Roper asked about the R-6. Cathy Hasbrouck said the R-6 had 16 permitted uses and 21 conditional uses. Tim Roper said the R-6 district ran for at least 1,000 feet off every town road in the rural districts. He said that offered more opportunities. Given the differences in the number of defined uses between the two bylaws, Peter Hudkins suggested that a comparison based simply on numbers of uses would not provide a valid analysis of the issue. He suggested it would be comparing apples to oranges.

Barre Pinske suggested that the differences in the numbers of uses in each district depended on the definitions of uses which varied considerably between the two bylaws. He said there is very little industry in Chester to discuss. Most of the businesses are home occupation, agriculture and forestry. He questioned whether it was necessary to discuss this issue at length. Peter Hudkins said the frontage requirements would prevent people from having a commercial or industrial principal use in any case.

Tim Roper said he felt the statement about the changes in uses allowed in rural districts was misleading. Peter Hudkins suggested striking the sentence. Cheryl Joy Lipton said she thought

the issue should be checked before the bylaws were released. Naomi Johnson agreed the sentence should be deleted. She pointed out that the power point presentation given by Brandy Saxton for the rural districts (available on the Planning Commission page of [chestervt.gov](http://chestervt.gov)) lists the uses added and removed for the R-3 vs. the R-120, the R6 vs. the R-120 and the R-18 vs. the Residential Conservation district. The Commission agreed to strike the sentence.

Cheryl Joy Lipton suggested that a sentence on page 4 should be changed to read, “The proposed bylaws list 72 different uses, while the adopted bylaws list 40.” There was general agreement to that change.

Tim Roper suggested that paragraphs 2 and 3 on page 4 show that the proposed bylaws are much more granular than the existing bylaws and give a clearer picture what is and is not an allowable use. They would also make it clearer what use should be applied for when an applicant seeks a use permit for a piece of property. Tim Roper asked Cathy Hasbrouck if that was the message she was trying to convey in the paragraphs. Cathy said that in some cases the proposed bylaws combine more than one separate use in the adopted bylaws into one use, and at other times the proposed bylaw breaks out several uses from one use in the adopted bylaw.

Peter Hudkins said the historical document was not integrated into the proposed bylaws, which brings up issues like this. Tim Roper said he had not noticed that some proposed uses are more granular and others are less granular than the adopted uses. He thanked Cathy Hasbrouck for noticing this and suggested that the uses like the veterinary, pet or animal service should be reviewed and possibly broken into separate uses before the bylaws are submitted for adoption.

Barre Pinske said the document to be sent to the Select Board should be something that they can sink their teeth into. Moving on, the Commission revisited the last paragraph. Cathy Hasbrouck read the first sentence that everyone had agreed to out loud. “The proposed bylaws in their current state have been written to comply with 24 V. S. A §4302, the state statute guiding municipal and regional planning and development.” She then read a draft of a following statement that would address balance, “This is our effort to balance the goals of the state statute with the wishes expressed by the citizens at the hearings in May and June of 2019 and August 2020.

Tim Roper asked to change the beginning of the second statement to say, “It is our opinion that this document adequately balances . . .”. Cheryl Joy Lipton moved to adopt the document as amended. Barre Pinske seconded the motion. A vote was taken and the motion passed unanimously.

#### **Agenda Item 4 Review memo from Naomi Johnson.**

The Commission then took up the draft of the Reporting Form contributed by Naomi Johnson. Cheryl Joy Lipton suggested changing the second bolded paragraph on page 4 to say. “The purpose of the change” instead of the “The purpose of the changes”. The Commission settled on. “The purpose of the revision to the Unified Development Bylaws”. Naomi Johnson wanted an edit in the Rural District section, where the third line of the first paragraph says, “The proposed UDB rural districts also have a minimum lot size of 3 acres”. She wanted the words “for residential uses” added. Cheryl Joy Lipton asked to have the last sentence in the paragraph changed to read “limit scattered development and agricultural and forest fragmentation” instead of “limit scattered development and land fragmentation”.

Barre Pinske asked if the two documents were redundant. Peter Hudkins explained that the Reporting Form is sent to the state and the Regional Planning Commission with the completed bylaws. Writing the document now gives the Planning Commission a head start on that process. The document Cathy wrote is intended only for the Select Board's use. Barre Pinske verified that both documents would be sent to the Select Board. The Commission discussed merging the two documents or only sending one document.

Tim Roper thanked Naomi for writing the Reporting Form. Naomi Johnson said she had looked at different examples of Reporting Forms while she was writing this one. Some Reporting Forms are longer than the one she wrote and others are shorter. She thought some Select Board members will appreciate the extra words in Cathy's document and that the two documents might be merged for the Reporting Form. There were no more changes requested for the reporting form. Cheryl Joy Lipton moved to accept the Reporting Form as amended. Tim Roper seconded the motion. A vote was taken and the motion passed unanimously.

**Agenda Item 5 Review list of tasks remaining to be completed before public hearings on proposed bylaws can be held.**

Naomi Johnson said she included a list of tasks remaining that she included with the Reporting Form document because she had been working on the list for a couple of weeks and wanted to turn it in to the Commission and have it on the record. She emphasized that the official list of tasks to be completed is a separate document belonging to Peter Hudkins. She particularly did not want to discuss Item 2, Notes on Bylaw Version 3.4. at that time. She said the first list was based on the Action List dated 11/2/2020 and included notes about items which needed research before putting the item on a meeting agenda for discussion.

Peter Hudkins turned to the Remaining Tasks list. He said the pieces for the Town Hall audio system should be arriving next week and the system will be operative around March 1<sup>st</sup>. This would allow mapping tasks with Gabe Ladd to proceed. Naomi Johnson suggested that the Planning Commission set priorities for the 20 or so tasks on the list. She also wondered what the overall time frame to complete would be. Peter Hudkins said he thought the list would take until June 2021.

Cathy Hasbrouck said there were six meetings before June 1<sup>st</sup>. Naomi Johnson said some of the tasks have been seen before. She asked the Commission to look at item 6, Discuss Air B&B regulation. She said that the State of Vermont has only recently given towns the right to regulate this use and suggested that the item be put off until other towns with more urgent Air B&B issues develop regulations and the state provided model language. Chester could then look at a model from the state and see how this worked in other towns. Tim Roper, who had originally brought up the Air B&B issue, did not object to putting the discussion off until after the bylaws are adopted. He wondered whether the Select Board had anything to say on this topic and if an ordinance would be needed.

Barre Pinske suggested that more difficult or complicated issues could be easier to figure out by looking at what other communities about the same size as Chester do. He also thought for an issue requiring a lot of preparation, perhaps a sub-committee could be formed to work on it. Naomi Johnson said two people from the Commission could meet and not trigger the open meeting law.

Cheryl Joy Lipton said she had worked on the landscape standards, riparian buffers, and forest block connectivity. She said she could make a presentation on riparian buffers and forest blocks as soon as the town hall meeting facility was completed. She asked Tim Roper if he could address street trees and solar projects. Tim verified that the list was being prioritized. He asked whether the Helipad and Airstrip request that was sent to the Commission at the end of the preceding week should have priority over other items on the list.

Naomi Johnson suggested that number 13 Verify with Town Clerk that building permits may be recorded could be marked complete. She said 24 V. S. A. § 4449 addresses that. She had a comment about number 18, Zoning Administrator is allowed to hold boundary adjustment hearings and sign plats. Peter Hudkins suggested that since this was a change to the way these hearings have been handled in the past, it should be looked into in more depth. Naomi Johnson said the Commission had discussed the issue in November, 2018. Carla Westine was present at the time. Naomi said Zoning Administrators were allowed by statute to handle Boundary Adjustments if assigned by local regulations.

Cheryl Joy Lipton asked when the document with all the Planning Commission meeting minutes since the project began in August of 2018 had been sent. Naomi Johnson said it was very helpful to be able to open the document in Word and search for earlier discussions.

Barre Pinske said he occasionally speaks to Carla Westine when she walks her dog past his building. He said he asked Carla about any difficulties the DRB might have been having with the bylaws. Carla told him that the requirement for measuring noise had been difficult for some applicants. Hiring an engineer could cost thousands of dollars. He suggested that the Planning Commission consider whether such a regulation is necessary. Naomi Johnson said the new noise regulation is different from the old bylaw. Naomi suggested that Carla take a look at the new regulation. Peter Hudkins said that the problem is the burden of proof in the proposed bylaw is not different from the adopted bylaw. Tim Roper said the burden of proof is on the applicant and the town did not want to purchase and maintain a sound meter. Naomi suggested that the item be put on the list and Carla Westine should be consulted.

Cheryl Joy Lipton asked if the junkyard issue (16) needed to be on the list since the junk yard ordinance has so recently been passed. Peter Hudkins explained that the bylaws need to be coordinated with the ordinance. Peter Hudkins said that it was similar to the road and bridge standard issue.

Tim Roper suggested that the Stone Village geographic boundary should get a top of the list priority. Peter Hudkins said the issue could not be worked on until the audio-visual work was completed. Naomi Johnson said it should still have a high priority.

Cheryl Joy Lipton asked about a set of zoning district maps dated 1/12/2020. She asked if they were the most current. Cathy Hasbrouck agreed to send the Google Drive link with all the maps and their history to the Planning Commission members.

Tim Roper suggested that the smaller detail issues on the list could be given a higher priority and be addressed quickly. Naomi Johnson said the definitions (Item 2) should be given a high priority.

It was agreed to mark all the items needing map work with an M in the Research column on the list. Cheryl Joy Lipton said the street trees and landscaping could be addressed together. Cathy

Hasbrouck offered to get the definition research done for the March 1<sup>st</sup>, meeting, along with Item 7, site visits. The Commission agreed that Item 4, the hardship clause could be prepared as well.

Tim Roper asked Naomi how to look up examples online. She said she goes to towns big enough to have recently updated zoning bylaws, and searches through the files available online. Barre Pinsky said the search didn't necessarily have to be limited to Vermont. Other states like Minnesota could have examples that might work. He quoted Picasso, who said, "Good artists copy, great artists steal" and advocating stealing text from other town's bylaws. Tim Roper said it was important not to take something that turns out to be illegal in Vermont.

Cheryl Joy Lipton said she would do the research for item 4. She also said that her term on the Planning Commission ended in March, and if she was not reappointed, she would still want to contribute to the bylaws, and would share the work she had already done on riparian buffers and forest blocks.

Peter Hudkins said the list is missing an item for non-conforming lots. Tim Roper asked for more information. Peter Hudkins explained that a lot subdivided under an earlier set of bylaws, which allowed smaller lots with shorter setbacks, might not be developable under the new bylaws. He said there were a couple of different ways to grandfather the smaller lot.

It being 8:07, and the agenda items for March 1<sup>st</sup> being settled, the only other business for the Commission was to thank Naomi Johnson for 20 years of service and to regret that Zoom does not come with cake. The Commission voted to adjourn.