

**TOWN OF CHESTER**  
DEVELOPMENT REVIEW BOARD and  
PLANNING COMMISSION JOINT MEETING

DRAFT MINUTES

*October 25, 2021*

**DEVELOPMENT REVIEW BOARD MEMBERS PRESENT:** Harry Goodell, Robert Greenfield, Gary Coger, and Phil Perlah at the Town Hall and Scott MacDonald via Zoom.

**PLANNING COMMISSION MEMBERS PRESENT:** Hugh Quinn and Peter Hudkins at the Town Hall, Tim Roper via Zoom.

**STAFF PRESENT:** Sue Bailey, Recording Secretary via Zoom and Preston Bristow Zoning Administrator at the Town Hall.

**CITIZENS PRESENT:** Cynthia Prairie, Donna Matthews, Chris Kleeman, Steve Mancuso, Lee Gustafson, Arne Jonynas, Cheryl Joy Lipton, Joy Slaughter, Steve Crosier, and Linda Diak via Zoom. Garrett Smith and Bill Lindsay at the Town Hall.

**Call to Order**

Bob Greenfield called the Development Review Board meeting to order at 6:00 PM. He led the meeting in the Pledge of Allegiance. He introduced the members of the Development Review Board. Hugh Quinn called the Planning Commission meeting to order at 6:03.

**Agenda Item 1 Review draft minutes from the September 27, 2021 meeting.**

The Board considered the minutes from September 27, 2021. Harry Goodell moved to accept the minutes. Gary Coger seconded the motion. There was no discussion. A vote was taken and the minutes were accepted as written.

**Agenda Item 2 Citizen comments.**

No citizen had any comments about any subject other than agenda items.

**Agenda Item 3 Discuss proposed Administrative Review concept with members of Planning Commission**

Robert Greenfield turned the meeting over to Hugh Quinn who gave a summary of the Planning Commission Subcommittee work on the proposed administrative review process. Preston Bristow then explained that the Planning Commission is considering adding a Village Green District to the adopted bylaws based on the V12 district in the proposed bylaws. He said this would accomplish one of the goals of the Village Center Master Plan. It would also give the Planning Commission a chance to accomplish something concrete after a long period of discussion and evaluation. He said the purpose of the joint meeting with the DRB was to introduce the concept of administrative review to the DRB, as they may have a role in the process. It was important that the Planning Commission hear whether the DRB would accept administrative review and their potential role in it before the bylaw changes are presented to the citizens and the Selectboard.

Preston reviewed the document presented in the packet. He said the document included the portion of state statute that allows administrative review, most of the zoning district page for the proposed Village Green district and the chapter outlining the Administrative Review process.

He said that in researching administrative review, the Planning Commission saw that some towns require the Zoning Administrator to consult with the head of the DRB on each application. This gives the benefit of a second person reviewing the process and avoids the issues of holding a warned hearing if the entire DRB were to be consulted. Preston said that larger towns use administrative review to handle applications that would be so numerous the DRB could never keep up with the volume of hearings. He said the question at hand is what is the right fit for Chester.

Tim Roper said it was important that everyone understand that the document presented is a draft document and has not been approved by the Planning Commission.

Harry Goodell asked why the change needed to be made. What was wrong with the present system. Preston Bristow said that applicants who want to open a shop in town are faced with at least a three-month wait to obtain a permit when a hearing is required. The hearing must be noticed in print media two weeks in advance, the hearing held, the findings document written and approved and a 30-day appeal period must elapse before the permit is final. This is not seen as business-friendly.

Harry said the boards (the Planning Commission and DRB) were set up so that decisions were not being made by a couple of people. He was not comfortable with changing that.

Scott MacDonald said he felt the granting of a recent permit by the Zoning Administrator to the new tea house was an example of a situation which could easily get out of control if a single person is allowed to grant permits. He felt that the DRB had been left out of the process in that instance and this proposal would continue to leave the DRB out of the process. He was concerned that the character of the town would change depending on who was the Zoning Administrator. He thought that involving the chair of the DRB in the process would be helpful. In the end, he thought this proposal was too much change too soon.

Bob Greenfield said the proposed changes only apply to the Village 12 district at present. Preston Bristow said the Planning Commission had discussed the possibility of extending administrative review to all the village and business districts, but the only district currently under consideration was the Village 12.

Hugh Quinn said under the proposal a member of the DRB would participate in the decision-making process and could require an application be referred to the DRB. He said the list of uses which could be handled by administrative review could be reduced. He said the Planning Commission was trying to allow uses that don't require extensive review to be handled more expeditiously. He doubted that under this proposal a zoning administrator will be making bad decisions that no one knows about.

Scott MacDonald said he was concerned about the number of permitted uses in the proposal. He said he would like to find a way to fast track a permit with full DRB involvement. Peter Hudkins pointed out that under this proposal, the permitted uses must fit in an existing building. New construction is a conditional use and requires a hearing. These restrictions are specific to the Village Green zoning district. These uses in other districts could be treated differently. He said

that any meeting of the full DRB to review an application becomes by statute a hearing with all the delay of noticing requirements and an appeal period. A full meeting of the DRB to consider an application cannot be fast-tracked. He urged people not to generalize this proposal beyond the Village Green district. This proposal is intentionally limited in scope.

Scott MacDonald asked for clarification of the differences between the permitted and conditional use review processes and whether the Zoning Administrator would be able to issue many permits with no input from the DRB. Hugh Quinn explained that a permitted use was reviewed in detail by the Zoning Administrator. Uses requiring Administrative Review were reviewed in more detail and the chair of the DRB would be need to approve the application as well. The third level of review, Conditional Use required a full hearing by the DRB. Peter Hudkins added that the DRB chair could refuse to approve any application presented to him or her and require a hearing in front of the DRB.

Scott MacDonald verified that this process would be done district by district and each district would have its own list of uses that would qualify for Administrative Review. Peter and Hugh confirmed that was correct.

Phil Perlah repeated a question he had asked in the Zoning Office the previous week. He asked whether there was any project in the pipeline that would benefit from this change. Preston Bristow repeated the answer he had given Phil the previous week, that there were no projects in the queue that would be affected by this change. He then referred the question to the members of the Planning Commission present, asking them if they knew of projects which would benefit from the change. Neither Peter, Hugh nor Tim knew of any.

Bob Greenfield asked how the DRB would be involved in Administrative Review. Peter Hudkins said the Zoning Administrator would do the work of verifying that the application met the requirements and then refer the application to the DRB chair. Preston Bristow pointed out Section XX of the proposal, at the end of the packet document, which outlines the Administrative Review procedure.

Peter Hudkins said the process presented that evening was less onerous than the process in the proposed bylaws, which included a detailed site plan requirement.

Harry Goodell said he was somewhat concerned about allowing only two people to make a decision for the town about permits. He said under the previous Zoning Board of Adjustment system applicants could attend a meeting and have an informal discussion about the project with the 5-member board. This did not require a formal hearing notice. The method worked well in Chester, a small town. Many people could offer input and support before the formal hearing took place. He asked why the town was considering the full re-write of the bylaws. He asked what problems were being solved by the re-write or if it was simply the result of an available grant which benefitted a consultant. He questioned whether the consultant was addressing Chester's needs or those of other towns such as Woodstock or Manchester. Peter Hudkins said the proposal before the DRB was written by Preston and Jason Rasmussen. The proposal was intended to align with the Village Master Plan goal of making Chester more business friendly and reflects Jason Rasmussen's line-by-line approach to bylaws. Peter said he also liked the ZBA off-the-record approach to permits.

Hugh Quinn pointed out the changes were limited to the Village Green, a very small area that is manageable both from the perspective of bylaws that need to be written and the process that has

to be developed to support the businesses. The Planning Commission believes that a streamlined administrative process for this district would be helpful to Chester. Hugh said the DRB needs to decide whether a streamlined process is good for Chester. If the DRB does not believe a streamlined process is helpful, the Planning Commission needs to know that before the proposal goes to the SelectBoard. If the DRB does not agree, the concept will not be included in the bylaw proposal.

Scott MacDonald wondered whether a streamlined process would make or break some deals. He asked if an e-mail chain to the entire DRB was possible. Phil Perlah said he wasn't an expert on state statute, but he was concerned that if 3 members of the DRB were involved in a discussion, on the telephone or in an e-mail it is considered a meeting and must be handled as such. Preston Bristow confirmed that was true. An e-mail announcing a meeting may be sent to all the members, but a discussion of an application would be considered a meeting.

Phil said he was also concerned about rushing an amendment to the adopted bylaws. He agreed that the change being considered would be helpful. He said that currently every building on the green is non-conforming, except the Fullerton Inn. That by itself severely limits the ability to change what the green looks like.

Peter Hudkins agreed that simply adjusting the dimensional standards would be very helpful to the existing businesses. If removing administrative review would make the proposed change acceptable, changing the dimensional standards would be very helpful to businesses. New dimensional standards would allow some new construction to take place in the rear of the buildings. Harry Goodell said the lack of access to the buildings on the green are a problem for fire safety and he wasn't in favor of allowing new construction. Scott MacDonald pointed out that arguing fire safety with a former Fire Chief wasn't a good idea. Phil Perlah pointed out that the proposal presented only required conditional use review for construction of a principal building, not any new construction. Peter Hudkins acknowledged the difference and said the text of the proposal would be changed.

Hugh Quinn said changing the adopted bylaw dimensional standards for the area around the green only would bring relief to the business owners and it was worth considering amending the adopted bylaws now to give business owners that relief. Harry Goodell asked how the dimensional standards could be changed to make the existing lots conforming. He noted that the existing structures are all grandfathered. Peter Hudkins said a grandfathered building would still have to meet the current bylaw requirements in order to make any changes to the footprint. None of the buildings except the Fullerton Inn can meet the current dimensional standards.

Harry Goodell said he thought parking was a bigger concern than non-conforming parcels. More parking with ready access to the front of the buildings along Common Street was needed. He said the buildings had apartments above the store fronts, which also required parking. Peter said the Planning Commission wanted to increase density in the area because municipal water and sewer were available. He noted that single- and two-family dwellings were permitted uses and multi-family dwelling was under Administrative Review. He asked if multi-family dwelling should be a conditional use.

Steve Mancuso said he was concerned about which persons administer and enforce the bylaws, but he was more concerned about the proposed bylaw document. He felt that the document was open to bias, agenda and translation, which opens the town to liability. He felt the proposed bylaws should be cleaned up.

Harry Goodell asked Steve Mancuso what parts need to be cleaned up. Steve said he was referring to the 300-page proposed bylaws. Hugh Quinn explained that the current meeting was discussing altering the adopted bylaws. Peter Hudkins said they were only working to implement one new zoning district in the adopted bylaws.

Scott MacDonald asked what the difference was between several of the members of the DRB discussing an application via e-mail and one member of the DRB being consulted on an application. Preston Bristow explained that three or more members discussing an application via e-mail met the state definition of a public meeting which requires a notice posted at least 24 hours before.

Hugh Quinn suggested that the list of uses that would be candidates for administrative review in 2101.C could be changed. Tim Roper said his understanding of the proposal was that significant construction would require conditional use review, but changes in use in existing buildings would be eligible for the streamlined administrative review process. He asked if the DRB would object to two persons allowing something like a doctor's office moving into an existing building. Scott MacDonald said the proposed administrative review process would not allow abutters to be heard. He gave the example of a Zoning Administrator who might allow a Starbucks to move into a building on the green. He was concerned that abutters would not have a voice in that process under the current proposal.

Tim Roper said he agreed with Scott's concern. He said the approval should not come from one person and adding a DRB member with veto power to the process was meant to address that. Phil Perlah said the example of a physician's office was not a good one, as under the proposal such an office would require conditional use review. As an aside, Phil felt that physician's office should be allowed under Administrative Review.

Bob Greenfield asked how difficult it would be to change the bylaws if one of the changes doesn't work out. Preston Bristow said a change requires at least one hearing before the Planning Commission and one hearing before the SelectBoard. The hearings must be spaced a certain number of days apart. It was usually a 2- to 3-month process.

Harry Goodell asked whether there was a way to review something through the full Development Review Board without having to wait for the prescribed warning and appeal periods. Preston Bristow said he has seen the Zoning Administrator bring an application to the Development Review Board at a meeting, not a hearing. The meeting would not require 15 days' notice. The DRB would only decide whether a hearing is required for the application or not. The problem with such a meeting is that the neighbors can feel that they were denied due process since they weren't notified of the meeting.

Harry Goodell wanted a bylaw that allowed a preliminary discussion of a project at a DRB meeting which would determine whether a full hearing was required. Peter Hudkins suggested that the Planning Commission write up an administrative review procedure based on the discussion and ask the town attorney Jim Carroll for his advice on whether this would be an acceptable. Preston Bristow liked that idea and suggested that Jim Barlow be consulted as well. Harry Goodell and Scott MacDonald agreed with that proposal.

Phil Perlah addressed the list of uses in the document. He asked that the words in parenthesis in 2101.B(5) be removed, as the example of an accessory use given was not actually a defined use. He said commercial and private broadcast facilities should be conditional uses because they

could involve the construction of an antenna. Dwelling, multi-unit should be changed to the defined term Residential, Multi-family. Phil noted that light industry and agriculture are currently allowed in the Village Center district are not allowed in the proposed Village Green. Phil suggested that tourist lodging and healthcare facility could go into administrative review. He also asked about senior housing, which is not defined in the adopted bylaws. Peter Hudkins explained the history of the senior housing entry and agreed to provide a definition for the use. He also agreed to change the principal building construction conditional use to say any exterior construction would require conditional use review.

Preston said the Planning Commission had intended to be sure all the uses listed were uses defined in the adopted bylaws, but they had not made all those edits before the packet went out. Gary Coger asked about the pitfalls Preston had referred to when discussing a DRB meeting where applications for permits would be presented to decide whether a full hearing was required or not. Preston said the DRB would have a meeting, not a hearing, which does not require notice be sent to abutters 15 days in advance. He said abutters sometimes show up at those meetings and protest that they did not receive notice of the meeting. Abutters are not required to have a notice sent to them for a meeting where their property may be discussed. It is also possible that an abutter would not hear of the meeting and protest later. Preston explained the measures that were taken to issue a permit for the Farmers' Market quickly enough to start the market during the growing season. Phil and Preston were united in their determination to make extra effort to help businesses get up and running as quickly as possible.

Hugh Quinn said the next steps were to take the feedback obtained at the meeting and make some adjustments to the proposed administrative review process. Once the changes were made, they would be circulated to the DRB members. Phil Perlah moved to adjourn the Development Review Board hearing. A vote was taken and the DRB meeting was adjourned.

Hugh Quinn moved to adjourn the Planning Commission meeting. Tim Roper seconded the motion. The Planning Commission meeting was adjourned.

#### **Agenda Item 4 Deliberative Session to review previous or current matters**

There were no matters needing discussion in deliberative sessions.