

**TOWN OF CHESTER
PLANNING COMMISSION**

August 6, 2018 Minutes

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

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

Citizens Present: Mike Westine, Brandy Saxton, Julie Hance, Frank Bidwell.

Call to Order

The meeting was called to order at 7:00 PM.

Agenda Item 1 Review the minutes from the July 16, 2018 meeting

Barre Pinske moved to accept the July 16th minutes. Tim Roper seconded the motion. No one proposed any changes to the minutes. A vote was taken and the minutes were accepted as written.

Agenda Item 2 Citizen comments

There were no citizen comments on matters other than those listed in the Agenda.

Agenda Item 3 Proposed Interim By-Law change for Accessory Uses related to permitting of snowmobile fuel sales.

Naomi Johnson explained that because there was a wish to have the bylaw change in place by the winter of 2018 and the Commission did not want to open the door to a flood of inappropriate applications, she and Julie Hance thought it best to hire professional help to craft the change. Brandy Saxton of PlaceSense was hired, given the experience she has working with the current bylaws. The Commission took up her proposal for a bylaw amendment that would allow a permit for a snowmobile refueling station to be issued in Chester. The following is a summary of the discussion of the proposal, not always in chronological order.

Brandy Saxton explained that her proposal is for an interim bylaw amendment under 24 V.S.A. § 4415. This type of amendment only requires a hearing before the Selectboard and a vote by the Selectboard members to be adopted. The amendment will be in effect for two years and may be renewed for at least one year after. In contrast, a permanent amendment to the bylaws requires two public hearings before the Planning Commission and at least one hearing before the Selectboard. The process takes at least three months and usually much longer.

The Commissioners had concerns about the interim nature of the amendment. What would happen when the two-year life of the amendment is over? Brandy Saxton explained that the project to re-write the bylaws has been started and is expected to wrap up over the summer of 2019. That project will incorporate these changes. It is reasonable to expect that the new bylaws will be adopted before the interim amendment for accessory uses expires. The interim amendment will also meet the goal of having the amendment in place in time for the 2018 – 2019 snowmobile season

Brandy Saxton discussed the structure of the amendment she is offering. It treats the snowmobile fueling station as an accessory use and, in doing so would allow more potential

accessory uses in all zoning districts. The amendment affects three sections of the bylaws. The first is a change to the definition of accessory use. The word “customary” would be removed. Brandy said the word “customary” limits what could be an accessory use to uses that had been permitted before. There was no room for new uses, no way to adapt to new technology of all types. Brandy said the definition of accessory use, which makes it clear the use must be subordinate to, and supportive of, the primary use for the property, puts reasonable limits on what may be applied for. Brandy gave the example of a hair salon that applied for an accessory use permit for a fuel station. The permit would be denied on the grounds that the uses are not related. The accessory use will terminate when the primary use terminates. Brandy said she believed these standards would prevent a flurry of frivolous accessory use applications. Barre Pinske and Tim Roper had expressed concern about the number of potential applications.

The second change is to Section 3.28 Storage of Flammable Fluids. The change may allow bulk storage for commercial distribution, retail sale, or as an accessory use. The section will no longer specify which zoning districts may have bulk storage of fuel for commercial distribution as a conditional use. Michael Normyle was concerned about that change. Naomi Johnson said that by keeping the list of all conditional and permitted uses in Article 2, there was a smaller chance of being mistaken about what uses were allowed in which districts. The entire bylaw document will not need to be searched in order to determine which uses were allowed in which districts.

The third change is the addition of Section 3.30 Accessory Uses which describes the permit process for an accessory use, the conditions which may be attached to the permit and the conditions which must be attached. A hearing before the Development Review Board is not required for a permit. The Zoning Administrator may issue the permit after insuring the application meets the Performance Standards in section 4.9 of the bylaws and the application is truly for a use related to the primary use. Michael Normyle pointed out that Chester’s bylaws allow the Zoning Administrator to ask for a hearing before the Development Review Board for any matter that concerns him or her, he or she will be able to do so for an accessory use permit as well.

Naomi Johnson asked Mike Westine, a representative of the Chester Snowmobile Club whether the amendment as discussed would meet the club’s need. Initially the Commission had discussed the possibility of the club set up a fuel station at the Pinnacle. This amendment would not allow that, as the accessory use permit must be held by the property owner. Mike Westine said the club is satisfied with the change. Further investigation of what would be required to set up a station at the Pinnacle had made it clear setting up a fuel station wasn’t feasible for the club.

Barre Pinske felt the language of Brandy Saxton’s change was too general, in that it would allow other accessory uses apart from a snowmobile fuel station in any part of town. Naomi Johnson said the definition of an accessory use as being incidental and subordinate to the primary use would limit what could be allowed. Barre was concerned that the Selectboard would not approve of the proposed change and would want it more narrowly defined. He worried that the Selectboard would send the amendment back to the Planning Commission for further work, delaying implementation. Barre had brought a different proposal to the meeting for a change to the bylaws which would allow a “snowport”, similar to an airport to be permitted in certain districts. He based his proposal on airport rules in other town’s bylaws. Tim Roper also reminded the Commission that one original proposal was to allow a fueling station for snowmobiles close to the VAST trail network. Brandy Saxton replied that she doubted there

would ever be more than one snowmobile fueling station in Chester. She said rules about snowmobile fueling stations could be written. She thought the rules for such a specific use would probably take up at least half a page in the bylaws, only to be referenced a single time. She did not feel that was a reasonable way to write bylaws.

Julie Hance pointed out that a permit is not always granted simply because someone applies for it. The applicant must show that the proposed accessory use is connected to the primary use of the property, etc. She also told Barre that the degree of specificity in the current bylaws meant that a permit could not be obtained for a use that was not already listed, so a use that would appear to be a reasonable fit in a neighborhood may not get a permit because the use is not on the list for the district. Tim Roper pointed out that anyone who applies for an accessory use permit would have to have a strong business plan, because setting up the use can be quite expensive. He doubted that many people have the resources to consider an accessory use.

Cheryl Joy Lipton asked if a permit could be given out as a variance, without changing the bylaws. Brandy Saxton explained that Vermont statute did not allow a variance for a use, only dimensional standards. Claudio Veliz suggested that the conditions attached to the permit be reviewed to be sure an opportunistic loophole was not being opened. Frank Bidwell pointed out that the change will be in effect for only 2 years. If the change doesn't work as intended it can be removed. Michael Normyle liked the concept of having the Zoning Administrator authorize permits for small changes. It reduces the burden on the applicant.

The Commission went over the proposed language for the amendment. The wording of section 3.30.1.C was clarified. A change from "this" to "that" in the definition of accessory use was also made. The Commission discussed whether the permit should be temporary, permanent or either. The Commissioners agreed that the permit issued should always be permanent.

Barre Pinske moved to accept the proposed interim amendment to the bylaws and to forward it to the Selectboard for adoption. Claudio Veliz seconded the motion. After some further discussion a vote was taken and the motion passed.

Naomi Johnson said the next step would be to compose a letter to the Selectboard outlining the proposed change and the issues it addresses. She said she would take charge of that process.

Mike Westine addressed the noise issue. He said the Chester snowmobile club monitors noise on the trails and has called the sheriff in the past when machines have disturbed neighbors along the trail. He said newer machines have been changed to meet noise standards and the problem of noise is not as widespread as it once was. He said fines for excessive noise are steep.

Agenda Item 4 Kickoff meeting with PlaceSense: Revised Unified Development By-Laws.

Naomi Johnson began the discussion of the project to revise the Chester Unified Development Bylaws. The goal of the revision is to make the bylaws more responsive to the conditions that currently exist in town, such as lots in the village center that are only a few inches wider than the building which sits on it. The revisions would also simplify the permit process for some changes of use, such as a shift from a retail store to a restaurant. In some cases, a site plan review could take place with the Zoning Administrator instead of a full hearing in front of the Development Review Board. It is hoped these changes will create a more favorable economic climate in Chester.

Naomi Johnson turned the discussion over to Brandy Saxton of PlaceSense, who has been hired for the project. Brandy said the first step of the process is a review of the zoning map. She said

she would have the new map ready for review by the Commission around August 15th. The August 20, 2018 meeting will be devoted to the Town Plan. The map would be discussed at the meeting after August 20th. The next usual meeting date is Monday September 3rd, which is Labor Day. The Commission decided it would not meet on the holiday. The first day all the members could meet after September 3rd was Thursday September 13th. The members will discuss the zoning map at that meeting.

After the review of the zoning map, the next task is to review the revised bylaws. Brandy Saxton said the review process will require a couple of 4 – 5-hour blocks of time in addition to regular meeting times and proposed half-day workshops on Saturdays in early December and early January. Some Commission members said they would not be available on weekends in December. The Commission considered moving the first block of review time to November. Brandy Saxton said the revised bylaws could be ready in November and the first review session or sessions could take place then.

The revised bylaws would be made available for public review at community workshops in February. The schedule Brandy Saxton presented shows three community workshops, each focusing on one of the three zoning areas being proposed: village areas, rural areas and commercial & industrial areas. The grant for the bylaw work will end in May 2019. The schedule Brandy Saxton presented will deliver a final draft of the bylaws by that date, ready to begin the adoption process with the Selectboard. Brandy Saxton said the review process is always difficult and the time frame available to Chester is compressed. She suggested that the Planning Commission consider a joint meeting with the Selectboard early in May to start bringing the Selectboard up to speed with the new bylaws.

Claudio Veliz asked when it would be a good time to present issues such as ridgeline development that are not mentioned in the schedule Brandy Saxton was presenting at the meeting. Brandy Saxton said those issues should be brought up in the discussion of the zoning district. Tim Roper asked whether the schedule should consider possible changes to the Selectboard membership that could occur at Town Meeting. If there are new Selectboard members, how would they be brought up to speed on the proposed bylaw changes? Julie Hance said any new members would be given documents and support as needed, and that transitions of that sort are part of the job of being a board or commission member.

In response to a comment from Barre Pinske about the importance of reading the new bylaws carefully, Brandy Saxton said she would be preparing two documents for the Commissioners to study. The first would be the draft of the proposed bylaws and the second would be an annotation which connects the proposed bylaws to the existing bylaws, gives the reason for any changes and explains whether the Planning Commission has any control over the change. The pair of documents will help the Commissioners focus their energy on policy issues as where it will be most useful.

Brandy Saxton briefly discussed the proposed outline for the revised bylaws themselves, explaining her reasons for organizing them the way she had.

Agenda Item 5 Discuss current status of Town Plan revisions

Naomi went over the outlined the tasks remaining on Chapter 3 (Utilities and Facilities) and Chapter 5 (Education). She said the goals and policies that had been separated from the chapters

need to be added back. They should also be compared to the Master Plan for the Village area. She said the most urgent goal is to send the energy chapter on to the Selectboard for adoption.

Cheryl Joy said she and Claudio had been working on Solid Waste, which is a part of Chapter 3, Utilities and Facilities. Naomi said the document needed to be sent to Cathy Hasbrouck, the Recording Secretary by Tuesday August 14th to be included in the August 20th packet. Cheryl Joy also said she would be adding a section about home schooling for the education chapter.

Naomi said she wanted postpone changing the introduction and the vision statement until 2019.

Jason Rasmussen will be attending the August 20, 2018 meeting to discuss the final draft of the energy chapter. Barre Pinske said he hoped the Commission would not get too bogged down in details and would be able to finalize the chapter at that meeting. He said he was glad to have sent the interim bylaw amendment to the Selectboard for their approval.

Agenda Item 6 Follow up on July 16th training

Naomi Johnson said the Welcome to the Planning Commission document was distributed in the packet for information purposes only. She offered to discuss any conflict of interest issues anyone had left over from the last meeting. No one did.

Agenda Item 7 Set date for next meeting

The next meeting will be August 20, 2018 at 7:00 PM. The meeting following that will be Thursday September 13, 2018.

Tim Roper moved to adjourn the meeting. Barre Pinske seconded the motion. A vote was taken and the motion passed.