

**TOWN OF CHESTER
PLANNING COMMISSION**

February 25, 2019 Draft Minutes

Commission Members Present: Naomi Johnson, Claudio Veliz, 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 4, 2019 Workshop

Barre Pinske moved to accept the February 4, 2019 minutes. Tim Roper seconded the motion. Tim Roper asked that the first paragraph on page 4, which discusses the number of litters per year that define a kennel for breeding dogs be clarified by adding the word litter to the sentence. He also asked that the last sentence of the first paragraph on page 10 be clarified to state that the Commission agreed to require the Development Review Board to set the appropriate height of fence for a child day care center. Naomi Johnson corrected the sub-section number in the first sentence of the second paragraph on page 10. It should be 3231.

Michael Normyle asked that the third sentence of the first paragraph on page 3 have the words “that kind of business” changed to “a commercial business”. Though wording on page 8 was also discussed no change to the minutes was requested. A vote was taken and the minutes were accepted with the changes specified.

Agenda Item 2 Citizen Comments.

There were no citizen comments.

Agenda Item 3 Continue work shop on proposed changes to the Unified Development Bylaws.

The discussion began with Section 330, Subdivision Standards, on page 3-112. Brandy Saxton said this section addressed the standards to be applied when subdividing a parcel of land. She said that the standards in general are boilerplate, not unique to Chester. Michael Normyle asked why in 3304.B the standard requires parallel lines for the edges of lots. Brandy Saxton said it was easier to keep track of boundaries that have a regular geometric pattern, although the topography will also have an impact. Michael Normyle also asked what issue is addressed by 3304.B(8), “To minimize the number of lots with a rear lot line that abuts the side lot line of an adjacent lot.” Brandy Saxton said this would apply in areas of small lots of one-half acre or less and it was attempting to give back yard privacy to all lots.

Claudio Veliz asked for a definition of the term Building Envelope used in sub-section 3304.C. Michael Normyle said there was a definition in Section 5 for building envelope. Brandy Saxton said the definition referred to the standards enumerated in sub-section 3304.C, and it refers to a designated area on a lot of more than 2 acres where the principal buildings must be located. Claudio Veliz asked if this was a two-dimensional area or a three-dimensional area. Brandy Saxton said it was technically a three-dimensional area, but in a rural setting the third dimension was seldom considered relevant and the envelope is thought of as two-dimensional.

Tim Roper asked why only passive solar was mentioned in 3304.C(3), "Building envelopes must be sited and configured to accommodate passive solar development practices . . .". Cheryl Joy Lipton joined him this query. Brandy Saxton proposed removing the word passive from the sentence. Naomi Johnson, Tim Roper and Cheryl Joy Lipton agreed to that change.

Cheryl Joy Lipton asked Brandy Saxton if she used the Vermont low-impact development guide to residential and small commercial sites, and the low impact development principles discussed by the Department of Environmental Conservation when she developed the bylaws. Brandy Saxton said she had. Cheryl Joy Lipton asked if sub-section 3302.B, Suitability of the Land, allowed subdivision in a flood plain. Brandy Saxton said the list of unsuitable land is standard and leaves the issue of whether land in a floodplain may be developed open to discussion with the Development Review Board. Cheryl Joy Lipton said she felt land with poor drainage or periodic flooding, for example, serves a purpose separate from its potential for development and should not be developed in any case. She wanted to remove the words "unless the applicant can demonstrate that appropriate measures will be taken to overcome the physical limitations." The resulting sentence in the bylaw would not allow this type of land to be subdivided.

Naomi Johnson said she felt the subsection was acceptable as written. She said that if someone proposed a development within a flood zone, FEMA had an established process where the applicant may demonstrate whether the development would have an adverse impact on a floodplain and if it would create further flooding. Naomi did not see why the Chester Bylaws should run contrary to the FEMA process.

Brandy Saxton said this part of the bylaw is addressing the subdivision phase, not development, and land may not be excluded from subdivision. She said the building envelope sub-section will address where the building envelope could be placed on a parcel. Brandy Saxton said it was difficult to delineate a lot in Vermont that did not have at least some land that was not wet or steep. Tim Roper said, that in the case of wet or steep land, the state and federal guidelines would have to be followed.

Cheryl Joy Lipton asked if Brandy Saxton was saying development could take place on a parcel as long as the building itself was not in a flood zone. Brandy Saxton that issue would be discussed when the flood district language is discussed. She said there may be ways to address the drainage issues through engineering.

Cheryl Joy Lipton said she did not want land that had poor drainage to be developed. Tim Roper said he had asked about state and federal guidelines on developing land with poor drainage in order to understand how the Chester bylaws would fit in with those regulations. Brandy Saxton

said the proposed regulations would not allow a wetland to be filled in, for example, but it could allow re-grading or some drainage to be installed to allow a road to be built in a sub-division. These regulations would insure that the lots being created through subdivision would have a suitable, safe place for a building.

Cheryl Joy Lipton wanted the subdivision bylaw to allow for bicycle lanes as well as sidewalks. Brandy Saxton said that language was in 3305.E, on page 3-118. Cheryl Joy Lipton wanted the language about bicycles to be part of subsection 3304, Lot Design and Configuration, not subsection 3305, Design and Layout of Necessary Improvements. Naomi Johnson said she thought keeping language about bicycles in subsection 3305, which addresses roads and sidewalks was more appropriate than putting it in subsection 3304 which addresses how to divide up the land. Cheryl Joy Lipton agreed.

Cheryl Joy Lipton asked about subsection 3304.A(6), which addresses drainage away from building sites and stormwater drainage patterns. She wanted the subsection to contain more detail about swales, rain gardens and other green stormwater principles. Brandy Saxton said there was detail in the Roads subsection 3305.D(9) on page 3-117 and in subsection 3305.M, Stormwater Management, on page 3-119. Cheryl Joy Lipton asked Brandy Saxton if she followed the 2017 Vermont Stormwater Management Manual and the clean water initiative. Brandy Saxton said the bylaw is based on the square footage of impervious surface. A project adding 2,500 to 10,000 square feet of impervious surface would need to comply with the GSI Simplified Sizing Spreadsheet. A project adding over 10,000 square feet of impervious surface must have a professionally prepared stormwater management plan in accordance with the Stormwater Management Manual. This is stated in subsection 3020.F on page 3-58. Naomi Johnson said that subsection 3304.A(6) will be corrected to refer to subsection 3020, Stormwater Management, not subsection 3019 as it does now.

Cheryl Joy Lipton requested that 3304.C(7), which addresses that maintaining open land as wildlife habitat, be strengthened to encourage the maintenance of open spaces. Brandy Saxton said maintaining the open spaces could be required and a decision about whether that would be a town-wide requirement would have to be made. Cheryl Joy Lipton acknowledged that open land may also be allowed to revert to forest at its natural pace. In view of that, no changes were requested to 3304.C(7).

Tim Roper asked for a definition of small accessory structures mentioned in 3304.C(5). Brandy Saxton said small accessory structures were those structures smaller than 400 square feet mentioned in 3304.C(4).

Brandy Saxton said that subsection 3305, Design and Layout of Necessary Improvements begins with language that coordinates the building of new roads with the standards set by Chester's Public Works department. She said this language may need to change if Chester changed the current road construction standards. Claudio Veliz asked whether the word Necessary in the title of the subsection needed to be defined. Brandy Saxton said "Necessary Improvements" is a generally accepted term and did not need specific definition. Michael Normyle suggested that

necessary improvement could also be something the DRB requires as a condition of issuing a permit. That requirement would be something the applicant had not proposed to do.

Michael Normyle asked whether all subdivision applications go before the DRB. Brandy Saxton said some boundary adjustments and minor permit amendments may be approved by the Zoning Administrator without going through the DRB. Tim Roper suggested that 3305.D(2)(i) could use a cross-reference to the stormwater management section 3020. Brandy Saxton said it could and she would add it. She also noted that 3305.D(9) dealt with drainage and she will add a cross-reference to that sub-section as well.

Cheryl Joy Lipton said she objected to allowing cul-de-sacs as mentioned in 3305.D(3) and wanted to only allow hammerhead turnarounds. Brandy Saxton asked if the Fire Department had a preference for one or the other. Michael Normyle said the previous fire chief favored cul-de-sacs only and the current chief will allow hammerheads. Naomi Johnson pointed out the list of possible reasons which could justify a hammerhead or cul-de-sac (3305.D(3)(c) i – iii). She asked Cheryl Joy Lipton if she wanted to alter that list. After a discussion of the features and requirements, no one wanted to change the proposed wording.

Brandy Saxton addressed 3305.D(6), Right-of-way. She explained how bike paths, drainage, buffers and sidewalks will make the required right-of way for a road wider than it has been in the past. Naomi Johnson explained that the normal standard in Vermont towns is 50 feet and the 60-foot standard for new roads is an exception to that. Tim Roper asked what the downside of increasing the ROW. Naomi Johnson said that people could resent the extra 10 feet. Brandy Saxton said the 60-foot standard is being used in more Vermont towns. Barre Pinske said he felt that a 60-foot wide road would look like a runway compared to current standard widths. Naomi Johnson said the actual road will not be 60 feet wide. The 60 feet includes drainage ditches, sidewalks, buffers and bike lanes. Brandy Saxton said a side-effect of the wider ROW could be that fewer lots can be created in a subdivision. The Commissioners agreed to the 60-foot requirement.

Brandy Saxton said the standards in subsection 3305.D, Roads, apply to both public and private roads. The Commission discussed the proposed 10% grade limit allowed for roads. There was some concern that fire trucks would have trouble going up a grade steeper than 10%. The alternative to having a 10% grade is building a switchback which would increase the amount of impervious surface. Local examples of roads with a greater than 10% grade were cited. They included Elm Hill Street in Springfield and Route 100 from Route 103 toward Weston in Ludlow. Brandy Saxton said another issue to consider is the intersection of driveways to steeply sloped streets. Barre Pinske said hills are a feature of the Vermont landscape and some allowance should be made for the topography. The Commission decided to leave the limit at 10% for roads.

Brandy Saxton discussed subsection 3305.E, Pedestrian and Bicycle Facilities. The proposed language requires sidewalks in village and residential districts. The Commission agreed to the proposed district requirements. Cheryl Joy Lipton asked if sidewalks could be constructed of

materials other than asphalt or cement. Brandy Saxton said the other materials Cheryl Joy Lipton suggested do not wear well in this climate. No changes were suggested to this section.

Brandy Saxton suggested that the Commission check with the Chester Fire Department on firefighting facilities suggested in 3305.G, Firefighting Facilities. Brandy Saxton did not know what the Chester Fire Department would require for a water source. No changes were suggested to this subsection.

No changes were requested to sub-section 3305.H, Public and Private Utilities, 3305.I, Water and Wastewater, or 3305.J, Erosion Control. The Commission discussed 3305.K, Soil Preservation at greater length. The subsection is intended to prevent the sale of topsoil from a project site and to prevent damage to the soil structure on the site from compaction and stockpiling.

The Commission discussed the difference between building envelope as defined in Section 5 of the bylaws and construction envelope. The building envelope is the area within a parcel where the primary buildings may be constructed, but the construction envelope is the area where the soil is disturbed by the process of constructing the building. It was clear that minimizing the size of the construction envelope or disturbance area would be helpful in controlling erosion and soil compaction. Cheryl Joy Lipton said stockpiling soil over a long period would damage the biome. Naomi Johnson said she had attended an erosion control workshop and recalled that stockpiling topsoil for a period of time was discussed. She offered to look up her notes on how long topsoil could be stockpiled without damage. Cheryl Joy Lipton said that tilling, a proposed remedy for soil compaction, has been shown to be less helpful than traditionally thought and as a result, farmers are cutting down on tilling. She asked that the words “Make reasonable efforts to” be removed from 3305.K(3), so that the repair of soil compaction is mandatory, instead of requiring only an effort to repair it. After discussion, Brandy Saxton offered to expand the Erosion Control subsection (3305.J) to limit the area of the construction envelope and soil disturbance. She also will cross reference subsection 3305.J to subsection 3012, Erosion Control.

The Commission discussed subsection 3305.L, Debris Removal. Burying debris on-site is prohibited in this subsection. The Commission felt that burying debris on a 5- or 10-acre parcel was not likely to be a safety hazard, but a rotting stump could leave a sinkhole on a half-acre parcel that would be a problem. The Commission did not ask for changes to this subsection. No changes were requested to subsections 3305.M, Stormwater Management, 3305.N, Monuments and Lot Corner Markers, 3305.O, Construction and Maintenance of Necessary Improvements and 3305.P, Acceptance of Roads or Other Necessary Improvements.

Section 340 presented three different Planned Unit development types: Campus, Cluster Housing and Conservation. Brandy Saxton explained that Campus development is intended for educational institutions and business park uses. It is not meant to be primarily residential or retail space. It could be a healthcare campus with some senior housing. Claudio Veliz asked whether this use is mentioned in subsection 2110, which discusses zoning districts. Brandy Saxton said early copies of the subsection may not have included it.

Cheryl Joy Lipton said she felt Campus Development should only be allowed in the village districts, not all zoning districts. Michael Normyle asked Brandy Saxton if she has seen examples of a campus development that did not require town services such as water and sewer, generally available in the village center. Brandy Saxton cited the business park along VT Route 103 in Bellows Falls and said an educational institution would do well on a rural campus. Cheryl Joy Lipton said a campus or business park near the center of town would draw customers to existing businesses. She also cited the town's energy plan and smart growth principles that promotes in-filling of land around the center of town.

Michael Normyle said some uses are better located outside the center of town, such as a trucking business, which would have a lot of large-vehicle traffic. He didn't want to lose a business by not allowing it to locate where it wants to. Brandy Saxton said businesses in a campus development cannot be uses that are not already allowed in the zoning district. No one is suggesting locating a trucking business in the village district. Naomi Johnson summarized the discussion thus far and suggested that the rest of the subsection be discussed before the Commission decides whether to allow campus development PUD in all zoning districts.

Brandy Saxton discussed the dimensional standards and said that a campus development must meet the setbacks of the zoning district along the perimeter of the campus, but did not have to meet the same setbacks within the campus. Buildings could be closer together within the campus. Residential density could also be higher in a campus PUD, though the square footage of floor space devoted to residential use is limited. She said there was a requirement for common open space to be shared by the users of the campus. Parking may be shared among the businesses in the PUD and sign regulation keeps the signage uniform and limits the square footage allowed.

Michael Normyle described the Gold River Partnership subdivision in the Commercial-Industrial zoning district, which was recently heard by the Development Review Board. The Commission compared that process to what was being proposed as a campus planned unit development. It was noted that a campus planned unit development would accommodate smaller businesses and could facilitate development of a large parcel of land into several small businesses instead of one big-box business. Barre Pinske said he thought the town of Chester was not likely to attract any big box businesses.

Cheryl Joy Lipton re-iterated her concern that campus PUD's are not in keeping with smart growth principles and employees would be driving unnecessary miles to get to work at a location that is distant from the town center. The majority of Commissioners did not want to allow campus PUD's in all districts. It was resolved to finalize the zoning districts and uses before deciding in which districts campus PUD's would be allowed. Brandy Saxton pointed out that not allowing a campus PUD will not prevent scattered development of businesses.

The Commission discussed Cluster Housing Planned Unit Development. Brandy Saxton said this would be allowed in every district that allowed single family homes except the Rural-6 and Rural-18 districts. It would allow 200% of the density in the zoning district. The perimeter of the development would meet the setback requirements for the district, but the buildings within

the development will not have to meet setback requirements. A cluster would be 3 to 18 homes grouped around a common open space. The homes would be small, with a footprint of less than 1200 square feet, including garage space for a single-family home. This model would support tiny houses, mobile homes and cottages as well as town houses. Different options for land ownership were discussed. Brandy Saxton said zoning regulations did not address land ownership. No changes were requested to this section.

The last planned unit development discussed was a Conservation Subdivision. Brandy Saxton outlined the features of this PUD. She said it was based on the currently accepted structure of a rural PUD. It did not increase the density allowed in a rural zoning district but it did allow the houses to be placed closer together on building lots, which reduced forest fragmentation. It lists natural features which should not be disturbed by development.

Cheryl Joy Lipton said that the concept was formerly a good idea, but it is no longer in keeping with energy goals, as it encourages residences outside of the village center, requiring reliance on some kind of motorized transportation for residents to get to jobs and essential services. It also contributes to forest fragmentation. She believed the conservation subdivision language should be removed. Brandy Saxton said the conservation subdivision language resulted in less forest fragmentation than allowing single houses to be built on individual rural parcels. Cheryl Joy acknowledged that Brandy Saxton's statement was true, and said she believed no development should be allowed at all in rural districts. Barre Pinske wanted the Commission to vote on the issue. Claudio Veliz felt discussion should be suspended so that he could research more PUD types. He wanted to return with a proposal for PUD's. Naomi Johnson pointed out that the Commission had had plenty of time to mull over the proposed language and suggested that the Commission move on to definitions in Section 5. Tim Roper said the discussion at the meeting brought up possibilities he had not considered before and would like to think over. The Commission agreed to move on to Section 5.

The Commission turned to page 5-160, Definitions. Brandy Saxton said the zoning district use definitions and procedures for measuring the dimensional standards are in sub-section 2110, not in this table. She said that the definition of Affordable Housing, (5003.A(4)) has been changed in state statute and now defines both home-ownership and rentals. Claudio Veliz wondered why there was a definition for a deck in subsection 5003.D(2), but no definition for porch. Brandy Saxton said there were regulations pertaining to decks, which then required that deck be defined. She was not sure if there were any regulations for porches and would research that.

Tim Roper asked if an electric vehicle needed a definition. Brandy Saxton pointed to the definition of motor vehicle in 5003.M(7), which included all methods of propulsion. The Commission suggested that electric vehicle charging station needed a definition. Michael Normyle asked if the definitions of franchise or corporate design and franchise or corporate identification elements allowed corporations to ignore sign restrictions when they displayed their logos. Brandy Saxton said the definition was written to prevent that.

Barre Pinske asked whether the bylaws should be addressing accessibility standards. Brandy Saxton said ADA requirements were mentioned in requirements for sidewalks and parking.

Barre Pinske asked if the town should be addressing accessibility when a building has a use change, for example. Brandy Saxton said that, under federal law, an individual could sue the municipality or a business owner if he or she failed to meet accessibility requirements. Brandy Saxton said Chester is not pro-active with regard to disability. She said any existing building that is not accessible is liable to a lawsuit. All public buildings were supposed to be accessible since the 1980's when the Americans with Disabilities Act was passed. Barre Pinske clarified that the zoning bylaws were not supposed to regulate accessibility themselves. Naomi Johnson and Brandy Saxton said the zoning bylaws regulated accessibility outside the buildings, but not inside the buildings. Building inspectors are used in other states to enforce accessibility inside the buildings. Vermont municipalities tends to leave accessibility enforcement inside buildings to the state.

Brandy Saxton said the Handicap or Disability definition was included because the group home regulation refers to handicaps and disabilities. Michael Normyle said he thought people with disabilities were a protected class. Brandy Saxton said people in that class were protected until they did something that represented a threat to the property or safety of others. If that happened, a person considered disabled falls out of the class.

Tim Roper asked if items may be added to the Hazardous materials list. Brandy Saxton said items may be added. Tim Roper said he wanted to do some research. He was concerned about insecticides and other poisons that were not listed. Michael Normyle asked to review the definition of historic structures. Brandy Saxton said the definition was taken from state statute. She said the historic district and the village center are two separate entities whose purposes do not overlap.

The Commissioners asked if they could add appliances to the list of items in the definition of junk. Brandy Saxton said they could and perhaps the words "as defined by state statute" should be removed. Michael Normyle said he would also like to add salvage to the list of junk items. The addition of appliances and salvage to the list and the removal of the words "as defined by state statute" were agreed to. Brandy Saxton agreed to research the use of salvage in the bylaws to see if the word needs to be defined.

Brandy Saxton said the definitions of light fixtures as shown in subsection 5003.L would be changed based on the earlier discussions of lighting fixtures. She also said the definition of Lot (5003.L(5)) is taken from the state statute on water and wastewater permitting. She said it was the most workable definition for "lot" she could find. The only unusual feature of the definition is that state or town roads or road rights of way, or any of the branches of the Williams River which cross a parcel of land will divide the parcel into separate lots.

In Sub-section 5003.M(1) Brandy Saxton pointed out that the definition of major renovation was tied to the triggers for major site plan review. Claudio Veliz asked for a definition of the word "extensive". He suggested it be a percentage of the building's valuation or a dollar figure. Naomi Johnson asked Michael Normyle if he wanted to have a dollar figure to define "extensive". Initially he said he did not. Claudio Veliz said that without a concrete standard, such as a dollar figure, the town could be sued. A disgruntled citizen could claim his renovation

was not as extensive as the zoning administrator said it was. Naomi Johnson suggested a change in wording such as “alteration of a building to change its function and use” instead of a dollar figure. Brandy Saxton said Naomi’s suggested wording could trigger a major site plan review in cases where these new bylaws were trying to avoid it. She said the purpose of this definition is to separate projects where a significant investment is being made by the owner such that it is reasonable to expect them to bring the building up to zoning standards. Brandy Saxton said the standard for evaluating a damaged or destroyed historic building could be used here. Michael Normyle said FEMA had a definition of “extensive” that was based on repair cost.

After some discussion, Michael Normyle said he did want a concrete standard. The Commissioners favored using the cost of the renovation as a percentage of the building’s value. The burden of proof for the cost of the repairs would be put on the applicant. The Zoning Administrator would not have to verify or in any way evaluate the stated cost of the repairs or changes. Michael Normyle said he recalled a pizza restaurant in Chester which was doing renovations. He deferred to the Vermont Fire and Safety Department who determined the renovation was not extensive enough to require ADA changes. He liked the method the Fire and Safety people used to evaluate the renovations. Brandy Saxton agreed to look at the rules regarding the size and extent of projects and come back with a recommendation on this to the Commission.

The Commissioners then worked on choosing a time they could next meet with Brandy Saxton to finish reviewing definitions and review zoning districts. The next meeting of the Planning Commission will be Friday March 15, 2019 at 6:00 PM. Brandy Saxton asked the Planning Commission members to re-read the land use chapter of the Town Plan before the meeting.