

**TOWN OF CHESTER
PLANNING COMMISSION**

May 20, 2019 Minutes

Commission Members Present: Naomi Johnson, Barre Pinske, and Peter Hudkins.

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

Citizens Present: Shawn Cunningham.

Call to Order

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

Agenda Item 1 Review draft minutes from the May 6, 2019 meeting.

Peter Hudkins moved to accept the May 6, 2019 meeting minutes. Barre Pinske seconded the motion. No changes were requested. The Commissioners were unanimous in their appreciation for the succinct summary of the discussion as recorded in the minutes. The Recording Secretary was gratified. A vote was taken and the minutes were accepted as written.

Agenda Item 2 Citizen Comments.

There being no citizens present at that moment, there were no comments.

Agenda Item 3 Proposed Bylaw Revisions: Prepare for Draft Bylaw Presentations

Naomi Johnson reviewed the schedule and agendas for the three meetings planned in June. She said that the purpose of the June meetings was to inform the public about the zoning districts and listen to their concerns and suggestions. A lot of the meeting will be spent on Brandy Saxton's presentations.

Michael Normyle asked whether all three meetings (June 3rd, 17th and 22nd) would have this format. Naomi Johnson said the third meeting on June 22nd would be more of an open house, mainly a question and answer session where citizens could ask about specific parcels. Michael Normyle said he understood the first two meetings would start with a quick overview and summary of key changes from Brandy Saxton. Naomi Johnson said she thought Brandy Saxton's discussion would not be short. Brandy Saxton will give detailed background and summarize issues she considered during her initial planning and which the Planning Commission discussed during their review. The Commission's job is to focus on clearly understanding the questions the public may have and any suggestions they have for changes. The meeting is not intended to resolve any issues, it is to gather and understand citizen input. Michael Normyle said he would have a screen available for Brandy Saxton to use at those meetings.

Peter Hudkins said he thought it was important to point out how much of the changes are driven by state statute mandate, and to be clear that the Planning Commission did not create these concepts on their own.

Barre Pinske said he felt clarity was important. He said he found the process of developing land to be complex, even after all that he has learned from attending the meetings. The zoning district designation, the dimensional standards associated with it and the uses allowed still does not fully determine what can be done with a parcel. He was concerned that a citizen will react strongly to a part of the bylaw and not be willing to look at the full picture, which might change their opinion of that specific portion of the bylaw. Naomi Johnson said that was a valid concern and thought that Brandy Saxton has had a lot of experience directing discussion and understanding people's concerns. She pointed out that Brandy Saxton has demonstrated that capability in the meetings she has had with the Planning Commission.

Naomi Johnson noted that this is the first clear invitation the public has had to join the discussion, even though the Planning Commission meetings are open to the public. Peter Hudkins agreed that the key word for the Planning Commission is "listen". The Planning Commission members need to be sure they clearly understand the points the citizens raise. Michael Normyle agreed with Peter Hudkins.

Naomi Johnson said she expected a broad spectrum of input from citizens. Some would have a clear understanding of the zoning process and bring up points that were easy to consider. Some would be confused or uninformed and require a dialog before their concern could be understood. Naomi Johnson wanted to avoid polarization at the discussions. She said the focus of the meetings would be limited to the zoning district boundaries and not address the text of the bylaws.

Peter Hudkins said he was concerned about the proposed dimensional standards and wondered where some of those standards came from. He pointed out the height restriction in the proposed R-18 district, which is 24 feet. He said his own 35-foot buildings on Cemetery Road in Smokeshire are certainly taller than that. Michael Normyle noted that the height limit in the V12 district is 48 feet. Peter Hudkins said that height limit needed to be verified with the Fire Department. Michael Normyle thought he remembered that being an issue on the list of items to be revisited.

Naomi Johnson asked how the proposed regulations measure building height. She located the text in section 2005 and read it aloud as follows:

When height is measured in feet, the measurement will be taken from the average finished grade at ground level to:

- (a) The midpoint between the eaves and the ridgeline for buildings with a primary roof pitch of 5:12 or steeper; or
- (b) For all other structures, the highest portion of the structure excluding the building elements listed in Paragraph (3) above.

With this information, the Commission's understanding of building height changed. Peter Hudkins said an absolute measurement to the highest point of a building, with some exceptions,

would be easier to consider. He said a building's square footage would depend on the allowable height of the structure if the roof requires a specific slope.

Barre Pinske asked what would happen if a building in the V12 district, such as the Fullerton Inn, burned down. Would the owner be allowed to rebuild it to its former height if the dimensional standards had changed? Michael Normyle said the building could be rebuilt as it was if it is built on the existing footprint. Naomi Johnson suggested the item be noted for future discussion.

In an aside, Barre Pinske pointed to a discrepancy in the building height dimensional standard for the R18 district. He found an entry on page 2-35 of the Bylaws that shows 28 feet as the maximum height, which differed from the 24-foot height Peter Hudkins had found earlier.

Naomi Johnson referred to the Village Area Zoning map, in part because the Village districts will be discussed at the June 3 meeting. She asked if anyone had any additional thoughts about zoning in that area. Cathy Hasbrouck brought up the corner of Coach Road and First Avenue where a long wooden building had a furniture business going. The proposed zoning on the is Residential 2. She thought the parcel should be mixed use and the Commission members agreed. The parcel number is 57-50-14 (418 Coach Road). She also suggested that the lot that running from First Avenue to Coach Road, 57-50-15 (300 Coach Road) and the three lots behind 418 Coach Road, 57-50-26.1, 57-50-26.2 and 57-50-01.1 also be Mixed Use, as they had a fair amount of open land. The Commission agreed to that as well.

Barre Pinske turned to the area between the Williams River, the Green Mountain Turnpike, Depot Street and Route 11 East. He asked if the Commission had left it as R3 instead of General Business because the R3 district allowed a variety of uses. Naomi Johnson said that was true. Also, the area is currently used for agriculture, notably the sweet corn sold at the Stone Village Farmer's Market.

Peter Hudkins suggested that two other areas be designated General Business. The first was on Route 11 East near the corner of Elm Street. He said there was a house lot there (parcel number 61-50-94) which is higher than the surrounding field. The second was a larger piece of land (parcel number 61-50-95). He thought the two pieces could be combined and the soil moved around to allow an industrial building to be built in an area that is at least partly in a flood zone. Naomi Johnson said the area should be flagged for consideration. Michael Normyle said there were no town services available in that area, but it was noted later that the Gold River Industrial Park across Route 11, had both water and sewer service. Cathy Hasbrouck looked up the term used to describe moving dirt in the flood plain to create an elevated spot for a building. It was called compensatory flood management. There were no more village map revisions suggested.

Zoning Administrator Michael Normyle had brought a list of questions and issues for the Commissioners to discuss.

His first item was a request is that the bylaws make it easier to start a business of some type in a pre-existing building which was not the landowner's dwelling. He gave the example of turning an old barn into a short-term rental, such as an Air B&B, or into a couple of apartments. Peter

Hudkins cited section 2004.4 which allows the Zoning Administrator to allow a use for a structure that may not be specifically mentioned in the use tables:

2004.C Materially Similar Uses. The Zoning Administrator may make a written determination that a proposed use not listed on the use table (see Section 2109) as permitted or conditional in any district is materially similar to a use listed as permitted or conditional in the applicable zoning district and that it should be allowed to the same extent and subject to the same standards as that listed permitted or conditional use if it has:

- (1) Similar impacts on the area such as traffic, noise and lighting as that listed use; and
- (2) Similar characteristics such as building type, site arrangement, floor area, number of employees, customer traffic, equipment use, hours of operation, parking, vehicle trips and signage as that listed use.

Michael Normyle said he was in favor of that.

For the second item on his list, Michael Normyle asked why short-term rentals are permitted as new construction or permitted as an accessory in an existing building in nearly all districts, but 2-family or multi-family homes are not. Peter Hudkins asked what Michael's definition of short-term rentals meant. Did it include rentals like Air B&B? Michael said he would include Air B&B-type rentals. This started an extensive discussion, summarized below.

Naomi Johnson verified that some type of short-term rental is a permitted use in every district. In the Village 12, Mixed Use, General Business and R18 districts, short-term rental may only be an accessory use in a pre-existing dwelling. Two-family residences are permitted in the V4 and V6, Res2 and Res4 districts and the R3 and R6 districts. Multi-family dwellings are permitted in the V4, V6, V12, Mixed Use, Res2, Res4 and R3 districts. She noted that short-term rental stays are limited to 30 days per guest.

The discussion considered whether a short-term rental had the same impact as a residence. The following points were raised:

- A residence is in use seven days a week and a short-term rental is likely to be occupied only 2 days a week.
- A residence would generate more daily traffic, with trips to school, work, stores and social engagements.
- A residence would have a kitchen and laundry facilities for each unit. The burden on the infrastructure (well, septic and roads) would be greater.
- The occupant of a residence is more likely to have an investment in how surrounding the property is used.

Other points raised during the discussion were:

- Allowing residences in all districts will detract from the concentration of residences in the village center.
- Converting a vacant structure to a short-term rental would give a purpose to the building and could provide income.
- In past meetings Brandy Saxton had said that allowing residences in the General Business district was likely to result in residents blocking industrial projects in the district.
- In past meetings Brandy Saxton had said allowing rentals in a campground through the winter was a way to allow money to be made off people who could not afford better

housing. Converting remote vacant buildings to rental apartments could offer another opportunity to make money from sub-standard housing.

- The Division of Fire Safety could inspect the units for smoke and carbon monoxide detectors and safe secondary exits.
- Michael Normyle could not point out any buildings in the R18 district which were vacant and could be converted to housing.
- Chester has a shortage of affordable rental housing.

The third item on Michael Normyle's list questioned why metal fabrication was limited to the General Business District. Naomi Johnson asked to see the words Michael Normyle was referring to. Peter Hudkins and Michael Normyle indicated the entry in the use table. Naomi Johnson noted that Metal Fabrication was a conditional use in the Mixed-Use district and a permitted use in the General Business district. This topic generated another lively discussion. The points raised included:

- The metal fabrication use description included welding and blacksmithing, which are generally require a small shop and few employees. It also described activities that needed big machines and many employees. Could the levels of fabrication be recognized and regulated separately? Wood products, and food and beverage manufacturing are handled this way.
- Should there simply be a fabrication use instead of separate wood, metal and comestible fabrication uses? Could the general, specific and performance standards offer enough guidance for the DRB to regulate a proposed use?
- This issue will be considered with Brandy Saxton and the full Commission.

Cathy Hasbrouck said the state sets out a path for business development by requiring home occupation to be allowed in every residence, and home business in almost every residence. What would it be like if the next step on the path was to allow a successful home business to apply for a conditional use permit for a full-fledged business, regardless of the zoning district? How would a neighbor feel about that? Michael Normyle said the general, specific and performance standards would give the Development Review Board tools to protect the neighbors. Cathy Hasbrouck said she was less concerned about managing the appearance than with issues like ground water quality if oil were accidentally spilled on the ground for example. She said it appeared Zoning Administrator Michael Normyle was advocating for the flexibility of judging a use by the general, specific and performance standards and not the zoning district. She urged him and the Commission to think the idea through and resolve whether it had merit or not.

The fourth issue on Michael Normyle's list was the difference between a religious institution and a social club as reflected in the Use table. He noted that a social club was a permitted or conditional use in every district, but a religious institution was not allowed in the R6 or R18 district. He questioned whether it was legal to distinguish between the two types of institutions.

The fifth item on Michael's list was Light Industry, which he said is only allowed as a permitted use in the General Business and Mixed-Use districts. Naomi Johnson pointed out that it is a conditional use in the R3 district as well.

Naomi Johnson asked whether Michael Normyle wanted to allow Light Industry in more districts. Michael Normyle said he wanted to make it easier to allow Light Industry in a pre-existing structure. He said the town has very little useable area in the General Business district and a little more in the Mixed-Use district.

Naomi Johnson said it seemed as if Michael Normyle was asking for permission to do anything at all to a vacant building simply because it is vacant. Michael Normyle said he was not asking for carte blanche, he was asking for the structure and flexibility of a conditional use hearing and the general, specific and performance standards to be evaluated. He expects future uses in the next few years that aren't even imagined now and the town will have to rely on the standards to decide whether the use may be permitted or not.

Peter Hudkins said that in the past the Development Review Board had not been comfortable exercising so much discretion and had asked for clearer definition in the bylaws. Peter Hudkins also pointed out that some types of metal fabrication could be considered Light Industry under the definitions in the uses. He wondered why the wood products use, which included cabinet or furniture manufacturing as well as making products from logs, would be allowed in so many districts.

Michael Normyle said the Savage Building, off School Street, is in the V4 district, and is an ideal facility for light industry, but the use is not permitted in the V4 district. Peter Hudkins said this question needed to be deferred to the village district meeting and he would like to press on with other business.

The sixth item on Michael's list was the front and side setbacks in the V12 district. The minimum distance was zero feet. He asked if he should be permitting someone to build a porch or other structure right up to the property line, which could actually be the drip line of the abutting property. The Commissioners felt that this would not be an issue and the DRB would not allow that to happen. Michael Normyle said that in many cases the DRB would not be involved in the application process and would have no input. Nothing would stop someone building up to their property line. This went on the list of items to be discussed with Brandy Saxton.

Peter Hudkins said the V12 district should stop at what is currently Meditrina. It is proposed to extend to Cobleigh Street.

The seventh item on Michael Normyle's list was the prohibition of corporate or franchise architecture under General Standards. He wondered whether this was legal. The ban is found on page 2-50. Michael Normyle said he didn't think corporate or franchise architecture was defined anywhere. This was the last item on the list to be discussed.

Shawn Cunningham asked for a copy of the Use and Dimensional Standards tables without the changes marked up so he could put it up on the Chester Telegraph website. He felt it would be

much easier for the public to read and comprehend with change control off. Shawn Cunningham asked if the Commission would be taking public input at the June meetings. Naomi Johnson said it would. Peter Hudkins said it would be important for the Commissioners to read and be familiar with the state mandates on these issues because much of the new bylaws reflect state mandates.

There was further discussion about the V4 zoning on Route 11 West by the Armory. It was noted that there were very few commercial or industrial uses in the V4 district making the V4 district not appropriate for that area, which has town water available. It was agreed to revisit the zoning in that area.

Agenda Item 4 Review publicity for upcoming public meetings.

Naomi Johnson spoke about publicity for the upcoming public meetings in June. Cathy Hasbrouck said she had distributed copies of the village and town zoning maps with the Use and Dimensional tables which had change control on in many places around town. It also is displayed on the town website and Facebook page. The Commission decided that a summary outlining the history of the project and the reasons Chester is undertaking a re-write of the bylaws would be useful. Cathy Hasbrouck agreed to put the document together and get it to Shawn Cunningham for publication by the Chester Telegraph. Naomi Johnson said the grant for the Audit of the Town Plan and Bylaws and the grant for re-writing the bylaws themselves should be mentioned. She also asked for copies of the Use and Dimensional tables without the change markups to be re-distributed in town and put up on the town website and the Chester Telegraph.

Shawn Cunningham said he had read only a small portion of the new bylaws and saw that sweeping changes were being made. He felt anyone who owned land in Chester should be looking at the new bylaws. Michael Normyle agreed to meet with Cathy Hasbrouck Tuesday afternoon to write the summary report. Shawn Cunningham and Cathy Hasbrouck worked out the technical details of sharing the information.

Naomi Johnson reviewed the process going forward. She said after the three meetings, the Planning Commission has a long list of issues to decide on, such as the Flood Overlay district as well as the public input to process. When those tasks are complete, the bylaws can be turned over to the Selectboard for review.

Agenda Item 5, set date for next meeting.

The next meeting will be Monday June 3, 2019 at 6:30 PM.

Barre Pinske moved to adjourn the meeting. Peter Hudkins seconded the motion. A vote was taken and the meeting was adjourned.