

**TOWN OF CHESTER
PLANNING COMMISSION**

August 19, 2019 Minutes

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

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

Citizens Present: Frank Esposito, Christine Esposito, Steve Mancuso, Ryan Bogard, Courtney Bogard, Gabe Ladd.

Call to Order

Chair Naomi Johnson called the meeting to order at 7:00 PM. The Planning Commission and citizens attending the meeting squeezed into the Town Clerk's office.

Agenda Item 1, Review the minutes from the August 5, 2019 meeting

Tim Roper moved to review the August 5, 2019 minutes as written. Peter Hudkins seconded the motion. Tim Roper asked that the mention of the square footage, at the top of page 6, also state that the square footage refers to the size of the footprint. He also pointed out that the word "building" was missing from the first sentence of the fourth full paragraph from the top of page 6. Michael Normyle pointed out that Randy Miles's name on page 2 was misstated as Randy Johnson. A vote was taken and the minutes were accepted as corrected.

Agenda Item 2, Citizen Comments

No citizens had any comments that did not pertain to bylaws.

Agenda Item 3 Continue review of citizens comments from public work shops

The discussion began with item 7 on the list of Outstanding Issues, Water Farm Road property owner comments. Naomi Johnson read the notes from the 6/22/19 Workshop that describe the item. "Water Farm Road. Property is an "island" surrounded by town forest and so is in R18. Prefers the allowed uses in R6. Uses allowed in R18 are too limiting – property was formerly used for a construction business operated by the residents. At a minimum, home business should be allowed in R18. The structure height may be too limiting, but was less concerned about the height standard when he learned that the dimensional standards do not apply to farm structures and that height would be measured from average finished grade to mid-way between eaves and peak."

The Commission discussed the parcel and its history. The parcel in question

- Is 13.5 acres
- Is too small for current use
- Generally, has a 10% slope
- Has been in use as a farm since the mid-1700's
- Continues to remain cleared
- Is surrounded by forest, most of which belongs to the Chester Water Department

- Was the site of a family home and construction business until 2014
- Has R18 as the proposed zoning district

The Commissioners checked the proposed use table to see what is allowed in the R18 district. Naomi Johnson summarized the list, saying there were not many commercial uses allowed, but many natural resource-based uses were allowed.

Tim Roper asked whether it was time to discuss allowing home business in the R18 district. Naomi Johnson agreed that it was. Naomi Johnson began by reading the proposed definition for home business from the use table as follows: “Home business: Accessory use of single-family residential property for a small business that may alter the residential character of the property.” She then turned to the Specific Use Standards, Section 3205, in the proposed bylaws as follows:

3205.A A home business must:

- (1) Not have an adverse effect on the character of the area;
- (2) Meet the performance standards of Section 3105.
- (3) Operate only between the hours of 7 a.m. to 7 p.m. unless otherwise established as a condition of approval;
- (4) Not occupy more than 50% of the habitable floor area of the dwelling, but may occupy any amount of space in one or more accessory buildings;
- (5) Not employ more than 8 people who work on-site (including those residing in the associated dwelling);
- (6) Provide parking in accordance with Section 3104; and
- (7) Design and maintain any outdoor storage or use areas in accordance with all applicable provisions of these bylaws and any conditions of approval (see Section **Error! Reference source not found.**).

3205.B A home business:

- (1) May have signage as allowed in Section **Error! Reference source not found.** if located in the *business district;
- (2) May have not more than 1 sign not to exceed 6 square feet in area in all other districts; and
- (3) Must conform to all applicable standards of Section 3107.

3205.C The business owner or operator must live in the associated dwelling.

3205. D A home business will require site plan approval.

3205.E Any change in use, intensity, floor area, configuration, occupancy of the associated dwelling or ownership of a home business that does not conform to the provisions of this section is prohibited unless the landowner obtains a permit to convert the home business to another allowed use in conformance with all applicable provisions of these

Naomi Johnson noted that most of the restrictions are in section 3205.A. Michael Normyle said that the definition in the proposed bylaws is more flexible and allows more than the current bylaw definition of home business. Peter Hudkins said the most important part of the definition

is that an accessory building is allowed to house the business. Naomi Johnson said that several property owners have spoken about the issue of allowing home business in the R18 district, including the Alexander family on Clemons Road.

Barre Pinske said he did some research on the question of larger commercial buildings. The possibility of industrial development is limited and would be tied to available water and sewer service. He described the town as hamstrung by its geography which includes rivers, flood plains and steep-sloped hills. These limit the scale of any possible business. He favored allowing home business in the R18 district and possibly raising the number of employees allowed to 10, because many times small business employees are not full-time workers and they would not all be working at the same time.

The Water Farm Road issue seemed to have 2 possible solutions: either change the zoning district for the property to R6, or change the uses allowed in the R18 district. The following issues were raised in regard to changing the zoning district of the parcel:

- If just the parcel in question were changed to the R6 district, it would be seen as spot zoning
- Spot zoning is forbidden by the state of Vermont
- 250 years of history would be disregarded if the parcel were to remain part of the R18 district as currently defined
- If the R6 zone were to be extended to meet that parcel, some reasons must be found for changing the zoning on 3 additional parcels along Water Farm Road.

The following issues were raised in regard to changing the allowed uses in the R18 zoning district:

- A change to the R18 district would affect all the parcels in the district, it would not be limited to the area on Water Farm Road
- Some Commissioners had wanted to consider the R18 district a conservation area, strongly limiting development
- The R18 district would be an important part of maintaining connector corridors for wildlife, as discussed at the 7/15/19 meeting, another reason to limit development
- Zoning Administrator Michael Normyle has received very few applications for a Home Business permit in the R-120 district during his tenure as Zoning Administrator. This issue is not likely to occur frequently.
- The proposed use table has a footnote on several uses that qualifies the use as an accessory use to a pre-existing dwelling
- Home Business could be added as a conditional use to the R18 district with some reference to pre-existing accessory buildings
- The limit on number of employees allowed in a home business was a concern until it was noted that the limit applied to the number of employees on-site. The Commission felt this was a good way to acknowledge that many of the employees are part-time employees or work off-site

Naomi Johnson proposed a motion: Home business would be allowed as a conditional use in the R18 district with a limit of 3,000 square feet for the footprint of an accessory building. Peter Hudkins seconded the motion. Tim Roper asked that existing buildings be allowed to house a business, regardless of size. There was some concern that it would be possible to skirt the

accessory building size limit by constructing a large building and then coming back after the building was finished to request a conditional use permit for a home business and the now-existing building. It was decided that, though this is possible, past history shows that it is unlikely to ever happen and that concern was dropped. A vote was taken and the motion passed.

Peter Hudkins said he would like to ask Brandy Saxton about the footnote 2 in the use table that specifies, "Accessory to a pre-existing dwelling". The Commission agreed that an explanation would be useful.

Tim Roper referred to a document prepared when the proposed bylaws were first released. The document lists the uses for a single district grouped by whether the use is permitted, conditional or not allowed. He made copies of the entry for the R18 district. The concept of primary use for a parcel was discussed. If someone lives on the parcel, the primary use would be residential and home occupation and home business would be allowed. If no one lives on the parcel, any use the parcel was put to would be a commercial, industrial, civic or natural-resource based use and regulated accordingly.

Naomi Johnson read an excerpt from the June 17, 2019 minutes when this issue was raised. "A citizen who said he had moved to Chester 2 years ago said he would not have moved to Chester if he had known that artist gallery and studio would not be allowed in the R6 or R18 district at all." Naomi Johnson also read Brandy Saxton's response: "Brandy Saxton said it was true he was misinterpreting the bylaw. She said that the uses listed in the use table are the principal or primary use for the lot. An artist gallery use would need a permit if it is the primary use for the lot. i.e., the gallery operator does not live on the lot. An artist gallery in a building on the lot where your residence is, which sells artwork created on the same lot, would be a home occupation or home business and would be allowed in almost all districts."

The Commission discussed the concept of residential uses, which include home business and home occupation as well as single and multi-family homes. It was noted that the home business and home occupation definition does not specify a type of business such as auto repair, wood product manufacture or artist gallery. The requirement is that the proposed activity not significantly alter the character of the neighborhood. The Commission concluded that this concept was frequently not understood and needed to be emphasized in discussions with the public going forward.

Michael Normyle noted that two-family and multi-family homes were not allowed in the R18. He questioned why they were not allowed. Naomi Johnson asked if that question could be tabled for another night, since it had been discussed before. Tim Roper asked why a single-family residence was a conditional use in the R18. It was concluded that this was done to ensure the placement of the house disrupted as little of the undeveloped land as possible. Naomi Johnson pointed out some restrictions on single family dwellings in the R18 district on page 2-35. She read most of them aloud:

- (3) Single-family dwellings must be built within a building envelope when designated on an approved plat or must:
 - (a) Be located within 1,000 feet of a maintained public or private road;
 - (b) Not open more than 1 acre of forest canopy if on a wooded site (exclusive of roads and driveways);

- (c) Be sited on the edge of fields or meadows if on farmland;
- (d) Minimize disturbance of the primary and secondary conservation resources listed in Section * to the maximum extent feasible; and
- (e) Not be located on ridgelines and hilltops.

Naomi Johnson said it would be important to highlight this when introducing the bylaws to the public. She asked that this item be noted as something to be returned to.

Naomi Johnson introduced Steve Mancuso who wanted to talk about noise regulation. He said he wanted to have a party with other musicians at his home and they would be making a certain amount of noise. He could not find any requirement for a permit in the Chester Unified Development Bylaws or the Chester Ordinances. He had run afoul of some noise regulations in Claremont, NH and did not want to have similar problems in Chester. He found a reference to an entertainment license in the Chester Ordinances. Barre Pinske explained that an entertainment permit was for an event where admission is charged, i.e., for a business. Steve Mancuso brought up Section 3105 of the new bylaws which gives a noise standard. Naomi Johnson explained that Section 3105 applies to businesses which make noise as they do their work. The Commission told Steve Mancuso that Chester did not regulate noise made on a residential property. Barre Pinske asked Steve to have his party without further fuss and not to “swat the beehive”. Barre didn’t want a new ordinance about noise to be added to town regulations. Steve Mancuso agreed to go on quietly with his plans, but he told the Commission he would be asking them for bail money if he got in trouble. The Commissioners assured him they would help out.

Naomi Johnson addressed the last two items on the list. She discussed the letter from Robert Nied dated July 1, 2019, where he addressed the issue of allowing businesses in the High and Grafton Street neighborhood. Naomi Johnson read parts of the eight reasons Robert Nied opposed the zoning change. Among them were: Focus the development and re-development effort in the traditional downtown area, consult further with the Chester Economic Development Committee and the Okemo Valley Chamber of Commerce to understand business pressures and needs.

Peter Hudkins reviewed the allowed uses for the Grafton and High Streets area in question and noted that it included Home Business. He also noted that the parcels in the area are not large and the definition of home business would fit almost any business that was practical on those parcels. Michael Normyle said there were only 4 parcels involved, between the Williams River and High Street. The change would change the parcels from Village 4 to Res 4. Naomi Johnson moved to change the four lots to Res 4. Tim Roper seconded the motion. A vote was taken and the motion passed.

Naomi Johnson brought out an e-mail that addressed a parcel on Trebo Road. The parcel is about 10 acres. The owner would prefer an R3 designation. It is currently R6. Naomi Johnson read from her notes as follows: “Property on Trebo Road – Would rather be R3. The proposed change to R6 will only allow one unit on the 10-acre property which the owners had been planning to divide into 3 lots. The property is an old farmstead with fields and no apparent challenges to development, although it looks like a new road would be needed to meet frontage requirements for new lots. The location is east of Crow Hill Road and adjacent to other lots smaller than 10 acres, with several lots on Snell Road (between Trebo and Route 10) that have similar frontage of 300 ft +/- . Suggested extending R3 from Route 10, along Snell Road to the 10-acre lot. The owner is also interested in locating a mechanic shop on the property.”

The Commissioners looked at the area on different maps. Barre Pinske liked the idea of extending R3 from Route 10 to the property. Naomi Johnson pointed out that the lots in that group all have 300 feet of frontage and it would make sense to designate the area as R3 given the current sizes of the lots. She also suggested that if the R6 district were changed to R5, this person could sub-divide their property once. Naomi Johnson had done some analysis of the districts and said there were about 142 parcels in Chester that would become too small to sub-divide, given the proposed bylaws. Barre Pinske said that grandfathering would not allow a small parcel to be sub-divided according to the old rules. Naomi Johnson said she didn't expect to arrive at a conclusion on this at this meeting. The issue was one Commissioners needed to think about

Naomi Johnson said the town was likely to purchase mapping software to do analysis on these issues. Gabe Ladd volunteered to help in the process. He said there is a free, open source version of mapping software that the town could try out. It seemed likely that the free software would work.

A citizen from the Stone Village asked about the issue on the list concerning a separate district and list of uses for the Stone Village. Naomi Johnson said the Commission hadn't returned to that issue yet. The citizen then asked if anyone knew where Depot Street ended and North Street began. The Town of Chester's official road map was consulted. No one was certain of the exact location and the citizen was referred to the Town Clerk, Debbie Aldrich, who handles the 911 information.

A couple from Church Street asked if they could discuss the zoning for their property at the next meeting. Naomi Johnson recommended that they put their thoughts in writing so it could be reviewed by the Commission before the next meeting. The citizens agreed to meet with Michael Normyle the next day.

The next scheduled meeting of the Planning Commission would have been Monday, September 2, 2019, which is Labor Day. The Commission decided not to meet that evening and to hold the next meeting on September 16th, the third Monday of September. The Commission will decide later whether to meet on September 30th.