

**TOWN OF CHESTER**  
**PLANNING COMMISSION**  
**November 4, 2019 Draft Minutes**

**Commission Members Present:** Naomi Johnson, Barre Pinske, Tim Roper, Cheryl Joy Lipton and Peter Hudkins.

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

**Citizens Present:** Gerry Gleason.

**Call to Order**

Chair Naomi Johnson called the meeting to order at 6:00 PM in the Town Clerk's office at the Town Hall. The upstairs room was being used for a meeting on the Public Safety Building.

Naomi Johnson discussed the handouts that were distributed that evening at the meeting. They included a printout of an e-mail from Tim Roper to Planning Commission members listing three issues he would like to address with the Commission, a list of key points about the Current Use program assembled by Tim Roper and a printout of a subdivision mylar for a piece of property belonging to Ronald E. Gordon on Whittmore Brook Road. Naomi Johnson was concerned that documents distributed at the meeting would not be seen as part of the meeting packet and might be inadvertently left out if a citizen requests a copy of the meeting's packet. Michael Normyle said he would be sure to mark the documents as belonging to the packet for the meeting at which they were distributed.

Barre Pinske asked about the propriety of Planning Commission members sending e-mails about Planning Commission business to each other, as Tim Roper did with the e-mail distributed at the meeting. Naomi Johnson said she needed to address that as well. She said that the open meeting law in Vermont forbids a discussion of Planning Commission business between a quorum or more of Commission members taking place outside of a properly noticed meeting. In the case of the Chester Planning Commission, a quorum is three people, so a discussion of Planning Commission business involving more than two people outside of a meeting would be a violation of the open meeting law. An exchange of e-mails about Planning Commission business constitutes a discussion. An e-mail that only distributes information in one direction does not. Given the likelihood that people will reply to an e-mail and begin what would be an illegal ex-parte communication, Naomi Johnson asked that all informational e-mails be sent to the Recording Secretary and the Zoning Administrator for distribution.

**Agenda Item 1, Review the minutes from the September 16 and October 21, 2019 meetings**

Peter Hudkins moved to discuss the September 16, 2019 minutes. Tim Roper seconded the motion. Michael Normyle questioned the last bullet in the middle of page 3. It quoted Peter Hudkins as saying there was a multitude of home occupations in the area. He thought it should say there were home businesses in the area. Peter Hudkins confirmed that he meant home occupation. Cheryl Joy Lipton asked that the word "bank" be removed from the last sentence in the next-to-last paragraph on page 4. Tim Roper pointed out the issue at the bottom of page 5 for which he has requested more information in his recent e-mail. There being no further changes, a vote was taken and the minutes were adopted as changed.

Tim Roper moved to accept the minutes from the October 21, 2019 meeting. There were no requested changes. A vote was taken and the minutes were accepted as written.

### **Agenda Item 2, Citizen Comments**

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

### **Agenda Item 3 Continue to review draft boundaries between the R6 and R18 districts**

Tim Roper brought up a parcel in the southwest quadrant map. Naomi Johnson located the parcel and gave the following information. The tax number is 36-20-50.1, it belongs to Kenneth and Judith Kempe, it covers 114 acres and it has 390 feet of frontage on Lovell Road. It had been originally assigned to the R18 district. Tim Roper noted the short length of road frontage and said he thought the land was developable, meaning it could support a well and septic system. Peter Hudkins asked if it was in current use. According to the records the Commission had, it was not in current use. No one was certain whether Lovell Road was a class III or class IV road in front of that parcel. After discussing it in a previous meeting, the Commission had re-assigned the entire parcel to the R6 district. Tim Roper said he believes the land is part of a high value forest block connector and only part of it should be put in the R6 district, despite his dislike of splitting a parcel between zoning districts. Peter Hudkins noted that it would require a 2,000-foot driveway to be able to develop lots in the inner portion of the parcel. Naomi Johnson said the state of Vermont ranked the wildlife habitat value of the parcel higher than neighboring parcels. The Commission agreed to limit the R6 zoning district to 1,000 feet along Lovell Road and make the rest of the parcel R18.

The Commission turned to the northeast quadrant of Chester and considered the Clemons Road area. The Commission considered the R6 – R18 boundaries in this quadrant. Peter Hudkins recalled the July meeting where several residents of Clemons Road who live on the class IV section of the road asked to have the R18 zoning changed. He said there were 4 houses past the class III section of road.

Tim Roper and Peter Hudkins discussed the condition of the road. Peter Hudkins said the town of Chester will not maintain a class IV road. In this case, the residents have been maintaining it and the road is in better shape than the class IV designation implies. Michael Normyle said he had driven on the road recently and felt it was in better condition than a class IV road.

In the initial assignment of zoning districts, the R6 zone ended at the end of the class III section. There were single family residences and a camp on the class IV section of road. Peter Hudkins said there were a couple of legitimate businesses on the road, one of which lost a barn to fire recently.

Barre Pinske asked Peter Hudkins if he was proposing to give these parcels R6 zoning even though the road is class IV. Peter Hudkins said yes, he was. Tim Roper asked whether the zoning would automatically be upgraded to R6 from R18 if the town re-classified the road from class IV to class III. Cathy Hasbrouck said someone would have to request a zoning change.

Peter Hudkins said the current zoning is R120, or a 3-acre minimum lot size. There were many full-time residents on the road. He thought that some of the lots are currently so small that they could not be developed if the minimum lot size were 6 acres. He thought that switching from the current 3-acre minimum lot size to an 18-acre minimum lot size was too harsh a change. He proposed that a 1000-foot buffer along the entire length of Clemons Road be designated R6.

Tim Roper was concerned that ignoring the class III road standard for R6 zoning that the Commission had been working with would set a precedent that could be problematic. Peter Hudkins said that most class IV roads did not have multiple single-family year-round residences on them. Cheryl Joy Lipton said using the class of the road to determine the zoning district tends to break up forest blocks. She thought the Commission was trying not to do that. She wanted to connect blocks of forest.

Naomi Johnson agreed that the Commission is using the road class to some degree, but she felt it is currently looking at individual parcels of land. She recalled the July meeting where the presence of several single-family homes on Clemons Road was noted. Cheryl Joy Lipton agreed that the Commission was working as Naomi Johnson described. She said she would like the Commission to consider where R6 was designated but no residences were present. She would like to make those areas R18 to connect forest habitat blocks.

Peter Hudkins was not willing to re-open the quadrants already reviewed. He pointed out that the Smokeshire area had been flipped to R18, but Clemons Road had much more development on it. The Commission discussed the impact of a 1,000-foot buffer on the Clemons Road area. Barre Pinske asked if the small area that would not be part of the buffer would be worth designating R18. Peter Hudkins said the area outside the buffer was the top of a hill and would never be developed anyway. Naomi Johnson noted that the difference in the use table between R6 and R18 is small. There are a few commercial and industrial uses which seem to be accompanied by more vehicle traffic that are allowed in the R6 and not allowed in the R18.

Barre Pinske asked Peter Hudkins if he was more concerned about the list of uses available in the Clemons Road area or the ability to sub-divide the land. Peter Hudkins said he was concerned about how vocal the residents of Clemons Road were and the objections they could raise to the Selectboard if they did not feel their needs had been considered. Cathy Hasbrouck said her recollection of the July meeting was that the Clemons Road residents were more concerned about sub-division than the list of uses. Peter Hudkins said one of the bigger pieces of property had already been sub-divided twice to provide the owner's son with a parcel. Tim Roper said he would like to see the Town of Chester upgrade the road to class III.

Naomi Johnson asked whether the Commission was in favor of adding a 1,000-foot buffer of R6 along the entire length of Clemons Road. Three of the five members were in favor of that.

The Commissioners turned to a parcel at 3499 Trebo Road. The parcel is 10.42 acres and is currently in the R-120 zone. It may be sub-divided into 3 lots. With the proposed R6 zoning it could not be sub-divided at all. Naomi Johnson said the property is level and is currently an old farmstead. The current owner is considering opening an auto mechanics business. The current owner said many lots in the area had limited road frontage and he felt that R3 would be a more appropriate designation given the size of many of the lots in the area.

Barre Pinske proposed changing the zoning along Trebo Road to R3 for some distance past the parcel in question, to include the small lots in that area. The Commission noted that a property owner could apply for a sub-division now and it will be considered under the current bylaws, which allow for 3-acre lots in that area. They realized a sub-division can cost money, which may put some financial pressure on a property owner. They decided not to change the R6 zoning district for the property.

Peter Hudkins pointed out that the area along Route 10 is R3. He noted that there are many small lots along Route 10. He said people who live in that area go to Springfield for their shopping needs. They don't do much business in Chester. Tim Roper asked about the size of 10 narrow rectangular lots on either side of Davidson Hill Road. Naomi Johnson looked them up and said they were approximately 10 acres each. The Commission agreed the R6 zone was appropriate for them.

A general discussion of rural zoning continued. Points raised were:

- If the current property owners value the rural character of the area, the Commission should be careful not to encourage more development.
- Using a 1,000-foot buffer along the numerous small roads in the area of Route 10 leaves very little area to designate as any other zoning district.
- The forest habitat blocks and connectivity need to be consulted.
- The assumption that land in current use is very unlikely to be developed because of the penalty of taking it out of current use is not universally valid.
- Whether the assumed 1,000 feet for a buffer was a reasonable size.
- The soils in the area of Route 10 are not all good for septic systems.
- Several factors should be considered before designating an area as R18. The parcels in current use are not going to be the template for the R18 areas

Naomi Johnson summarized the concerns in front of the Commission: what to do about the 10-acre lot on Trebo Road currently in the R120 district with potential to become 3 lots, and how to protect more forest block habitat with R18 zoning.

Barre Pinske said that when the realities of how much space people actually need for a home and how much land cannot be developed because of steep slopes, wetlands and unsuitable soils, the debate over R6 vs R18 zoning is more of a romantic notion than a reality. Large tracts of land simply cannot be developed and will be preserved for wildlife habitat for that reason. Tim Roper agreed that the Commission's discussions have been tempered by that concept. Cheryl Joy Lipton noted that the buffers in place around streams and wetlands served not only the wildlife living there but also protected humans from polluted water.

Barre Pinske moved to keep the eastern portion of the northeast quadrant the same as the proposal, i.e. primarily R6 and R3, and not try to add any R18 there. Naomi Johnson seconded the motion. The motion passed 3 – 2 in favor of people keeping the area between Davidson Hill Road and Trebo Road as R6, with Tim Roper and Cheryl Joy Lipton opposed. Tim Roper said he didn't have an alternate plan, he just wanted to be on record that he was frustrated and wished there was something else he could do.

Naomi Johnson asked the Commission to consider the area north of Route 10. Cheryl Joy Lipton said she believed the northern end of Chandler Road (the part north of the intersection with Amsden Hill Road) could be R18 as it only has 2 houses on it and the land is in current use. Peter Hudkins said that he felt the jump from R-120 to R6 was a reasonable change. Naomi

Johnson suggested that Chandler Road could have an R6 buffer of 1,000 feet up to the intersection with Amsden Hill Road. The area of Chandler beyond that could be R18.

The Commission was concerned about being consistent in applying the rules for designating zoning districts. They have been designating a 1,000-foot buffer of R6 along class III or better rural roads. The change for Chandler Road would violate that rule. Michael Normyle said the Planning Commission will have to compose a summary of the changes being made to the bylaws and zoning map and justify the changes to the state of Vermont. Having rules such as the 1,000-foot buffer of R6 zoning along class III or better roads will support the changes and show that they were not made without thought or purpose. The Commission agreed to the proposed change on Chandler Road. They also agreed to keep the 1,000-foot buffer on Blood Road.

The Commission noted highly valued wildlife habitat on the area and discussed ways zoning can facilitate the connection of blocks of good forest habitat. One method would be to have a corridor of lower density zoning between blocks of forest habitat. Naomi Johnson said Monica Przyperhart had offered a couple of ways to define an area which would act as a connection corridor. She thought one method would be an overlay district. Cheryl Joy Lipton said a good connection corridor had little development, forest cover and was often a stream corridor. Barre Pinsky said he had heard of an effort to create a crossing corridor in Burlington which animals refused to use.

Naomi Johnson re-displayed the areas of high value habitat on the maps. Peter Hudkins asked how a corridor could be established without imposing on the property owners. Cheryl Joy suggested that forbidding construction in the corridor would be helpful. Tim Roper said there were some issues that cannot be solved with zoning. Barre Pinsky suggested approaching the landowners with a voluntary proposal. Michael Normyle suggested that some sort of incentive could be offered. Naomi Johnson looked up the owners of the parcels in question. Charlie Dean owned a couple of the parcels. No changes were proposed for the Dean Brook Road parcels.

The Commission looked at parcels on Gould Road. A rectangular portion of parcel 23-20-12 was put in the R18 zone while the rest of the parcel was in the R6 district. The Commission decided to put the rectangle in the R6 zone as well. Parcel 23-20-2.1 belonging to Scott and Erin Kendall, which has frontage on Amsden Hill Road, was also changed to R6 from R18.

The Commission then addressed the property belonging to Gerry Gleason near the intersection of Green Mountain Turnpike and Flamstead Road. He asked that his parcel be put in the R3 district instead of the Res 2 district. The current zoning is R-40. He wanted to preserve the rural character of the area. He did not want it to be part of the Stone Village district. After some discussion the Commission agreed to extend the R3 district from the corner of Robert Erskine's lot at 351 Flamstead Road (parcel number 58-50-09) through part of the Sherlaw property at 3306 Green Mountain Turnpike, which also abuts Flamstead Road, to the edge of Addison Greenwood's property at 3254 Green Mountain Turnpike.

Michael Normyle said he has been approached by interested parties about the 6.75-acre lot at 3306 Green Mountain Turnpike. They are interested in sub-dividing the lot. If all or part of the parcel is zoned R3, the lot is still large enough to theoretically divide it into 2 lots.

The Commission looked at the extent of the municipal water service in the area. The municipal water system does not extend up Flamstead Road where Gerry Gleason's property is. Peter Hudkins said that 3 acres should be the minimum lot size when there is no municipal water or

sewer available. The Commission also concluded during this discussion that the extent of the municipal water and sewer service would help determine the boundaries of the Stone Village district.

Naomi Johnson reviewed the map areas remaining to be reviewed. The Commission has yet to cover the area from Trebo Road south in the Southeast quadrant. She determined that the area will be addressed at the next meeting. She also wanted to look at the area around Jewett and Thompson Road which the Commission had not been able to resolve earlier due to a tie in voting. Another parcel to be addressed is on Reservoir Road. She would like the Commission to consider adding light industry as a use in the V4 district and to compare the current Adaptive 3 district uses to the proposed V4 uses. The owner of the Armory is considering an industrial use that may not be available.

Peter Hudkins said there were 2 area of clustered development in the village: Senior Circle housing and Pleasant Brook Apartments. He wanted the Commissioners to consider other areas for clustered housing in the village and any incentives that could be created to encourage that type of housing. Naomi Johnson said the Riparian buffer had not been covered either and that may be on the next meeting's agenda. The first item on the agenda will be the Stone Village district.

The next Planning Commission meeting will be Monday November 18, 2019 at 6:30 PM, in the Town Clerk's office. Peter Hudkins moved to adjourn. Cheryl Joy Lipton seconded the motion. A vote was taken and the meeting was adjourned.