

TOWN OF CHESTER
PLANNING COMMISSION
January 6, 2020 Draft Minutes

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

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

Citizens Present: Ed Grossman, Mark Ouellette, Frank Esposito, Rich Deyermond.

Call to Order

Chair Naomi Johnson called the meeting to order at 6:30 PM in a Newsbank Conference Room. The Town Hall auditorium was under construction.

Agenda Item 1 Review minutes from November 18, 2019

Tim Roper moved to accept the minutes from the December 16, 2019 meeting. Peter Hudkins seconded the motion. No changes were requested. A vote was taken and the minutes were accepted as written.

Agenda Item 2, Citizen Comments

There were no citizen comments.

Agenda Item 3 Consideration of Riparian Buffers

The Commission addressed Item 6 on the September 9/ October 1, 2019 memo from Naomi Johnson: Review discussion of Riparian Buffers with Brandy Saxton from 12/10/18. The segment of those minutes had been included in the November 4, 2019 packet. Riparian buffers are not currently addressed in the draft bylaws that the Planning Commission has been working on for the past year.

Naomi Johnson began by discussing Chester's history of flooding in her lifetime. She displayed a map of Route 103 north of Chester from the Vermont Agency of Natural Resources interest locator. She focused on the area around Jewett Road, where she had lived for many years beginning in the 1973. It is near the north branch of the Williams River. She displayed the floodway zone on the map. She noted the area had flooded many times, frequently due to ice jams but also from storms such as hurricane Belle. She said the boundary marking the Flood Hazard Zone was not always accurate. There were areas in the Flood Hazard Zone that never flood because the land is elevated over the areas surrounding it. Her home was one of those raised areas that was never inundated. She indicated a pond in the area that flooded during Tropical Storm Irene and recalled water was rushing down the railroad track in the area like a river.

She then showed the area along Route 11 west of Chester and pointed out two parcels on Kingsbury Road which had flooded during Tropical Storm Irene and were subsequently bought by the town. The structures were removed from the land and the parcels will never be developed. She indicated a third parcel along Route 11 across from the Motel in the Meadow. The river there had changed course by 100 feet during Tropical Storm Irene and the well for the house that had been on the property was now in the middle of the stream. This parcel had also been purchased by the town and the buildings removed.

Prior to the meeting Naomi Johnson had consulted websites from the Vermont Department of Environmental Conservation. The DEC offers model flood hazard bylaws and a wealth of information about making a community flood resilient, which the federal standards do not achieve. She displayed the model flood hazard bylaws on the screen for all at the meeting to see. The cover document and introduction (Section A) to the Vermont Model Flood Hazard Bylaws made several important points:

- Flooding is Vermont's most common natural disaster.
- The National Flood Insurance Program has minimum standards of regulation which a community must meet in order to qualify for flood insurance and be eligible for federal hazard mitigation grant funding.
- The National Flood Insurance Program minimum standards are focused on reducing risk to insurable buildings from flood inundation.
- Flood-related erosion is the primary mode of damage in Vermont.
- Flood-related erosion damages roads and bridges, disrupts commerce, causes extraordinary public expenditures and puts extraordinary demands on public services.
- When a flood is declared a federal disaster, FEMA reimburses 75% of costs to a town to reconstruct public infrastructure and the State of Vermont will contribute 7.5% of the cost.
- If a town has adopted the National Flood Insurance Program, Town Road and Bridge Standards from the state of Vermont, has a Local Emergency Management Plan and a Local Hazard Mitigation Plan approved by FEMA, the state of Vermont will contribute 12.5 % of public costs.
- If, in addition to those four measures, the community also protects their river corridors or flood hazard areas from new encroachment, and participates in the FEMA Community Rating System, the stat. of Vermont will contribute 17.5 % of public costs.
- At the highest rate of reimbursement, this aid represents a savings of \$175,000 on every \$1,000,000 of damage incurred.

The primary concerns about development in a floodway is that the development will exacerbate a flood, either by increasing the volume of water or the velocity of the water. Higher velocities can do greater damage. The model bylaws do not propose removing structures from floodways and do not completely prohibit development in the floodway.

After discussing the points made in the introduction and cover, Naomi Johnson discussed a table distributed at the meeting which compared the standards of the National Flood Insurance Program with the Vermont Model Flood Hazard Bylaw standards and gave the reasons for raising the standards. The proposed standard changes included:

- Raising the height of a building's lowest floor to at least 2 feet above the Base Flood Elevation to address outdated flood studies and unpredictable, but expected, variances in the intensity of future floods. This will reduce flood insurance premiums and potential damage to property in the event of a flood.
- Raising the height of dry floodproofing in a non-residential building to 2 feet above the base flood elevation for the same reasons given above.
- Protecting flood plain resources that can reduce the depth and velocity of a flood by ensuring no net loss of flood storage volume.

- Prohibiting the building of critical facilities such as police, fire or hospital in a flood hazard area to reduce public safety risk and disruption of services at critical times.
- Adopting standards to prevent further development in river corridors where erosion can be as destructive as inundation. The National Flood Insurance Program is focused on damage from inundation alone.
- Prohibiting storage of materials and junkyards in the floodway to prevent such materials from being washed into the flood waters.
- Tracking improvements to property over a three-year period to ensure that substantial investment in a property (over 50% of market value) is accompanied by flood mitigation measures.
- Verifying that flood mitigation work on a structure is completed as proposed for the permit.
- Including historic structures in the mitigation performance standards to protect them and reduce flood insurance costs.
- Applying the same mitigation performance standards to manufactured homes as conventional housing.
- Requiring dry land access for sub-divisions and planned unit developments to insure safe egress for property owners and access for first responders.

Naomi Johnson noted that when the Planning Commission first looked at this issue in December 2018, the chief concern was that Chester's downtown was close to and sometimes part of the river corridor and flood hazard area. No one was certain of how existing development would be affected by the river corridor standards. Looking at the model bylaws showed that development could remain where it was as long as it didn't extend closer to the water. She pointed out the most prominent change in the model bylaw is the 2-foot over the base flood elevation requirement for new development, where the National Flood Insurance Program requires just the base flood elevation. Michael Normyle said that the current bylaws require 1 foot over the base flood elevation. The net change for Chester would be an additional foot over the base flood elevation.

Tim Roper asked if the Planning Commission now has to decide what to recommend about flood hazard regulation. Naomi Johnson said the Commission needs to decide whether to adopt a river corridor protection standard which would replace the current flood hazard regulations. Tim Roper asked if the benefit of doing that would be less damage during a flood and less cost to the town when rebuilding infrastructure. Naomi Johnson said that was accurate.

Michael Normyle said that, in the trainings he has attended as Zoning Administrator, taking into account the downstream impact of the town's decisions was always emphasized. Naomi Johnson said that in the training she attended last year the instability of rivers was emphasized. If development alters a river bank, the river will shift in response to the change and could cause significant damage somewhere else. Cheryl Joy Lipton said forested buffers around rivers and streams reduced the amount of flooding and erosion. Peter Hudkins asked how the village center would be affected by this.

The model flood hazard bylaws had a section of definitions and abbreviations and a section which defined administrative procedures. Tim Roper was particularly concerned about the requirement that the town issue a certificate of occupancy which confirm that the project was

done in accordance with the flood hazard requirements. Peter Hudkins said Chester had never issued certificates of occupancy. The town had been concerned about the liability that would accompany the process. Michael Normyle said the town did currently issue certificates of compliance. No one was sure whether certificate of compliance could stand in for a certificate of occupancy.

The last 2 sections of the model bylaws addressed regulation of the river corridor erosion (Section D), and regulation of the inundation in the flood hazard area (Section E). River corridors are a geographic feature defined and designated by the state of Vermont. Flood Hazard Areas are geographic areas defined and designated by the federal government.

Each section has a statement of purpose. Each then delineate the geographic features and areas to which the regulation applies and discusses how the definition of these areas may be changed as the geography and meteorological conditions change. Each section lists activities that do not require a permit, activities that are prohibited, and levels of permits that could be required. Each section has standards of development,

The Commissioners looked over Sections D and E. The following points were brought up:

- In Section E, a new requirement is that the development not increase base flood velocities, as determined by an engineer. Formerly only the height of inundation was a concern.
- In certain situations, a professional engineer will be needed perform a hydraulic analysis. This is already a requirement in the current bylaws for some situations.
- Access to a sub-division or planned unit development in a flood zone had to be high enough to ensure access during a flood. This was seen as a sensible idea.
- Development within the village center is allowed as long as the new buildings are not any closer to the river than existing buildings. Outside of the Village Center, the same rule for new buildings applied: they could not be any closer to the river than existing buildings in the area.
- Outside the village center, in-fill was allowed. Buildings could be built between two existing buildings as long as the gap between the two existing structures was less than 300 feet.
- Outside the village center buildings and additions could also be built in the down-stream shadow of another building. The new building or addition must be no closer to the water than the existing buildings and less than 50 feet from the downstream side of the existing building. It could also be directly behind the existing building, relative to the river.

Barre Pinske said in his home state of Minnesota, crews go out in the winter and clear fallen trees from stream beds, which helps prevent jams and flooding in the spring. He has not seen anyone do this in Vermont. He noted that a spillway at the railroad bridge over the Williams River near the ball field was not clear and the area flooded during Tropical Storm Irene.

Tim Roper asked what the goal of looking at these model flood hazard bylaws was. He explained his understanding of what is required to qualify for state aid after a flood event. The Commission agreed that adopting the model bylaws would bring an additional 5% reimbursement to the town for infrastructure repairs after a flood event. The model bylaws were complex and would require extensive review before they could be adopted. Tim Roper asked

Naomi Johnson whether members of the Selectboard or the Town Manager had given any indication that they favored doing the extensive work required to implement the model flood hazard bylaws. Naomi said they had not been consulted yet. Tim thought it would be useful to check in with the Selectboard and ask them if the work was worth the effort. Peter Hudkins said that Smokeshire lost 5 bridges during a storm in 1973. The town had to pay \$200,000 of the cost of replacing the bridges. Naomi Johnson reviewed the steps Chester had taken so far to reduce the cost to the town. Chester currently receives a 12.5% reimbursement. It could receive 17.5% reimbursement if it adopted some form of the model flood hazard bylaws.

Naomi Johnson turned to the FAQ's that accompanied the model flood hazard bylaws and read excerpts from the first question, which was, "Do the regulations need to apply on a municipal-wide scale or can specific water bodies be targeted for application of these regulations?" The answer had several important points, including

- Towns may regulate specific water bodies and not the entire town.
- Section E of the model bylaws applies to inundation only, not prevention or mitigation of flooding.
- Section E must apply to all federally mapped Special Flood Hazard Areas as shown on the National Flood Insurance Rate Map.
- Towns may modify the bylaws to address specific issues that affect their town, such as wave erosion on the shore of a lake.
- To obtain the full 17.5% of state reimbursement a community must adopt the river corridor standards (Section D of the model bylaws) for all perennial streams with more than 0.5 square miles of watershed.

Michael Normyle said he thought any flood hazard bylaws would have to be approved by the Regional Floodplain Manager.

Question 4 of the Frequently Asked Questions was, "What sections of the model bylaw must be adopted to qualify for enhanced state cost share under the Emergency Relief and Assistance Fund (ERAF)? The answer to the question stated," Section D – River Corridors must be adopted and enforced to qualify for the maximum 17.5% ERAF cost share." Naomi Johnson concluded that the model bylaws would apply to the entire town, not only some waterways.

Cheryl Joy Lipton asked what changes would occur if the model bylaws were adopted. Michael Normyle said the clearest difference is the change from 1 foot above base flood elevation to 2 feet above base flood elevation. Tim Roper said he thought requiring a certificate of occupancy would be a big change.

Peter Hudkins asked if a licensed surveyor could perform the tasks assigned to an engineer in the model bylaws. Naomi Johnson said she thought that was possible. Michael Normyle said Gary Rapanotti, a surveyor, could do a certificate of compliance. Peter Hudkins pointed out that the model bylaws required an engineer and Gary Rapanotti did not have an engineer's stamp.

Peter Hudkins said the bank of the Williams River behind the green is armored and has been so for generations. He said there are other old structures that influence the flow of the river. He wondered if the armoring would need to be removed or if it disqualified Chester from using the model bylaws. Naomi Johnson said the model bylaw allows maintenance of armored banks. Peter Hudkins asked if the armoring and other structures would or should have any effect on the

FEMA maps or the definition of the river corridor. He reminded the group that the center of Chester was not flooded during Irene. Given that, should the flood way be made smaller to reflect the lack of flooding. Naomi Johnson said the FEMA flood maps are updated every 10 – 20 years. She said the state used geomorphology to determine a likely meander belt for a river. Fifty feet was added to each side of the meander belt and that determined the river corridor. Barre Pinske said rivers meander at corners, not on straight portions. Cheryl Joy Lipton said all rivers meander slowly, over the course of many years. Naomi Johnson said the reports by the geomorphologists are detailed and thorough. She said maps were updated after flood events. Michael Normyle said the cost of updates made them less frequent.

Peter Hudkins asked to see where the river corridor was in the village center area. Naomi Johnson displayed the river corridor on the screen. It mainly covered the fields behind the buildings on the green. Naomi Johnson said she was surprised by the size of the river corridor in Chester. It is much larger than any area currently regulated. Peter Hudkins said much of the river corridor area was never flooded.

Michael Normyle said the cost of flood insurance can be a determining factor in a real estate sale. In some cases, flood insurance can be \$3,000 - \$4,000 per year, if it can be obtained at all. Peter Hudkins wanted to understand what the insurance implications were if the river corridor standard is adopted. Cathy Hasbrouck said she doubted an insurance company would base a flood risk evaluation on a town's bylaws. Cheryl Joy Lipton wondered how much development would ever actually take place in the river corridor.

Michael Normyle said the buy-out of private homes is a different program from reimbursing infrastructure expenses, and he thought the federal and state contributions for home buyouts were based on similar criteria. Cheryl Joy Lipton said the potential for bigger storms is growing and it is likely their frequency would increase. Michael Normyle said there was also potential for micro-events to do damage, as happened in the last couple of years along Route 11 west of town.

The Commission returned to the Vermont Model Flood Hazard Bylaws – Higher Standard Cross-walk table. Peter Hudkins said he found the changes suggested by the table for the Flood Hazard areas acceptable. He thought the 2 feet above the base flood elevation requirement was reasonable. Michael Normyle cited the conditional use permit given to the Sunoco station to add a Dunkin Donuts franchise to the building. The project was possible under the current regulations, but would not be feasible under the model regulations. At the same time, he said American taxpayers pay for FEMA and limiting possible losses could keep taxpayer costs down.

Naomi Johnson began wrapping up the meeting. She said she would send links to all the Commissioners for the model bylaws and supporting documents discussed that evening. The Commission would contact the Selectboard and discuss their views on having Chester adopt the river corridor standard. She mentioned a letter written to all the state select boards by Jeb Spaulding in 2014 detailing the reasons towns might want to adopt the river corridor standard. Cathy Hasbrouck asked how the Commission wanted to approach the Chester Selectboard. Naomi said she felt they should be sent a copy of Jeff Spaulding's letter and links to the model bylaw website. It would be accompanied by a letter explaining that this is a complicated issue and the Planning Commission would like to know whether the Selectboard is in favor obtaining the 17.5% level of reimbursement from the state.

Naomi Johnson noted the agenda items not addressed at this meeting. Agenda items 4 and 5, R18 Uses and Non-residential uses, referred to items 4 and 7 on the Summary of Items to Address

memo dated September 9 and October 1, 2019. The Commission had done some work on this, but Green Mountain Union High School was still in a proposed district that did not currently allow educational uses. She also noted that where wood processing uses over 6,000 square feet would be allowed has not been resolved. She asked the members to review those topics before the next meeting on January 20, 2020. She said the next meeting will dedicate time to reviewing the zoning map changes with Gabe Ladd, including the buffers around class III and IV roads. Cathy Hasbrouck had distributed copies of the latest map updates at the meeting.

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