

**TOWN OF CHESTER**  
**PLANNING COMMISSION**  
**February 3, 2020 Draft Minutes**

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

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

**Citizens Present:** Edie Derosier, Richard Frye, Norma Ippolito, Paul Ippolito, Fred Wheeler, Deb Wheeler, Jan Moot, Edith Bidwell, Frank Bidwell, Ian Montgomery, Polly Montgomery, Arne Jonynas, Hugh Henry, Nora Watters, Lewis Watters, Joan Grossman, Ed Grossman, Mark Ouellette, Ann Curran, Chris Curran, Ruth Stanton, Frank Esposito, Kathy Giurtino, Chuck Giurtino, and Josh Schroeder.

**Call to Order**

Chair Naomi Johnson called the meeting to order at 6:30 PM upstairs at the Town Hall.

**Agenda Item 1 Review minutes from January 20, 2020 meeting**

Cheryl Joy Lipton moved to accept the minutes from the January 20, 2020 meeting. Tim Roper seconded the motion. Cheryl Joy Lipton had typo corrections on pages 5 and 6. Michael Normyle noted a missing word on page 2. He also asked to have the word “rule” in the fourth paragraph changed to “precedent”. A vote was taken and the minutes were accepted as corrected.

**Agenda Item 2, Citizen Comments**

Naomi Johnson asked the citizens present if they had any comments on items not on the agenda. No one did.

**Agenda Item 3 Discuss proposed Stone Village Zoning District density and list of uses**

Naomi Johnson began by thanking the many citizens who came to the meeting to discuss the Stone Village. She listed the items the Commissioners had received in the packet, a 5-page memorandum from Ed Grossman and a 6-page paper on the history of the Stone Village written by Hugh Henry. She thanked them for submitting the items in writing long enough before the meeting that the Planning Commission members could read and digest the material.

Naomi Johnson said she had a few points to raise, then she would allow Planning Commission members to speak if they wanted to. After they had spoken, the citizens would be allowed to speak. She asked them to use the microphone at the front which recorded their testimony.

Naomi Johnson first referred to a document entitled From Agency of Commerce and Community Development distributed to the Planning Commission on December 16, 2019. The document had a quote from the Agency of Commerce and Community Development website concerning the Neighborhood Development Area program and a partial map of the center of Chester. Copies of the paper were circulated to the citizens in the audience. Naomi said the area in dark yellow on the map is the official Designated Village Center of Chester. The blue line represented a quarter-mile buffer around the Designated Village Center which defined a potential Planning Area. Chester has not officially defined a Planning Area with the state of Vermont. She pointed out that the Stone Village is not within the boundaries of the blue line area. It could

not be part of a Planning Area, if Chester were to create one. For that reason, the Stone Village cannot be a Neighborhood Development Area.

Naomi Johnson also addressed the question of why Chester was revising its bylaws and making these specific changes. She explained that the State of Vermont gives several goals in state statutes for planning bodies in municipalities to consider. Among them are economic growth and denser areas of historic development, both in designated areas of Neighborhood Development and in non-designated areas. The statutes address housing and preservation of historic districts. She wanted to be sure that both the Planning Commission and the citizens understood those issues. She displayed a large map showing the current Stone Village zoning district and the proposed map with the V4 district in the Stone Village area. She pointed out that the proposed zoning map had a greater variety of zones in the center of Chester, to better address the different densities in the historic areas.

Naomi Johnson returned to Ed Grossman's memo. She said his points were valid and he had good supporting arguments. She said the Planning Commission was not only trying to support denser development in the village center, it was also trying to match the bylaws to what was currently present. About 50% of the parcels in the Stone Village today do not meet the zoning district minimum lot size of 30,000 square feet. The owners of the parcels would not be able to make changes to their building footprint unless they qualified for a waiver. Ed Grossman had made this point in his memo. Under the current bylaws, a waiver may be granted only on dimensional standards and only if the lot is at least one-eighth of an acre.

Peter Hudkins was the first Commissioner to speak. He said he has a problem with the boundaries of the current Stone Village district at the southern end, where the boundary crosses the Williams River. He said he was in favor of denser development in the Stone Village because the lots were historically about one-quarter of an acre. Hugh Henry confirmed this in his paper. Peter said a well and septic system requires about 3 acres of land. There is municipal water and sewer available along North Street. The quarter-acre lots in the Stone Village work because municipal water and sewer are available.

Peter Hudkins said the citizens gathered at the meeting were the owners of the Stone Village properties. They were the only ones who could decide to subdivide a large lot into many smaller pieces and sell them. He said, years ago, someone wanted to create a trailer park in Smokeshire. The neighboring landowners got together and paid a stipend to the landowner to not put a trailer park on the land. They put a 20-year covenant on the land to prevent the trailer park. Peter Hudkins said the Stone Village residents could do something similar if they wanted. They could write such language into their deeds. Peter said he was more in favor of an architectural review for the area, but it is very difficult to write. An architectural review would have requirements such as all the houses must face the street and that they were set back the same distance from the road. He said he was present to hear what the citizens had to say. He said the Planning Commissioners were not developers, they were setting guidelines for development.

Tim Roper spoke next. He said there was no one "beating down the doors" asking for denser housing in the Stone Village. He said there is nothing in the current bylaws that would prevent someone subdividing the 14-acre lot into three-quarters of an acre, or 30,000 square foot pieces. He said it was clear the Stone Village residents cared passionately about their neighborhood.

He wondered what percent of the Stone Village residents were present at the meeting. Chris Curran asked the residents of the Stone Village in the audience to raise their hands. Nearly every

citizen present did so. The Planning Commission concluded that more than half the district residents were attending the meeting.

Using the maps Naomi Johnson had brought, Tim Roper reviewed the current and proposed boundaries of the Stone Village and Hugh Henry's history of the area. He noted that the area between First Ave. and the bridge over the Williams River was not developed until the railroad came in and the area was not considered part of North Chester. To the north, Tim noted that the triangle formed by Dalrymple and Church Street and Route 103 North was originally a common with a meetinghouse on it. The current proposal for the Stone Village district would end at the triangle.

Cheryl Joy Lipton spoke. She said she thought the history of the area, written by Hugh Henry, with the many details was helpful in the planning process, particularly in terms of Landscape Architecture. She said the Planning Commission is juggling several goals. It is charged with protecting historic buildings and settlement areas, protecting and restoring air and water quality and protecting the forest, wildlife and habitat connectivity. The Planning Commission needs to determine where density can be increased.

Ian Montgomery asked why the zoning district does not follow the 1974 documents which designated the historic Stone Village district. Tim Roper said the historic district is much wider area than what is considered the historic North Chester village and the current zoning district. Naomi Johnson said the historic district did not extend to the triangle at Dalrymple Street. She showed a copy of the 1974 document which listed the properties included in the federal historic district designation. Tim Roper explained that the Planning Commission was not charged with defining a historic district, their job is to define a zoning district. He said the fact that they are dealing with a historic district would affect the zoning district bylaws.

Michael Normyle said he could confirm as the zoning administrator that there had been no interest in developing any parcel in the Stone Village. He said he had been unable to allow changes to one or two properties there because of the current minimum lot size and setback requirements. He noted that before 2014, the area was R20, or half-acre zoning. In 2014 the zoning district was changed to the Stone Village district and the minimum lot size was changed to 30,000 square feet. He advocated more flexibility in the process to allow more small changes to properties.

Naomi Johnson said she would like to concentrate the discussion on the boundaries of the district, the dimensional standards, or setbacks and density, and the uses. She suggested starting with the boundaries of the district, then covering density and setbacks and finally uses.

Kathy Giurtino said she was confused by the fact that the Stone Village is outside the village center designation, but the Planning Commission is still considering one-quarter acre as a minimum lot size. She said if the zoning district became the V4 district she would not be allowed to keep a dairy goat on her property, even though it is nearly 13 acres. She said 23 people met at her house last week. The discussion centered on defining the zoning district as the historic area and making the Stone Village an asset to the Chester community. She said she grew up in Perkinsville, attended the 2-room school house there and went to high school in Springfield. She remembered when the Buttonwood Farm house burned down and was replaced by a modern house. She recognized then, even as a child, that replacing the old house with a modern one was inappropriate and unfortunate. She said if the proposed zoning changes occur, very little in the Stone Village would change until a parcel changes ownership. She did not

want to see the character of the Stone Village change. Her concern was with the future. She said it was possible to sub-divide her property and add two or three homes to the parcel. She recognized the importance of change and growth, but she did not want it to happen at the expense of the character of the area.

Lew Watters passed out a copy of a 2008 article from the National Geographic Travel magazine to the Planning Commission members. The title was *Destination Scoreboard*. It gave details of a study done by graduate students in England which 33:17 rated Vermont, USA sixth in the stewardship index of places to live on the planet. He quoted the article which said, "Vermont is one of the few places where a large present of the populace is committed to conservation/preservation over injudicious development."

Ed Grossman said he had lived in the Stone Village for two and a half years. They own a 14-acre parcel and at the time they bought the land the land behind them had three-acre zoning (R-120). At that time, he believed no development would take place in the area. He said that Keith Hill had brush hogged the fields on his property in the past, maintaining it as pasture land and giving the residents a longer vista. He was concerned that his land, in combination with two other parcels, would present 39 acres within the proposed 1,000-foot buffer for the Stone Village that could be developed into quarter-acre lots, or about 100 single-family houses. He does not oppose low income housing as stated in the 12/16/19 minutes.

He would oppose 3/4-acre lots in the Stone Village with large houses on them behind him. That would still allow 40 houses to be built with accompanying roads, traffic, and lighting which would disturb the quiet of the area. The shorter setbacks of the V4 district would allow development too close to him. He did not want the proposed 1,000-foot buffer.

He noted that, if the 20,000-square foot minimum lot size from 2014 was restored, 85% of the lots in the Stone Village zoning district would become conforming lots again.

Chris Curran then spoke. He said if the minimum lot size was reduced to 10,000 square feet, there would not be enough road frontage on North street to allow many more houses. Development would have to be done up the hillside. The cost of building infrastructure on steep slopes (water, sewer and roads) would be so high, smaller, low income units would not be possible. Naomi Johnson pointed out that no one is proposing development. Chris Curran asked how many other areas are being proposed for 10,000 square feet minimum lot size. Naomi Johnson pointed out the areas in orange on the proposed map that are the V4 district. There are several around the green, up Depot and Maple Street, on Route 11 West and in Gassetts

Naomi Johnson proposed that the Planning Commission has met the goal of concentrating development in the downtown area. She pointed to V4, and V6 and v12 areas as evidence of this. She proposed not having the 1000-foot buffer around the Stone Village. She said the areas around the Stone Village have not been developed in the past and no one is currently showing interest in them. There was no clear need for a buffer. She proposed discarding the V4, 10,000-square foot minimum lot size option for the Stone Village and having 20,000 square feet as the minimum lot size. She proposed keeping the setbacks in the current regulations and the current Stone Village district boundaries, except it would not cross the Williams River at the south end of the district.

Peter Hudkins said he favored the 1000-foot buffer to limit the uses that would be allowed so close to the Stone Village. Wood processing is a conditional use in the R-120 district. He didn't think anyone wanted a sawmill in the area. Sawmills are currently allowed in the R-120 district.

Cheryl Joy Lipton asked if the Stone Village district would be separate from the other proposed districts, such as the Residential 2 district, which also have a 20,000-square foot minimum lot size. Naomi Johnson said the Stone Village would be a separate district with its own dimensional standards and list of uses. Peter Hudkins asked if the use table had been updated. Naomi Johnson said the December 2, 2019 minutes had the complete list of proposed uses for the Stone Village.

Tim Roper said he was in favor of the 20,000-square foot lot size. Naomi Johnson said that change would bring all but 6 lots in the district into conformance.

Cheryl Joy Lipton said historically there were no setbacks at all and people built right up to the edge of the property. Michael Normyle confirmed that the setbacks for the current Stone Village District were 120 feet road frontage, 40 feet front setback and 30 feet side and rear. Tim Roper asked what would happen to a lot where those setbacks were not met. Naomi Johnson said a waiver may be available for a non-conforming lot. Michael Normyle outlined the requirements for a waiver under the current bylaws: the owner must have owned the lot before the zoning standards changed, the only standards that may be waived are dimensional standards, and the amount that may be waived is 10%. Naomi Johnson said that, under the proposed bylaws, the adjustment may be up to 25% of the dimensional standard, or 7 1/2 feet of the 30-foot side and rear setback.

Michael Normyle said he thought the 20,000 square foot minimum lot size was a good idea. He may propose some modifications to the setbacks to have more flexible guidelines for smaller lots. Cheryl Joy Lipton said the large side and rear setbacks limited homeowners and was not a positive change from the proposed V4 district which had 12-foot front and 8-foot side and rear setbacks.

Mike Allen said he thought the change to a 20,000 square foot minimum lot size was a move in the right direction. He pointed out that there has been essentially no change in Chester's population since the 1830's and very little change to the grand list in the 18 years he has lived in Chester. He felt the setbacks are too broad. The 30-foot side setback meant he could do almost nothing on his lot.

Naomi Johnson asked for comments on the district boundaries. Tim Roper reviewed them for the group using the maps. Peter Hudkins re-iterated his concern that someone could build behind the lots along North Street. Chris Curran said there were very few lots behind the lots along North Street away from the river.

Ian Montgomery asked if the setback from the road could keep the houses in a line along the street. He was concerned about what could happen if the road was widened. Naomi Johnson said the right of way for Route 103 was defined and mapped. She said the state of Vermont could not widen the road beyond the right of way without getting the landowner's permission. She thought it was highly unlikely that landowners would allow that. Ian asked if the right of way ended at the edge of the pavement. Naomi Johnson said no, it went beyond that. She said the standard road right of way was 50 feet, and a reasonable assumption was that the middle of the road was the middle of the right of way. Given that assumption, the right of way ends 25 feet

from the middle of the road. The state highway may be wider than 50 feet. She pointed out some road rights of way on the maps.

Mike Allen said his porch was 25 feet from the edge of the road, and that meant it was in the setback area. Michael Normyle said that made his house a pre-existing, non-conforming structure. Mike said that, as a designer, he finds having houses lined up at the same distance from the road was aesthetically pleasing. He wondered how that could be accomplished with the bylaws. Cheryl Joy Lipton said it was possible to write bylaws that supported lining existing and new buildings up along a roadway. The location of the 40-foot front setback for Mike's property was discussed. It was clear his house was not built behind the front setback and he could not expand the house any closer to the road.

Peter Hudkins said architectural standards could address building alignment to some extent. Cheryl Joy Lipton said the Commission had discussed having setbacks match the historical buildings in the village.

Michael Normyle reminded the Commission that, in the 2017 regulations, new supplemental standards were created to address the three areas of commercial activity in Chester: Route 103 South, South Main Street and Gassetts. There was some concern that projects in those areas did not reflect classic New England small town architecture. He suggested that the 13 historic buildings in the Stone Village could be treated with supplemental standards as well.

Turning to the issue of uses, Naomi Johnson said the Planning Commission had gone through all the possible uses in the proposed table for the Stone Village District, compared them to the Village 4 uses and suggested what use should be allowed in the new Stone Village District. The table could be found in the December 2, 2019 Planning Commission minutes. She noted that someone had asked at the current meeting whether a dairy goat would be allowed in the new district. Naomi pointed out that keeping a dairy goat might be covered by the permitted farming or forestry use which was, "An establishment that grows crops, raises animals, harvests timber, or harvests plants or animals from their natural habitats."

Ed Grossman asked about keeping horses in the barn on his property. Peter Hudkins said if the property owner lived in the house on the property, renting space in the barns for horses would be a home business, which is a permitted use. Naomi Johnson said Equestrian Facility was defined as, "A commercial establishment used to house, train, care for, and/or ride horses." Equestrian Facility is not a permitted or conditional use in the Stone Village. As long as Ed Grossman lives on the property, he can rent space for horses in his barn. Ed Grossman also asked that the setbacks be made more flexible so that smaller lots are not held to the same standard that larger lots are.

Cheryl Joy Lipton said she saw that the residents of the Stone Village were interested in preserving the character of the Stone Village. She believed that preserving the character of the village included preserving the surroundings of the village, which are forests and agricultural lands. Though the population of Chester may not have changed from what it was in the 1830's, fewer people live in the village center and more people live in the woods now. If that trend continues, that will also change the character in the Stone Village.

Peter Hudkins said he had studied maps of Smokeshire from 1840 and he thinks there were about 200 people living in the area then. There are 28 people living there now. He disagreed that people had left the towns and moved to the rural areas.

Tim Roper said he didn't think the bylaws actually addressed pets or keeping single farm animals and wondered if there was any reason Kathy Giurtino could not keep a dairy goat on her property. Cathy Hasbrouck said several years ago the people at the town hall had asked her husband to raise his pigs on Pleasant Street instead of across Route 103 from the town aquifer. They had no problem with a few pigs in town.

Naomi Johnson said the Planning Commission seemed to be in agreement on 20,000 square feet as a minimum lot size for the Stone Village District. The Commissioners agreed. She said the Planning Commission would consider the setbacks. They have not definitively settled on a boundary. They will consider more feedback on uses in the Stone Village. At the next meeting the Commission will be focusing on Riparian Buffers and erosion issues with the State of Vermont. They will not be discussing the Stone Village.

Mike Allen asked what the next steps are for this process. Naomi Johnson said the Planning Commission is still addressing a number of issues listed in the October 2, 2019 memo. She hopes to be done with the review this summer, at which time the package will be presented to the public and comments will be taken. Once the comments are addressed, the package will be sent on to the Selectboard.

Kathy Giurtino said she has river frontage on her property and asked if she should attend the next Planning Commission meeting on February 17, 2020 which will cover Riparian Buffers. The Planning Commission welcomed her input.

#### **Agenda Item 4 Discuss single-family development restrictions in R18**

The Planning Commission then addressed the single-family home restrictions proposed for the R18 district. Single-family home is a conditional use in the R18 district. The proposed restrictions are:

**2110.F(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 or 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.

The bylaw addressing the building envelope is Section 3304.C. This was not referred to at the meeting.

**3304.C Building Envelopes.** The applicant must designate a building envelope on each lot that is more than 2 acres in size within the subdivision in accordance with the following:

1. Building envelopes must not include any unbuildable land including, but not limited to setbacks, rights-of-way, easements, wetlands, wetland buffers,

surface waters, riparian buffers, flood hazard areas, river corridors and steep slopes;

2. Building envelopes for lots intended for single-family residential development must not be more than 30,000 square feet in area;
3. Building envelopes must be sited and configured to accommodate solar development practices to the maximum extent feasible given the orientation, physical characteristics and land cover on the site;
4. All principal buildings and non-agricultural accessory structures with a footprint in excess of 400 square feet must be located within a designated building envelope;
5. Driveways, utilities, water, wastewater and stormwater infrastructure, fences, agricultural structures and accessory structures with a footprint of 400 square feet or less may be located outside a designated building envelope;
6. The Development Review Board may limit clearing of healthy, mature trees on all or a portion of the lot outside the designated building lot to protect significant wildlife habitat, forest blocks or scenic resources; and
7. The Development Review Board may require maintenance of open fields or meadows on all or a portion of the lot outside the designated building lot to protect significant wildlife habitat, farmland or scenic resources.

Initially, the Commission members agreed with the fifth requirement, that houses not be located on ridgelines or hill tops. There was more controversy about limiting the amount of forest canopy that could be opened for a house site to one acre and requiring that the house be sited within 1,000 feet of a maintained public or private road. The Commission wanted a definition for “maintained public or private road” and “forest canopy”. They considered whether the one-acre limit applied to things such as pasturage for pets. They wondered how these rules would be enforced once a conditional use permit for a single-family home was issued.

Points brought up during the discussion included:

Currently Chester has no way to regulate where a single-family house is placed on a lot unless the lot is sub-divided and the sub-division must be approved by the Development Review Board. If a project was subject to Act 250, the project manager would have to prove that it had no environmental effects, though how many single-family homes are subject to Act 250 was not known. These concerns were raised by Naomi Johnson.

The validity of state data concerning wildlife habitat is questionable. The state admitted at a July meeting that the habitat maps were 10 years old in some cases. Deer wintering areas are an example of maps becoming outdated. Logging and floods are continually changing wildlife habitat. Peter Hudkins said the intense logging being done on the Tomasso property in 2019 has greatly changed where wildlife has been ranging in his neighborhood and a huge deer herd has moved into his oak forest area. Peter Hudkins said someone ought to walk the land to make a decision about wildlife habitat and the siting of a home based on current conditions. He suggested a Conservation Commission would be a good way to monitor and manage habitat.

Tim Roper said there was state regulation to be complied with. In his business he was denied a permit for a ground solar installation for a homeowner because the state said there was a deer

yard where they wanted to install the panels. Though map was outdated, the permit was still not issued.

Cheryl Joy Lipton said habitat blocks need to be protected and deer were not the only species to be considered in this. Some species need more than 18 acres to survive. She read parts of 24 V.S.A. §4302 to the Commission:

*“To identify, protect, and preserve important natural and historic features of the Vermont landscape, including:*

- (A) significant natural and fragile areas;*
- (B) outstanding water resources, including lakes, rivers, aquifers, shorelands, and wetlands;*
- (C) significant scenic roads, waterways, and views;*
- (D) important historic structures, sites, or districts, archaeological sites, and archaeologically sensitive areas.”*

*“Public investment should be planned so as to minimize development pressure on agricultural and forest land.”*

*“The protection and restoration of floodplains and upland forested areas that attenuate and moderate flooding and fluvial erosion should be encouraged.”*

Cheryl Joy Lipton said this is part of keeping clean water and clean air for everyone. Naomi Johnson agreed.

Cheryl Joy said the purpose of the statute was to preserve certain pieces of land. If a house can't be built within 1,000 feet of a road, then the person wanting to build a house should find another piece of land. She said, if the choice is between development on a ridgeline and 1,000-foot limit on a driveway, she preferred to allow a house on a ridgeline, because a driveway longer than 1,000 feet would be more damaging to the environment.

Peter Hudkins said limiting the area that could be cleared on a lot might limit someone's ability to cut trees for a view. He didn't think that was particularly fair given the restriction against locating on ridgelines and hilltops. It was taking away too many of the landowner's rights. The Commissioners considered the possibility of planting trees on a part of the property that was scrub land in exchange for clearing a different part of the property.

The Planning Commission discussed the fact that a landowner could simply clear-cut their property and sell the logs to create a more desirable house site in the R18 district. The current use program requires a forest management plan for forested land. The management plan could certainly include logging. It isn't clear how the single-family home restrictions in the bylaws would interact with the current use regulations and Act 250 requirements.

Naomi Johnson asked the Commissioners to consider the issue and propose language to revise the one-acre limit.

Peter Hudkins brought up a new topic. He said if someone currently has a business on a town road and their trucks are over the weight limit on the road, they must get a letter from the Selectboard approving the overload. This applies to businesses such as sawmills, or a logger who lives on a road with a bridge which must be crossed each day to get to his or her place of work. He felt the issue of truck weight on a town road should be a performance standard in the development bylaws.

As it was growing late, Cheryl Joy Lipton moved to adjourn the meeting. Peter Hudkins seconded the motion. A vote was taken and the meeting was adjourned.