

**TOWN OF Chester**  
**PLANNING COMMISSION**  
**August 17, 2020 Minutes**

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

**Staff Present:** Cathy Hasbrouck, Recording Secretary.

**Citizens Present:** Donna Hudkins, Evan Parks, Lew and Bonnie Waters, Ed and Joan Grossman, Frank Bidwell Kathy and Chuck Giurtino, Fred and Debra Wheeler, Jan Moot.

**Call to Order**

Chair Peter Hudkins called the meeting to order at 6:30 PM under the Gazebo at the Pinnacle. He welcomed the citizens present to the meeting and read the agenda.

**Agenda Item 1 Review minutes from August 3, 2020 meeting**

Barre Pinske moved to accept the minutes from the August 3, 2020 meeting. Tim Roper seconded the motion. Cathy Hasbrouck noted a correction to the heading for Agenda Item 1. It had the wrong date. Tim Roper had a question on page 4, the last sentence before Agenda Item 3. It began with the words, "He asked the Recording Secretary". It was not clear who the word He referred to. Cathy Hasbrouck agreed to check the tape and use the correct pronoun or name. On page 6 in the middle of the page the word "thing" should have been "think". On page 7, Tim Roper requested that his statements in the third paragraph from the bottom be checked against the tape and possibly changed. Cathy Hasbrouck agreed to do that. Tim also noted a typo in the next paragraph where the word "not" should have been "no".

Cheryl Joy Lipton asked to have the word "to" added to the last sentence in paragraph 2 on page 7, in front of the words "have an e-mail sent". There being no further discussion, the minutes were accepted.

**Agenda Item 3 Discuss Stone Village District Page as distributed**

Peter Hudkins began the discussion with the dimensional standards. He started with the minimum lot size, which was changed from 30,000 square feet to 20,000 square feet. Tim Roper said citizens had objected to the initially proposed size of 10,000 square feet. No one objected to the current proposal of 20,000 square feet. The lot frontage figure of 120 feet was also accepted. For the next item, lot coverage maximum, Peter Hudkins explained that lot coverage included all impervious surfaces, not just the principal building. Cheryl Joy Lipton said outbuildings, sheds and driveways, were included. Cathy Hasbrouck pointed out that gravel was considered an impervious surface. No one objected to the 50% lot coverage maximum figure.

Peter Hudkins explained the change proposed for measuring the front set back. This change accounts for the change from 40 feet in the adopted bylaws to 20 feet in the proposed bylaws. In the adopted bylaws, the front setback is measured from the edge of the road paving or impervious surface. In the proposed bylaws, it will be measured from the edge of the state-owned road right of way. Naomi Johnson said the right of way was 60 feet. The houses along North Street are 20 feet from the edge of the road right of way. Using the new measurement

method and the 20-foot setback will preserve the alignment seen now. No one objected to the 20-foot front setback.

Peter Hudkins took up the side setback standard. The proposal is for a 16-foot setback, which could be waived to as little as 12 feet. Chuck Giurtino said that some existing houses are as close as 8 feet from the property line. He was concerned that, with a waiver, there could be a zero-lot line condition. New construction next to a lot which had a building 8 feet from the property line could obtain a waiver and build 12 feet from the same line. The buildings would only be 20 feet apart. He wanted the waiver process to include input from all abutters. Peter Hudkins said an existing building which extends into the setback would not be forced to move, and Chuck Giurtino agreed that such a building should be grandfathered in.

Barre Pinske wanted to know what the bylaws could do to maintain the character of the Stone Village. He asked whether most houses were more spread out than the 8-foot example cited. Naomi Johnson said the average side setback (as shown in the table) was 27 feet. Chuck Giurtino asked if the side setback could not be allowed to be waived. Tim Roper said the Commission thought the side setback should be reduced in conjunction with the reduction in minimum lot size.

Cheryl Joy Lipton said that the side setback applied to outbuildings as well as principal buildings. She felt the character of the Stone Village would be preserved by a smaller setback. Chuck Giurtino did not agree. Ed Grossman said that his neighbor's house is very close to the property line. Given the proposal of 16 feet as a side setback, he could build a garage very close to his neighbor's living room windows. He felt 20 feet was a better side setback distance. It was in keeping with the 27-foot average setback and was proportionate to the reduction in minimum lot size. Cheryl Joy Lipton asked about the neighbors on the other side of Ed Grossman. Ed said the situation was similar. Tim Roper asked whether a waiver was automatically given by the DRB. Peter Hudkins said there would be a hearing and all the abutters would be notified and could attend the hearing to voice any objections they had.

The Commission members were in agreement that 20 feet was acceptable and the citizens in the audience agreed. One citizen asked what would happen if a building burned down and the owner wanted to replace it. Would the new building have to comply with the new setbacks? Peter Hudkins said a property owner was always permitted to rebuild on the existing footprint.

Peter Hudkins discussed the proposed rear setback, which was reduced from 30 feet to 16 feet. No one objected to the rear setback change. Peter took up the footprint standard next and explained that the footprint of the building was the impervious area of the building, only the area of the ground floor. It did not include the square footage of any stories over the ground floor. No one objected to the proposed limit of 6,000 square feet.

Peter Hudkins gave the maximum height proposed, 35 feet to the highest point. He said it did not include cupolas or steeples. Evan Parks asked if included antennas. Peter Hudkins said it did not. Tim Roper said that he recalled the discussion with the consultant and the height was going to be measured to the mid-point of the peak, not to the highest point. Peter Hudkins said that measuring a building's height at the mid-point of the peak would allow a wider building to be taller than a narrow building, in some cases an entire floor could be added if the building was wide enough. Barre Pinske delivered a short geometry lesson that explained the issue.

Tim Roper said he recalled that this height was set for fire safety purposes. The height was set at the mid-point of the roof pitch because firefighters needed to get into the attic space at the point to ventilate a fire. Peter Hudkins said historically buildings had been 35 feet high, measured from the average ground level around the building. He suggested there was no reason to change the way the buildings are measured. Tim Roper said if the goal was to ensure fire safety, then perhaps changing the measuring methodology was helpful. If the goal was to ensure architectural unity, then there was no reason to change the measuring methodology. Peter Hudkins said the NFPA limit was 35 feet.

Cheryl Joy Lipton asked about the town hall. Peter Hudkins said the town hall had sprinkler systems. Naomi Johnson said it appeared the Commission needed to re-visit the issue of height. Her recollection is that Brandy's recommendation to change the measurement methodology was not based on consultation with any town departments. Tim Roper pointed out that the height issue was not specific to the Stone Village issue, but applied to the entire town. It was decided that the height measurement methodology would be discussed separately and the Chester Fire Chief would be consulted. The Stone Village citizens were invited to make any comments on height they may have.

- ❖ Maximum height and measurement of height were added to the to-do list.

The last dimensional standard was density. Tim Roper asked how the accessory dwelling use fits into the density measurement. If someone wanted to add a mother-in-law apartment upstairs in their barn as an accessory dwelling, could they do it? The question led to a discussion of proposed permitted uses. Peter Hudkins said the accessory dwelling use was addressed in section 3203. This section states that the accessory dwelling unit is not a part of the residential density calculation and that the property owner must reside on the property, either in the main house or in the accessory dwelling. Tim Roper discussed the format of the district page. He was concerned that it wasn't clear from what was presented on the zoning district page that an accessory dwelling unit would not be counted in the density calculation. Peter Hudkins said the zoning district page should be making reference to other sections of the bylaws which further defines the use or standard. Some uses had a separate section in 320, Specific Use Standards, and some did not. He cited accessory dwelling unit as a use that had paragraphs in the Specific Use Standards 3203, Accessory Dwelling Unit, and two-family dwelling as a use that did not. Dwelling is also further defined in paragraph 3010, Dwelling Units, which is part of Section 300, General Regulations.

Cheryl Joy Lipton said the way the table reads, a lot of 60,000 square feet could have 3 dwelling units on it because the density figure is 20,000 square feet per dwelling unit or principal use. She asked if it should say one principal dwelling unit per lot? It wasn't clear how density would be calculated. Peter Hudkins said there could only be one principal dwelling and one accessory dwelling per lot without a permit. Naomi Johnson asked whether a 30,000 square foot lot could have a two-family house on it. Would a two-family house, being a principal use, will not require more than 20,000 square feet of lot space?

Peter Hudkins read the section on Accessory Dwelling requirements aloud, which stated that accessory dwelling would not be part of the density calculation. Barre Pinsky asked what would happen with a house that had an accessory dwelling unit if the property owner needed to move to a care facility. Would the property owner be allowed to rent the main house and the accessory dwelling unit as separate units in his absence? He acknowledged that the Zoning Administrator

would not be kicking people out under those unique circumstances, but wondered if some sort of hardship clause could be added to prevent that.

- ❖ Peter Hudkins said that a hardship clause would be another item for the to-do list.
- ❖ The rules for determining density needed to be clarified.

Peter Hudkins discussed Home Occupation and read parts of section 3204, Home Occupation. No one objected to the terms of that use. He then read parts of section 3205, Home Business. No one had questions about that use.

The Family Childcare Home (Section 3206) use was discussed. Peter Hudkins read most of Section 3206 aloud. This use is mandated in most districts by the state of Vermont. The number of children allowed is limited to 6 full time children and 4 part time children and signage is limited to six square feet. The use must take place in the home of the operator. Larger facilities are covered in a section 3227.

Senior Housing was considered next. Senior Housing is a collection of dwelling units with living space, kitchens and sanitary facilities, which also offer certain types of assistance, such as wellness checks, not normally available in an apartment.

Peter Hudkins said the Group Home use, for up to 8 residents, was another use that the state said must be allowed and treated as a single-family residence. The residents must have a disability or handicap. The bylaws do not define disability or handicap. Kathy Giurtino said she was concerned about Group Homes. She cited a businessman in Springfield who sets up group homes but does not take care of them and eventually abandons the run-down property. She wanted to know how to prevent such abuse and lack of responsibility in Chester. She wanted to support people getting a second chance at life, but did not want people to take advantage of the use for profit. Tim Roper said it would be a town-wide issue that could be taken to the Selectboard and state representative and senator. Kathy Giurtino said she would be writing letters to them. Cheryl Joy Lipton asked if language could be added to encourage better supervision, such as requiring the owner to live on the property.

- ❖ Peter Hudkins said he wanted to add the discussion of monitoring group homes to the to-do list so a broader discussion could be held.

No one had a problem with the Bed and Breakfast use. it is limited to 5 guest rooms. The rooming and boarding house is limited to 10 rooms, with no more than 2 persons per room, No one objected to either use. Peter Hudkins read many of the requirements for Short-term rental (Section 3211) aloud. Short term rentals are allowed in part of a single-family house that is occupied by the owner or full-time tenant. Cheryl Joy Lipton asked where Air B&B falls in these uses. Peter Hudkins said he was not sure. He proposed that the item be added to the to-do list. Cathy Hasbrouck said it would depend on what was being offered. It could be a traditional bed and breakfast lodging or something more like a rooming house or a short-term rental with little or no interaction with the property owner. A citizen said that Air B&B could be a number of different arrangements.

Cheryl Joy Lipton asked if the Planning Commission was responsible for regulating Air B&B's specifically. Tim Roper said the proposed bylaws tried to provide some controls around the type of short-term rentals typical of Air B&B's. He cited the 30-day maximum rental limit for a given guest as an attempt to control the use. Barre Pinske said the 180-day limit on rental when

the owner is not present was another attempt to control the use. Cheryl Joy Lipton said the issue had been discussed about a year ago.

- ❖ Peter Hudkins asked to have Air B&B regulation added to the list of items to be discussed.

The next use considered was retail. Peter Hudkins explained that a home occupation or a home business could be retail. When the business is no longer conducted in the owner's residence it becomes a commercial use which must meet performance standards for noise, glare, and other issues. Retail under 3,000 square feet is a permitted use that will not need a hearing before the DRB. No one had any objections to a permitted Retail use, or the next use in the list, Office, professional, business or administrative services, which also was broken down into levels by square footage.

Peter Hudkins gave examples of next use, personal services and discussed how some retail could be part of those services. A hair salon that sells hair care products would be an example of a personal service business that included some retail. No one had any objections to the personal service use.

Restaurants are categorized not by size, but by how the food was served. Drive through restaurants with very little interior seating are categorized differently from sit down restaurants. Ed Grossman expressed concern over how the size of the restaurant could be regulated. No one wanted a large restaurant with a lot of traffic with noise and lights every night. He was also concerned about the amount of garbage a restaurant could generate. Tim Roper asked how Ed would want to alter the bylaw. Ed said he would like to have a restaurant could only be so many square feet and open only so many hours.

Peter Hudkins said a small restaurant could be a home occupation or home business. He said he had no experience with running a restaurant, though he had built several of varying sizes. He said, in his mind, the keys to a restaurant were traffic, parking and hours of operation. Naomi Johnson suggested that a sit-down restaurant be made a conditional use instead of a permitted use, which would cause the restaurant to be reviewed by the Development Review Board.

Cheryl Joy Lipton asked about the history of the tavern building that burned in the last few years. Kathy Giurtino said it had been a tavern in the 1800's. In her lifetime it had always been a 2-family house. Ed Grossman said he was concerned about the noise, lights and traffic a restaurant could bring. Barre Pinske thought Naomi Johnson's idea to make restaurant a conditional use was a good one. He was in favor of that. The board agreed and sit-down restaurant was changed to a conditional use.

Lew Waters said he had been a resident of the Stone Village since 1974. He quoted John Dumont's comments about town plans, which said specificity was essential to the success of a town plan. He did not want a restaurant in the Stone Village. He said the citizens who worked to preserve the built environment in town and village centers were making Vermont unique among all the states. He felt a restaurant did not preserve the character of the Stone Village. Peter Hudkins asked the citizens present if any of them wanted a restaurant. Very few (?) raised their hands. Peter Hudkins then asked the Commission members how they would feel about not allowing a restaurant in the Stone Village. Tim Roper said there had been taverns there historically and he would like to allow the possibility of a restaurant, though he was not adamant about that. Cheryl Joy Lipton said she also wanted to protect the character of Vermont, Chester

and the Stone Village. She thought change was inevitable and if the bylaws did not allow change in the village, businesses would locate outside of town in the forest, which would damage another of Vermont's important assets. Cheryl Joy Lipton said economic growth was also essential for Chester and businesses should not be driven out of town.

Peter Hudkins said he was planning on discussing the standards applied to a conditional use at a future meeting and encouraged people to attend those meetings so they could see what would be considered when a restaurant had conditional use hearing.

Evan Parks, who lives on South Main Street said he agreed with Lew that the bylaws should be specific. He said his family was concerned when the Scottish Pub moved in next door to them, but they have been good neighbors and the Pub has been very popular. Joan Grossman said she lived across from the Unitarian Church in the Stone Village. She felt North Street was too narrow to safely handle the traffic a tavern would bring, though she would like to see a tavern in the area. The businesses on North Street are small and a good size for the neighborhood.

Peter Hudkins asked for a vote on whether restaurant could be a conditional use of not allowed at all. Barre Pinske said he wanted to know if the boundaries of the zoning district had been defined yet? (Barre said, "We do.", as if someone had nodded yes, the boundaries had been defined.) He suggested that a restaurant might be appropriate for the district, but not on North Street. Peter asked Naomi Johnson to discuss the maps that had been hung on lines between the gazebo pillars.

Naomi started with the current zoning map and indicated the Stone Village district. She indicated the initial proposal for the Stone Village district was Village 4 units per acre, or a minimum lot size of 10,000 feet. Naomi noted that the proposed district did not extend to or cross the Williams River as the current adopted district does. She said the Planning Commission has chosen to create a separate Stone Village district which is not part of the Village 4 district. She indicated a new map with the Stone Village district. This version of the district extends to the Williams River parallel to North Street, but it does not extend past the bridge at the junction of the Green Mountain Turnpike and Vermont Route 103. It extends about 1,000 feet from Vermont Route 103. The northern boundary is Church Street.

Joan Grossman noted that there is no developable property in the district, except in the areas behind the properties abutting North Street.

- ❖ Naomi Johnson asked Cathy Hasbrouck to put the current version of the proposed maps on the town website

Barre Pinske said it was important to note that there was no developable land in the area. He thought a restaurant would have to be created in one of the existing houses. Peter Hudkins proposed taking a vote on the restaurant use. Someone asked to hear the requirements that must be met for a conditional use hearing permit. Peter Hudkins read several of the requirements listed in Figure 4-01. They included dimensional standards of the district, off-site impact of the proposed development, traffic, parking, lighting, erosion control, signs, landscaping and screening, water and wastewater capacity, demand for educational and other municipal services and more. Barre Pinske said that considering these hurdles are in place and knowing that bylaws will be in place for some time he felt it was wise not to deny the possibility of a restaurant in the future. One Commission Member did not like the proposal, but all considered a conditional use a safe enough option and voted to allow restaurant as a conditional use.

Kathy Giurtino asked whether the community would be given an opportunity to voice their opinions at a conditional use hearing and if the applicant would have to show the proposed site plans with lighting and signs. Peter Hudkins said absolutely. He said it would take a whole meeting to discuss all the conditional use requirements and he would rather press on with the list of permitted uses.

The next use considered was media recording or broadcasting studio. Kathy Giurtino asked if the use included any kind of antenna. Peter Hudkins said small antennae were allowed and the noise standards would be in force. Tim Roper said the state of Vermont has a lot of control over antennae. Peter Hudkins said there were no use-specific standards for the media recording use, but it would have to meet all the performance standards. Communications antenna did have use-specific standards in section 3224, Antennas and Towers. Peter Hudkins said a zoning administrator could allow modifications to a tower if the height of the tower is not changed. He read the purpose of the section aloud. Barre Pinske said Chester already had a tower at the Pinnacle and it wasn't likely that another would be required. Peter Hudkins said putting an antenna in the church steeple might be a good idea. No one was against allowing a tower.

Artist gallery or studio, museum, indoor recreation, when limited to 3,000 square feet and outdoor recreation or park uses were accepted with no discussion. Among Civic Uses, Peter Hudkins said government facilities and educational institutions operated by the town, had to be accepted, though the project would have to meet performance and dimensional standards. Chuck Giurtino suggested that a specialty school up to 6,000 feet should be a conditional use. Tim Roper said he wasn't opposed to making it a conditional use and asked for an example of a specialty school. Kathy Giurtino suggested that a language or arts school would be a specialty school. Barre Pinske thought that a school could have a moderate impact and making it a conditional use might be appropriate. Tim Roper asked if the 6,000 square feet was a measurement of the total interior square feet or just the footprint. Peter Hudkins said it was the footprint.

Cheryl Joy Lipton suggested the size could be reduced to 3,000 square feet. Barre Pinske said a smaller size, such as 3,000 square feet could be permitted and the larger size could be conditional. The Commission decided to make any size of specialty school a conditional use.

Child Daycare was the next use considered. There were additional standards for the use in Section 3230. Peter Hudkins read them aloud. He said this was a permitted use which would not have to have a hearing in front of the Development Review Board. He noted that there was no limit on how many children could be accommodated. The Commission decided to make this a conditional use.

Religious institution is another use that must be allowed. No one objected to this use. Kathy Giurtino suggested that the Funeral Services use be a conditional use. It had no specific criteria. She had heard about a drive-through funeral home and wanted some control over that possibility. The Planning Commission agreed. Frank Bidwell asked about crematoriums. Naomi Johnson read the definition of Funeral Services aloud. Cremation services were included in the definition of Funeral Services. The last civic use was Cemetery and it was noted that there is already a cemetery in the district. No one had any objections to cemetery as a use.

The Natural Resource uses were both required to be allowed by the state of Vermont. No one had any objections to them.

The list of permitted uses being complete and darkness and bugs overtaking the gazebo, Cheryl Joy Lipton moved to adjourn the meeting. Tim Roper seconded the motion. Peter Hudkins thanked the citizens for coming. Barre Pinske asked if there would be another Stone Village People meeting. Peter Hudkins said there would be. Chuck Giurtino and Ed Grossman thanked the Commission for their time. The Recording Secretary thanked Evan Parks for taking care of the sound system so well. A vote was taken and the meeting was adjourned.

### **Items added to the to-do list**

- ❖ Maximum building height and measurement of height.
- ❖ A hardship clause to allow renting both a principal dwelling and an accessory dwelling unit when the owner of the property is disabled and cannot live at home.
- ❖ Discuss ways of monitoring group homes so they are appropriately maintained.
- ❖ Discuss Air B&B regulation.
- ❖ Put the latest version of the proposed zoning district maps on the town website.