

TOWN OF Chester
PLANNING COMMISSION
March 8, 2021 Minutes

Commission Members Present: Cheryl Joy Lipton, Tim Roper, and Barre Pinske via Zoom Teleconference. Naomi Johnson and Peter Hudkins at the Town Hall.

Staff Present: Cathy Hasbrouck, Recording Secretary, at the Town Hall. Jill Barger Zoning Administrator via Zoom Teleconference.

Citizens Present: Bill Lindsay at the Town Hall.

Call to Order

After 11 minutes of fussing with the new audio-visual equipment, Naomi Johnson was able to call the meeting to order around 6:41 PM.

Agenda Item 2, Review minutes from February 15th, 22nd and March 1st meetings.

Cheryl Joy Lipton moved to accept the minutes from the February 15, 2021 meeting. Tim Roper seconded the motion. Cheryl Joy Lipton, Tim Roper and Naomi Johnson had corrections. Barre Pinske asked for a clarification of lines 36 and 37 of page 3 which discussed the number of uses available in different districts. Tim Roper asked for clarification of lines 16 and 17 on page 2. A vote was taken and the February 15th minutes were approved as amended.

Cheryl Joy Lipton and Tim Roper had corrections for the February 22, 2021 minutes. A vote was taken and the minutes were accepted as amended.

Cheryl Joy Lipton had 3 small corrections to the March 1, 2021 minutes. A vote was taken and the minutes were accepted as amended.

Agenda Item 1, Citizen Comments

No citizen had any comments.

Agenda Item 3, Review notes from Naomi Johnson on definitions

Naomi Johnson referred to a memo she wrote on February 25th discussing eight issues she saw when the adopted uses were compared to proposed uses in a document Cathy Hasbrouck had prepared some time ago. The memo mainly addresses uses, which are defined in the proposed bylaws in Section 2112, the Use Table and in Article 8 of the adopted bylaws.

The first issue was

The use Group Home has two different categories, Level 1 and Level 2. Level 1 is a Permitted Use and Level 2 is a Conditional Use in all districts except R6 and R18. However, Level 1 and Level 2 are not defined and Residential Treatment Facility (which is UDB Section 3227 and referenced in the Group Home definition) is not defined.

Naomi said the proposed bylaws introduce the concept of a level of use, which is frequently, but not always related to square footage. The level of use represents a greater impact on the surroundings. In the case of Group Home, 2 levels of the use are listed, Level 1 and Level 2, but

no criteria are given to differentiate one level of use from the other. She pointed out that residential treatment facility is mentioned in the group home definition.

Peter Hudkins said the state has mandated that group homes for up to 8 persons must be allowed everywhere. Naomi agreed. She pointed to page 74 in the Use Table section that shows Level 1 Group Home is a permitted use in every district and Level 2 is a conditional use in all but the General Business, Rural 6 and 18 districts. Peter Hudkins wondered how a summer camp in a rural district would fit in the proposed bylaws. Would it be considered a group home?

Naomi Johnson asked if there was a definition for a camp. The Commissioners considered various types of camps. Boy Scout and Girl Scout camps, camps where families or groups of friends would meet, and hunting camps, were mentioned. Cathy Hasbrouck pointed to the Campground or resort use in the Use Table on page 85. The Commission decided that a campground was not a group home and that most of the types of camps mentioned were covered under this definition. Camp as a type of dwelling is listed separately. Naomi recommended that Jason Rasmussen at the Mount Ascutney Regional Planning Commission be consulted for help defining Level 1 and Level 2.

Naomi Johnson then addressed Item 2,

Disability is defined under 5003.H. At our 8/2020 meeting with the Stone Village residents, there was an incorrect statement that the proposed UDBs do not define Disability.

The definition is found in section 5003 under Handicap.

Naomi Johnson read Item 3 on the memo:

Contractor's yard is only allowed in 3 districts, which seems very limited for contractors in the construction industry.

Naomi turned to page 83 in the Use Table section where contractor's yard is defined and the districts where it is allowed are listed. She said it is currently only allowed in the General Business, R3 and R6 districts, which is very limited compared to the adopted bylaws. The Building and Construction trades use is a conditional use in every district in the adopted bylaws. Tim Roper said he vaguely remembered discussing this with Brandy. Cheryl Joy Lipton said she thought some uses were allowed everywhere up to a certain size, and the contractor's yard use applied to larger sizes. Naomi Johnson read the definition of contractor's yard in the proposed bylaws:

CONTRACTOR'S YARD OR UNENCLOSED STORAGE An establishment that: (a) provides storage for vehicles, machinery, equipment and materials used by a contractor in the construction-related trades, which may include a shop for maintaining or repairing the contractor's vehicles, machinery or equipment or the contractor's business office; or (b) leases outdoor storage space for vehicles, boats or similar large goods to commercial customers or the general public. This definition specifically excludes junkyards.

Naomi asked where a contractor could have a business office outside General Business, R3 and R6. Would the business office fit under the definition of professional office? Tim Roper said the example given in the discussion with Brandy was M&M and the question then was: would someone in any other district want big excavation machinery next to them. Cheryl Joy Lipton

said the key to the discussion was the word unenclosed, referring to unenclosed storage. They discussed screening the equipment with vegetation at that time.

Naomi Johnson said she was interested in the topic because she had personal connections to the construction business. She said if someone had a business which involved heavy equipment on the parcel with their home it would be considered a home occupation or home business and be allowed in almost all districts. However, if a contractor does not live on the parcel with the business, a contractor's yard is only allowed in three districts.

Tim Roper and Barre Pinske asked where the use might be allowed in addition to the three proposed districts. Naomi Johnson said she would prefer not to offer an opinion and not to spend a lot of time on the issue now, but she wanted the Commission to consider it at some point in the future. She suggested the Mixed Use as one district where this could be allowed.

Peter Hudkins said this was a conditional use and the commission was springing to the worst-case scenario of lots of heavy equipment, but there were many people with a dump truck and an excavator who live in what will be the Res 2 or Res 4 district. They will not want to park that equipment in their front yard and will be looking for a different place to leave it. Tim Roper said that example is like Mike Westine's business, where the shop is not at his home. Peter Hudkins said making the use conditional allows discretion with regard to the size of the business. A carpenter with a trailer might only want space for the trailer and a shop building. Cheryl Joy Lipton asked why the bylaw should allow a trailer and shop building in the same district where the carpenter's family has refused to allow it.

Tim Roper said he thought the definition of Contractor's Yard, long as it is, needs to be refined. He thought the Mixed Use district would be appropriate for Contractor's Yard. Barre Pinske said he thought the bylaws were trying to have citizens be good neighbors. If a business grew to where the business owner did not want to have the equipment in their door yard, he didn't think anyone in the same area would want the business on a lot next to them, even as a conditional use. The business needs to move to the General Business, R3 or R6 district where there would be enough space for the equipment, a shop and enclosed storage. Cheryl Joy Lipton asked if Naomi wanted to continue discussing this. Naomi said she'd like to move on, but she wanted this issue to be reconsidered. She said she would turn over her notes to Cathy Hasbrouck to be distributed once her term was complete.

The next item in the memo was on-farm business:

On-farm business: Levels 1 and 2 are listed but not defined. We previously discussed that the language needs to be reviewed for possible clarification and to be updated to confirm with the latest statutory language (Ch 117 section 4412 (11)). Recommend consulting with Jason Rasmussen.

Peter Hudkins suggested looking at the Vermont Farm Bureau website for guidance on the state Department of Agriculture recommended practices levels of farming as seen by the State of Vermont. (The page is <https://www.vtfb.org/cms-assets/documents/260490-192360.required-agricultural-practices-regula>). He suggested letting the state standards define the levels of agriculture. Naomi verified that Peter was suggesting getting rid of Level 1 and Level 2. He said he was. He said the state of Vermont goes into great detail in classifying farms with counts of animals, number of acres of crop land, and proximity to water, and didn't see why Chester needed to include levels of farming in the bylaws.

Naomi said she thought Jason Rasmussen could help with this. She recalled that in the discussion with Brandy, a change to state statute was mentioned and Naomi thought Jason would have more information about this. A definition of levels of on-farm business will be needed.

Barre Pinske asked if Brandy Saxton could clarify anything. Naomi said the Town of Chester does not currently have a contract with Brandy. Brandy had acknowledged that this item was something that was not finalized and had agreed to correct it, but apparently did not do so before the contract ran out. Cheryl Joy Lipton asked whether the reason Brandy did not provide the information was that she had run out of hours in the contract. Naomi said she knew Brandy had provided a lot more meeting hours than the contract had called for. If Cheryl Joy wanted more information, she would have to ask someone at the town hall.

Item 5 on the list was

Manufactured home is defined in 5003.M. The definition should reference that mobile and manufactured homes are used interchangeably (which is the case under VT laws according to the VT Agency of Commerce and Community Development). Jason Rasmussen could confirm.

Naomi said she felt the definition should be updated to reflect the ACCD thinking and the Planning Commission should have Jason Rasmussen confirm it.

Item 6 on the list was

Recommend adding "stone processing" to the Extraction definition.

Naomi referred to page 87 of the Use Table. She noticed this difference when looking at the adopted and proposed uses. She said there is a person in the Gold River Industrial Park processing stone and she believes it is a common use in Chester.

Naomi read the proposed definition of extraction out loud. She said she didn't think the definition covers splitting and shaping stone for steps or other building purposes. Tim Roper asked about fabricating stone, specifically making something like a tombstone. He suggested it might be considered manufacturing. Cheryl Joy Lipton did not think that carving a tombstone qualified as manufacturing.

Barre Pinske suggested that a separate use was needed. He considered stone processing a much lower-impact use than extraction and didn't want the lower impact use to be governed by regulations for a high-impact use. Naomi Johnson said it might fit in the industrial uses which start on page 80 in the Use Table section. It might fit in the same category as wood products. Tim Roper said cutting, carving, etching and processing could apply to stone as well as wood.

Peter Hudkins said there are a couple of people processing stone in Chester now. Someone does it on Goodrich Road, on Route 103 in Gassetts and in the industrial park. He said if the economy picks up and demand for shaped stone increases, there are many small quarries in Chester where this activity would take place. Barre Pinske asked which districts the quarries are located in. Peter said there were no quarries in the General Business district. Tim Roper said there were two quarries in the R6 district. Peter Hudkins said there were quarries in the R18 district. Barre Pinske said stone processing involved moving stone from a quarry to a separate workshop in another place and working on it there.

Cheryl Joy Lipton brought up a famous stone carver in Barre who has a workshop in the town. She said one could look up where the shop is, the zoning district and the Barre regulations which

apply. Peter Hudkins said there was a large shop in an old marble yard in West Rutland as well. He wondered if the Barre carver was an artisan like Barre Pinske is in Chester. Is that different from splitting stone for building material, steps and posts. Barre said noise could be an issue with extraction and quarrying, but the smaller shops might be home businesses and would not be so noisy. He wondered if any further regulation was needed.

Tim Roper said perhaps something about stone could be added to the use table. Cathy Hasbrouck said there were uses for both metal and wood fabrication now. Naomi Johnson favored looking up the Barre regulations for the carver located there. It could go on the list of follow up items, with the possibility of a definition for stone that matches the wood and metal definitions. Barre Pinske asked why the extraction use was not allowed in R3. Was it too big for R3? Tim Roper thought a quarry would be too big for R3 but stone processing would not.

Barre Pinske asked if there were any regulations for gold mining. He wanted to open a gold mining operation in Smokeshire. Naomi Johnson proposed moving on to item 7:

There are some definitions in the existing UDBs that are not in the proposed UDBs. Frontage is one example that was noted as a difference in the May 25, 2020 meeting. This is a commonly used word and is not included in any of the bylaw definitions that I reviewed for other communities (Bellows Falls, Springfield and Windsor). I did not note any deficiencies in the definitions of the proposed bylaws that would be corrected by using definitions from the existing UDBs.

Tim Roper suggested adding the term Road Frontage and giving it the definition from the adopted bylaws. Peter Hudkins said that frontage can be along a right of way as well as on a road. Naomi Johnson asked whether the Commission thought frontage should be added as a definition. Cheryl Joy Lipton asked if anyone thought the definition was unclear. No one did. Tim Roper said he would Google frontage and see if there was anything worth noting. Cathy Hasbrouck said there is a private road in Chester with about 10 lots on it. The road does not meet town road standards. At least one landowner has asked to subdivide their property. They are not allowed to do so because there is no frontage that meets the standard. She suggested that a definition would be helpful in that case.

Naomi Johnson said it would be simple enough to add the definition. Naomi read the adopted bylaw definitions aloud.

FRONTAGE: That side of a lot abutting on a street(s); the front lot line. (See Minimum Lot Frontage as it pertains to zoning district dimensional standards.)
FRONTAGE, MINIMUM LOT: The length of the front lot line measured at the street, road or right-of-way line.

Cheryl Joy Lipton suggested that those definitions be added to the proposed bylaws.

Naomi addressed item 8:

Definitions under Section 5003.J: Update definitions of Junk and Junk Motor Vehicle to match the definitions in the Town's Salvage Yard Ordinance.

Naomi Johnson said the junk ordinance definition looks like it was taken from the state with just a few words added. She suggested that the definition in the ordinance be used in the proposed bylaw. No one dissented.

Naomi Johnson said there was about thirty minutes left in the meeting. She said the Commission had 2 items remaining on the agenda: a list of issues from the updates to the bylaws Cathy Hasbrouck made for February 1st and a public statement about the R-18. The Commission asked to start with the R18 and work on the list if there was time.

Agenda Item 5 Discuss a public statement about R-18 geography, current and proposed dimensional standards.

Naomi Johnson said she dug out some research done in 2019 about the R-18 district showing parcels affected by the change from R-120 zoning to R-6 and R-18, particularly those parcels that would no longer be able to be subdivided. She said the Commission has talked about the rural districts quite a bit. The boundaries of the districts, the roads, and the environmental impact have been considered. She said there are certainly some concerns expressed by the public now. There were some questions from the public when the bylaws were first presented in 2019. She said there could be opposition expressed against the bylaws now. She thought that some of the opposition could simply be the result of a change being proposed.

She acknowledged that this is a big change to a large part of the town. Two-thirds of the town is zoned as R-120. Barre Pinske had pointed out that there are many obstacles to development, such as steep slopes, which are present regardless of the zoning district dimensional standards. She said that there are many aspects of the bylaws not tied to the minimum lot size that protect the land from erosion, and surface water pollution. She said those safeguards are powerful. The state regulations that would apply to many projects also protect the land. She said she saw the Planning Commission focusing on a short-term goal of presenting the bylaws to the public. She didn't know where the Commission would go with environmental issues, but wanted the Commissioners to keep in mind that a lot of time has been spent considering all parts of town.

Barre Pinske read a comment from the Chester Telegraph about the R-18 aloud. He felt the Commission needs to explain clearly how parcels may be subdivided in the R-18 and how much land is required in order to subdivide and build on two different lots.

Cheryl Joy Lipton thought the Planning Commission should focus on the statute and how it requires protecting the rural districts against parcelization. She thought the citizens would support the proposed bylaws if they knew the state is mandating this.

Tim Roper wondered if any of the citizens who voiced concerns in the Telegraph actually owned land which would be affected by the change in minimum lot size. Did citizens understand which parcels would be affected? Naomi Johnson said the Commission had a map that illustrated the point. Tim asked how that point could be conveyed.

Naomi had Cathy Hasbrouck share a map via Zoom that showed 52 parcels which could not be subdivided under the proposed bylaws.

Peter Hudkins said the concept of density introduced in these bylaws is difficult to grasp. Tim Roper agreed. Naomi explained the map shared on the Zoom screen. The map showed the entire town with parcel boundaries. The parcels colored light green were between 6 and 35 acres. Someone owning a 36-acre lot in the proposed R18 district could split the parcel in to 2 18-acre lots. Any less than 36 acres in the R-18 cannot be subdivided into 2 lots with 2 residences. The map would show those parcels which cannot be subdivided at all. Other landowners would be affected by the change to the minimum lot size, but not in the same manner.

Of the 52 parcels not eligible for subdivision, some could not be divided in any case. Naomi pointed out a long skinny parcel in the northwest corner of Chester that was probably a right of way for a power line as an example of a lot that cannot be subdivided. .

She pointed out a 20-acre parcel in the northeast quadrant of Chester, near Baltimore. She and her husband own the parcel. The parcel was in a group of about 4. She said the land is served by a Class 4 road. There is ledge and steep slopes on the land. It would be very difficult to develop the parcel. There was probably only one possible house site on the land. This is another of the 52 parcels that might not be developable in any case.

Naomi said that it might be worth the time to go over the 52 parcels to determine whether they could be developed at all. Peter Hudkins asked whether the 1,000-foot buffer of R6 is in place in Baltimore. Naomi said the road to her parcel is a Class 4 road and not on the map. The driveway from Bemis Road to her parcel is about 1/2 mile long. The parcel is definitely in the R-18.

Cheryl Joy Lipton said that the real reason the Planning Commission is setting up the R18 is to make less development in the rural districts. It (the strategy of setting an 18 acre minimum lot size) will work. She thought the map was excellent and should be shown when discussing the R18. She asked why the Planning Commission should hide the fact that they want fewer houses in the R18 district? She thought the Planning Commission needs to find a way to get people on board with the idea. She thought having Monica Przyperhart speak at a meeting might help.

Tim Roper thought the map would be helpful. He agreed that the R18 is in line with the state statute. He said he would like to see the revised R18 map, where the R18 was moved back 1,000 feet from the road. Barre Pinske said he supported the land owner's ability to maximize the value of their property. He hoped that the Planning Commission could write a letter as a press release and include the map.

Naomi said the task before the Planning Commission was to write something to get the message out. Cheryl Joy suggested a map with contour lines on it to show steep slopes. Barre Pinske said the message needs to be succinct, a list showing what has been done, why it was done, and include topographical maps that help explain how difficult parts of the R18 are to develop.

Cheryl Joy Lipton suggested adding the amount of time the Planning Commission has spent on the topic. Barre Pinske thought it should say that nothing is set in stone and if people have a problem with something, they could tell the Commission and it might be changed.

Tim Roper said he was noting bullet points. He listed the bullets:

- Only the most rural portions are designated as R18
- Only 2 areas within the proposed R18 include any road frontage at all.
- There will be public hearings where people who are impacted by this can discuss their concerns.

Tim said he didn't think putting the map in the paper would explain much. People will not be able to locate their lot on the map. He thought the map could be misleading. Barre was in favor of publishing all 3 maps that Naomi had mentioned in the press release. Tim said putting a map in the *Chester Telegraph* might work because people could zoom in on the map. He doubted that publishing a map in the *Vermont Journal* would be helpful. Barre suggested publishing a link in

the *Vermont Journal* so that readers could look at the maps online. Tim agreed that might work and the press release needed to reference the maps.

Tim felt that, at the end of the day, very few people will be impacted by the change to the R18, and he hoped those people would come in and address the Commission with their concerns. Tim Roper thought it was important to address the misstatements making the rounds because the more they are repeated, the more they are assimilated as fact.

Naomi Johnson said the objective was to get something out so that the issues can be discussed. Cheryl Joy Lipton said education is the key. Once people learn why this is being proposed they might be more on board with it. Naomi Johnson said a statement should be finalized tonight or at the next meeting. Tim Roper agreed to write the document. Naomi Johnson said the Planning Commission should agree on the document. Either the document should be drafted by a Planning Commission member or it should be discussed and voted on in a meeting.

Barre Pinske asked Peter Hudkins for his thoughts. Peter Hudkins said he thought the (R-18) approach was taking a huge jump. The same effect could be achieved by smaller, less dramatic changes, such as making some uses conditional. He said zoning looks about 5 years into the future. He suggested a 50% lot size change wouldn't arouse so much concern. Road frontage does a lot to limit development. Peter said he has a friend in New Jersey who is a developer. His friend is making about half the profit he formerly made on houses because the cost of construction has gone up so much. Peter suggested moving from 3 acres to 6 acres might work. Peter said he thought that sticking to the 18-acre requirement based on state regulations means the Planning Commission is not looking to work with the people of Chester.

Naomi Johnson said the Planning Commission has to be careful not to say the state is mandating this (the R-18) or the state is making the Planning Commission do this. The state encourages responsible development. The bylaws themselves have standards now, even if the district densities stay the same, that meet the state requirements. Meeting the standards of a conditional use review is the force by which the town complies with state standards. She said there is nothing in state statute that requires the town to change to a low-density residential district. Tim Roper said the bylaws had a broader goal than that. He said this is the approach that was suggested to the Planning Commission to meet that goal.

Naomi asked whether the Planning Commission will be making a statement to the public to try to address the rumors. Will it be enough to say that the Planning Commission is working on the issue and it wants to meet the public's concerns. She asked whether the Commission can agree on that. Tim Roper said perhaps that is all that is needed. Barre Pinske said it was important to him that the opinions are based in some kind of factual knowledge. He thought the links to the maps would give people some knowledge to work with. Cheryl Joy Lipton asked if addressing 2 or 3 mis-conceptions would be sufficient. Tim Roper said he would take a shot at drafting a brief press release. The press release could be discussed then.

Naomi Johnson said the normal meeting date for the Planning Commission is next Monday, March 15th. She said Monday March 29th is another day the Planning Commission could have meeting. The Planning Commission agreed to meet on March 15th. Barre Pinske asked when the restructuring meeting would be. Peter Hudkins answered that it would be the first Monday in April, the 5th. Naomi Johnson said the Selectboard will be meeting on March 17th.

Cathy Hasbrouck said she has been in touch with Gabe Ladd to ask him for a map of the entire town with the new districts. Cathy said she had pieced together a paper map of the town from the 11 x 17 maps of six portions of town. The map was hanging in the Zoning Office. She said Gabe was working with Jason Rasmussen and Otis Monroe at the Mount Ascutney Regional Planning Office to put up a map using GIS software that can be drilled into for more detail.

Tim asked if Cathy could take a photo of the map and send it to the Planning Commission.

Tim Roper moved to adjourn the meeting. Cheryl Joy Lipton seconded the motion. A vote was taken and the meeting was adjourned.