

TOWN OF CHESTER
PLANNING COMMISSION
March 20, 2023, Minutes

Commission Members Present: Peter Hudkins, Cathy Hasbrouck, Barre Pinske, and Hugh Quinn at Town Hall. Absent: Tim Roper

Staff Present: Preston Bristow, Zoning Administrator/Town Planner, at Town Hall; and Susan Bailey, Recording Secretary, via Zoom.

Citizens Present: Jason Rasmussen of MARC, and Bill Lindsay at Town Hall; and Kristen Bruso and Amber Wilson via Zoom.

Call to Order

Chair Hugh Quinn called the meeting to order at 6:30 p.m.

Decisions Made: Updates to the Administrative Bylaws were approved to be passed on to the Selectboard for their approval.

Action Taken: Open Space should be ready to adopt a hearing document at the next meeting and at the following meeting they would have a hearing.

Agenda Item 1, Changes to the Agenda

Barre had no changes but had topics for the PC Roundtable and asked that time be saved for them.

Agenda Item 2, Review and Approve Minutes from February 22, 2023, meeting

Hugh moved and Peter seconded a motion to approve the February 22nd minutes. Cathy said on line 16, page 9, they were talking about moving the administrative changes to the bylaws and were in the process of moving towards adoption but that wasn't captured in the minutes. Cathy suggested the wording to include administrative amendments to the bylaws were in the process of moving towards adoption. The minutes were approved as amended.

Agenda Item 3, Citizen Comments

Hugh congratulated Peter on his election to the Selectboard. Hugh thought Peter had great potential for the new role he was taking on, given his knowledge and information about Chester. Peter said time would tell.

Peter read a letter from Kathy Giurtino into the record about the housing shortage of affordable and workforce housing and short-term rentals. The letter is attached hereto.

Cathy thanked the highway crew for getting them through the storm and said she had heard several stories about people who hadn't lived here long and were surprised about the kind things the crew

1 did to help them get through it. She added that nobody had gotten hurt.

2 **Agenda Item 4, Reconvene Public Hearing for Updates to the Administrative Bylaws**

3
4 Hugh announced the public hearing was reconvened which had been recessed at the last meeting.

5
6 Preston said when they closed the hearing, the Planning Commission would vote on whether to
7 recommend it on to the Selectboard. If recommended on, the Selectboard would hold a hearing to
8 decide whether to accept the changes. The Selectboard has almost no ability to make changes and
9 can either approve or reject it. Preston suggested that now was the time to tweak it if they had
10 changes. Although Tim was not present, Preston had reviewed it with Tim and thought he was
11 okay with the changes. Preston provided a summary to the members with the changes in bold and
12 reviewed them.

13
14 In Section 2.14, the word “overlay” was inserted into the heading. Preston thought it would be
15 simpler to call the flood protection district an overlay district and noted it was called that
16 throughout the document just not in the heading.

17
18 In 3.14.C.10, Article 3, page 11, Preston said Tim suggested a change in the section at the meeting
19 and Preston included an extra sentence to make it clear that fences that are not exempt must go
20 through the Development Review Board and demonstrate they have a screening, safety, or security
21 purpose. He remembered in one case someone put a fence like the golf course fences between
22 themselves and a neighbor. Preston reviewed it with Tim and he was fine with it.

23
24 In Section 4.3.B, Exemptions, Preston meant to include Article 4, page 5, under section 14 where
25 fences and walls are discussed. He included E, not a sight obstruction at road intersections. He said
26 he preferred to keep things simple and not include sight triangles and distances.

27
28 Preston said they had reduced the number of campers allowed by exemption from 3 to 2 under
29 number 19.

30
31 Jason and Preston had discussed what goes on in the open space district which has a railroad
32 running through it, including floodplain. Preston said the railroad is regulated by federal
33 regulations and if they do something that affects floodplain, it falls under the Surface
34 Transportation Board and not Chester, so Preston included railroad operations that are preempted
35 by federal regulation. If the railroad leases something to someone else, Chester can regulate that
36 because it's not a railroad operation and only a railroad property.

37
38 Under Section 4.11, he included the word overlay referring to the standards for the flood damage
39 prevention district. Under 8.2, Definitions, the extent of nonconformity wasn't a helpful definition
40 and had been removed.

41
42 Preston noted those were the changes since their last meeting. Hugh had gotten a call from Gary
43 Rapanotti who expressed concern about item 2.14.B. allowing the DRB to approve non-residential
44 structures in the approximate Zone A floodplain. Mr. Rapanotti felt very few people were qualified
45 to indicate whether to put something somewhere because it's a knoll or mound and in his opinion,
46 the DRB wouldn't be qualified to make that decision. Peter said he had brought it up previously

1 that a surveyor was needed to do it and they had included that it didn't cover dwellings. Peter said
2 in Gassetts there was a business in a floodplain and the permit said it was a garage and didn't
3 specify a repair garage so maybe business should be added to dwellings. Peter agreed with Gary
4 but also thought a surveyor shouldn't be needed for a miscellaneous building. Hugh had considered
5 non-residential structure, but Gary said it would still be a building so there could still be problems.
6 Hugh said after he listened to Gary he wondered if the open space district and the way they were
7 managing it would cause them to not need the ability for the DRB. Preston didn't think the open
8 space district did but said the change was generated by him and the approximate Zone A in Chester
9 dated back to 1975 and was very approximate with a lot of errors. Jason made him aware that there
10 is very good quality aerial photography and it looked like the federal government would be
11 updating the flood zones. They will show the high points. Although Preston didn't think it would
12 be gravely misused, he said if it was the Planning Commission's will, they could remove it.

13
14 Barre didn't see anything being put through without due diligence, so he didn't understand why
15 they would require anything more. Preston said Gary was a surveyor and when Benny's wanted to
16 expand their commercial building he required they have it surveyed to show it was above base
17 flood elevation and they hired Gary to do it. Hugh noted that Gary had said as a surveyor, he was
18 not qualified to make the decision and after his survey, it would go to an engineer who decides.
19 Gary's point was it requires a survey and then goes to an engineer before they would make a quality
20 decision, so why would they think the DRB is qualified to decide. To Barre's point, they say to
21 get a survey and engineer and then come back. Preston said if anyone wants to put a shed, barn, or
22 gazebo and pays a surveyor \$2,500 to \$3,000 and an engineer \$2,000, they will feel a little put out
23 about it. Peter added the DRB has the power to require someone to check it. To Gary's point, Peter
24 noted they use dwelling. Hugh asked if there was anything in the language that could be tightened
25 up to make it more like a barn or shed and not a commercial building. Peter said even a barn could
26 be a 3,000 square foot barn like his. Cathy wondered if they were concerned about what could be
27 stored in a building. Peter noted that Preston had exemptions for square footage. Preston suggested
28 they say an exempt structure of 100 square feet would give a little wiggle room. Cathy asked if the
29 exemption would hold in a flood district. Peter said the current wording would not require a permit
30 for a shed in a floodplain. Preston noted Article 2 on page 28 read the determination would not
31 apply to any dwelling and if they removed the words, "not apply to any dwelling" and added "will
32 apply only to exempt structures" it would narrow it and would basically say nothing beyond 12 x
33 12 which was too small for a garage but big enough for a shed. They thought it was a good
34 compromise.

35
36 Hugh asked for any other feedback on the proposed administrative changes to the bylaws before
37 they closed the public hearing.

38
39 Barre said he was thinking about something for the PC Roundtable when he was driving in
40 Smokeshire recently and saw the clearcut hillside which seemed out of place. He wondered if they
41 could they require a permit for someone wanting to build a house with respect to what they would
42 do with the trees. Peter said the property Barre was referencing would be cut and stumped and
43 made into a field and the house was going to be built above it. Barre wondered if they should
44 require that someone have a permit and plan if they wanted to cut and stump in the event it didn't
45 happen and would it be included in the administrative bylaws or something else. Preston said the
46 Chester zoning bylaws do not limit how many trees can be cut down, which is regulated by the

1 State. They could limit how much is cleared for a house site but beyond the house site, forestry
2 operations are exempt from zoning and regulated by the state. Jason agreed that forestry was
3 generally exempt, and some towns opted to include language about maintaining forest blocks.
4 Preston suggested they revisit it when they tackle other zoning districts. Barre hoped to discuss it
5 at PC Roundtable as it wasn't realistic to write anything now.

6
7 Peter moved the changes they had made tonight, as well as the ones on the summary sheet, to be
8 passed on to the Selectboard for their approval and Cathy seconded the motion. A vote was taken,
9 and the motion passed.

10
11 The public hearing was adjourned.

12 13 **Agenda Item 5, Discuss Application for Whitmore Brook Road Cell Tower**

14
15 Peter had gone out and looked at the line. He referenced Preston's letter and said that cell service
16 had failed. Peter suggested the line be hooked up to the termination of the three-phase line and the
17 rural powerfication poles installed in the 1940s and the line replaced with insulated tree wire
18 because currently it was open wire and any branch that falls on it shuts it off. Preston asked if the
19 line followed Whitmore Book Road and Peter said it did not. The line had originally fed houses
20 on that road that are no longer there. Barre asked why it was before them rather than the DRB.
21 Preston said electric utilities were exempt from zoning which meant the DRB nor Preston had any
22 authority over them. They are regulated by the Public Utility Commission. The PUC invites
23 Selectboards, Planning Commissions, and Regional Commissions to comment. The PUC could
24 choose to listen to their comments or not so that was why it was before them. Preston said the town
25 plan says very little about it. Barre wondered if they were using the correct wording and really
26 wanted the Planning Commission to comment. Preston said it didn't matter how they wrote the
27 rules, that they would be contacted. Barre wondered if requiring them to have a generator would
28 be good. Preston said they could ask for a generator but didn't mean they would get one. Barre
29 said having a generator would be nice and allow it to work in a storm. Preston noted the state
30 doesn't require battery backups for cells and thought that was outrageous. Cell towers in Vermont
31 generally have backup for 8 hours, which is what Chester's did and then it was out. Cathy added
32 the fiber optic would not work if there wasn't electricity. Preston said the old copper lines with
33 rotary phones would work without power. Preston thought they should get their comment in soon
34 and he and Hugh would work on something that could go out under Hugh's signature. Preston
35 noted that Tim had thought they should be more explicit about what they wanted, to see pictures
36 of the balloon test. Hugh thought they had already done the balloon test. Jason agreed and said
37 they weren't going to repeat it. Jason said they were preparing a report and they should be able to
38 see it. Peter thought it was a high tower but didn't think it would be as visible as they thought.
39 Hugh said Tim also wondered whether they wanted to ask them to wrap it in fake pine needles so
40 it would look like a tree. Discussion followed about whether the cell tower should be camouflaged
41 with pine needles and branches. Barre's concern was that it would be high enough that service
42 would be provided to users and thought that was likely their concern too. Peter said they were
43 trying to provide coverage from Gassetts to the bottom of the gulf and would not affect Smokeshire
44 because the tower wasn't high enough so the hills would block the signal. Peter said it was all
45 about covering Route 103 and picking up the railroad. Barre asked if they sent them a drawing of
46 the coverage area. Jason thought it would be included in their full application. Barre wanted to see

1 it. Preston said it was in a PDF and they could send it. Preston noted it was a tower being built
2 with spaces to rent and Chester's Emergency Services may want to rent space on it. Barre asked if
3 there was anything else they may want to consider. Preston said there were two sentences in the
4 town plan that talk about towers, and one was that the town opposes proliferation of towers along
5 ridges that would mar the scenic vistas of the town and the other was new towers, access corridors,
6 or utility poles serving towers shall not be constructed when adequate communication coverage
7 can be obtained using existing structures. Preston said it was a big push on the state to collocate
8 because sometimes people with competing towers would go up next to each other, but the state
9 was clamping down on it. Preston said they had no power but could comment and tell them they're
10 concerned about a battery backup, generator, aesthetics, and the current power supply. Hugh
11 thought it was better to offer comment than do nothing and Preston agreed. Preston suggested the
12 board authorize Hugh to work with him to come up with the final letter. Peter noted that Barre
13 wanted to talk about the generator, and Peter wanted to talk about the rural powerfication pole
14 placement and its life expectancy, and insulated cable.

15
16 Bill Lindsay said they may want to get the letter to the Selectboard by the next meeting as it was
17 on their agenda. Cathy moved that the letter they had been discussing and detailed by Preston be
18 written and sent as soon as possible. Hugh seconded the motion. A vote was taken, and the motion
19 carried. Peter suggested getting it to the Selectboard for their meeting. Hugh noted that the cell
20 tower discussion wasn't on the March 22nd meeting agenda. Preston would email Julie.

21 22 **Agenda Item 6, Review Draft UDB Updates for the Open Space and Village Center Zoning** 23 **Districts**

24
25 Hugh said they had agreed at a meeting to change the open space district lot size to 5 acres, but it
26 still said 10. Jason thought the handout wasn't what he had updated.

27
28 Jason presented their proposed changes. They added FEMA's mapped Special Flood Hazard Area
29 for clarity. He noted that development in this district requires flood damage prevention review
30 under Section 4.11; FEMA's mapped Special Flood Hazard Area (Section 2.14 Flood Damage
31 Prevention Overlay District) include the OS district and other areas throughout town; and a permit
32 is required for exempt uses under Section 4.3 that aren't defined as development under Section 8.2
33 and therefore don't require flood damage prevention review under Section 4.11. Hugh asked if a
34 permit was needed for things in Section 4.3 and it was not, as they were exempt uses. Preston said
35 he intended for it to be easy to read and understand but flood regulations made that difficult.

36
37 Preston suggested accessory structures are an accessory to an approved or exempted use, such as
38 a backstop, dugout, or bleachers are accessory to a baseball field. Tim had previously suggested
39 that the term nursery should specify plant or botanical nursey as not to be confused with a nursery
40 school. Preston said the definition of nursery was the growing, cultivation, storage, and sale of
41 garden plants, flowers, trees, and shrubs, as well as the sale of garden tools and supplies. Preston
42 thought plant nursery was okay. Hugh thought the definition was clear. Preston said they could
43 also just say nursery as defined in Section 8.2 or at the start of the section that all the following
44 terms were defined. The consensus was to do it the latter.

45
46 Peter didn't think lot coverage made sense. 10% of 5 acres was almost 22,000 square feet. Preston

1 said you could have buildings but they either had to be breakaway walls or anchored. They would
2 be approved by the DRB. A picnic pavilion would work. A parking lot would be exempt if it was
3 at grade because flood waters could go over it. Hugh wondered to Peter's point, if lot coverage
4 mattered. Preston said if you cover more than a quarter of an acre, you must meet stormwater
5 regulations which can be burdensome. Preston clarified he wasn't talking about this district but
6 some districts.

7
8 Hugh said in several meetings there was discussion about the proposed map and wondered if it
9 was solid now. Hugh recalled Barre's previous concerns. Preston was 90% sure they were good
10 but would do a close scan of the boundaries. Peter understood Barre's concern and said if he had
11 a proposal for housing, they could make the same change they did for Baba Louis'. Peter said if
12 they came up with housing and the financing was there, they could change the zoning. Peter added
13 none of it was locked in. Preston's concern was they say it was all entirely in mapped floodplain
14 and wanted to make sure there wasn't a mistake but didn't anticipate adopting it at this meeting.
15 Peter said next to the railroad track near Route 11 was high ground and wondered if they would
16 create a non-conforming lot because they would cut off the lot frontage. The area of question was
17 near Route 103 and the railroad and Preston said he would check to see if it was all in floodplain.
18 Peter thought it would be landlocked. Barre suggested an easement so someone could hay the field.
19 Barre agreed with Peter that if it was for a good cause, people wouldn't stand in the way of it. Peter
20 said zoning was not impossible to change for a good plan. Jason said he and Preston could spend
21 some time with it and Preston agreed.

22
23 Preston was hoping to send Village Center and Open Space districts together to the Selectboard to
24 reduce the number of hearings but because Open Space was a district nobody had previously
25 considered, they could send it on separately. Cathy didn't think Village Center belonged with it
26 but more with the neighborhoods. They only needed to be sure the map was correct. Cathy noted
27 the hearing needed to be warned. They agreed to take their time and handle it separately. Hugh
28 liked Cathy's idea of doing the Village Center and neighborhood districts together. They decided
29 to do neighborhoods next.

30
31 Preston said at the next meeting, Open Space should be ready to adopt a hearing document and at
32 the following meeting they would have a hearing. Cathy suggested warning the hearing because it
33 takes 3 weeks. They decided they didn't need to have it that quickly. Hugh noted that when they
34 meet again on Open Space, it would be to review the finalized package which they then would
35 move to have a public hearing about. Preston said there needs to be a Planning Commission report,
36 the document, and a vote to schedule a hearing. They would then address neighborhoods. Jason
37 saw the question as reconciling neighborhood with R-20 and R-40. Preston proposed lumping the
38 two together but that would require reconciliation. Hugh agreed.

39 40 **Agenda Item 7, PC Round Table**

41
42 Barre said he wasn't a N.I.M.B.Y. He gave a scenario of someone from the city moving here during
43 the pandemic and they cut down all the trees to build and then change their mind and now the land
44 is full of stumps. He wondered if when someone applies for a permit to build a house, they could
45 have language that requires stumping. He was trying to be proactive by having rules upfront. Barre
46 asked for the other members' input.

1
2 Peter said 50% of Chester was in current use. He thought 90% of the foresters were coming to the
3 point where you clearcut and start over again and that's what they want to do. He referenced a big
4 cut on Tomasso. He said four foresters were involved in it and the Harvard School of Forestry held
5 classes there. What everyone thought had been clearcut had actually been scientifically done to
6 regenerate a forest. Peter said all Smokeshire, except for two parcels, was in current use. As soon
7 as you take it out of current use to build a house, you must answer the State. He thought as of July,
8 there is a 20% penalty for taking something out of current use. Peter thought the state was already
9 doing what Barre wanted them to write a rule for.

10
11 Barre asked why he was looking at a naked hillside with stumps and a log pile. Peter questioned
12 why he was telling someone what they could do with their land. Barre said he wasn't the type of
13 guy that wanted to tell people what to do with their land, but he wasn't sure that those who come
14 here realize what they're in for and if they cut a lot of trees and can't afford to stump it, they have
15 an eyesore. Peter said it grows back. Barre didn't want to argue but thought Peter was coming to
16 it from a completely different perspective. Barre said Peter was looking at it from an engineering,
17 a nature, and what was good for the forest perspective which he completely understood. Barre was
18 saying someone who moves here may not completely understand what clearcutting does to the
19 property and the cost it entails. Barre said he wasn't trying to control people but rather be helpful.

20
21 Hugh thought if part of obtaining a permit was educating them on the cost, that was fine. But as
22 far as regulation is concerned, they couldn't regulate people turning their properties into junkyards
23 so they probably couldn't go after people who cut their trees down.

24
25 Preston was willing to look into it but there was a fine line between house site clearing and forestry,
26 which the state controls. Preston said Jason was right and some towns tried to parse it out and he
27 could look into it. Barre respected where Peter came from but thought some of it may be more
28 educational. Barre said it was a lot of work to remove stumps. Peter referenced a property and said
29 it had been a field in the 30's and had been logged and the guy who owns it brought a surveyor in
30 to determine where he would put his house. Barre said all he sees is stumps and wood piles.

31
32 Cathy was concerned as a Planning Commission with the idea of fiber optic cable as a
33 communication vehicle and relying on cell towers as backups if it is more than 8 hours. It struck
34 her as if they should be thinking about it as a town. She heard about plow drivers getting caught
35 between downed trees and having to rely on radios because they didn't have communication. She
36 saw it as a Planning Commission concern and Hugh agreed. Peter also agreed and said a lot of
37 people felt like they fell off the face of the Earth because they had lost cell coverage. Barre
38 suggested getting small cells on the telephone poles that everyone pays for. Peter said they tried it
39 and VTel had installed some in Smokeshire which can be seen on the poles, but they never turned
40 them on. Barre said they needed to get them to turn them on. Peter said they gave it up because the
41 signal didn't penetrate any of the trees. Preston added there have been experiments where they
42 thought they could eliminate cell towers by having small cells on telephone poles, but it didn't
43 work.

44
45 Preston reminded everyone about the discussion about the stone quarry that would take place on
46 Wednesday at the Selectboard meeting. He had heard the owners, the Julian brothers, would be in

1 attendance.

2
3 Bill said the discussion about cutting trees was interesting. He said since he had been attending
4 these meetings on a regular basis, the board had tried to move Chester forward economically for
5 the whole community. For him, property rights are a big issue that the board needs to pay attention
6 to. House Bill 126 had some interesting points about conservation that was going to be required
7 by the State. This bill calls for 30% of the land by 2030, 50% of the land by 2050. It also refers to
8 private land. He understands conservation of the land and one of the best examples is Central Park
9 in New York because it benefits many people. Conservation of the land is a good thing but there
10 is also private ownership of land which concerns him greatly. When the State demands you do
11 something, there seems to be no remuneration for the person who saved their money, bought the
12 land, and now the State wants to dictate what you do with it. Bill's concern was simple, if the State
13 is going to require them to set aside land, he didn't know how floodplain fit in. Peter and Preston
14 said that floodplain did not count. Peter said they weren't covering agricultural land either. Bill
15 was concerned that there was nothing in the bills to remunerate the property owner for putting the
16 land into a conservation position. The owner would have paid taxes for all those years and should
17 be compensated for taking that land and putting it into conservation. Bill hoped the board would
18 address the issue with the state. Bill thought conserving that much land was crazy given the lack
19 of housing. Peter said they don't recognize current use and 50% of Chester was in current use.

20 21 **Agenda Item 8, Adjournment**

22
23 Cathy moved to adjourn, and Peter seconded the motion. A vote was taken, and it passed
24 unanimously. The meeting was adjourned at 8:15 p.m.

Three issues the town is contending with:

- 1) Unhosted short-term rentals
- 2) \$20,000,000.00 school bond
- 3) Lack of affordable WORKFORCE housing

These are not separate issues.

1) With outside money buying up houses, for cash, houses are going for more than the average family can afford. Plus families need to arrange financing while cash buyers do not. These houses are being purchased for the purpose of turning them into UNHOSTED short-term rentals; basically for business, financial-gain purposes.

This squeezes out the people we need buying houses in this area ... young families with children who want to be a part of the community. The very people we need for volunteering for the fire department, library, schools, etc.; the people who will be putting children in our schools.

2.) The schools need repairs and thus a \$20,000,000.00 bond has been requested to do the necessary work. However, if we keep losing families who are here but are leaving due to high taxes, or who cannot buy into the community due to the competition from outside, well-funded buyers, the small number of high school graduates (50- 55) that we currently have will dwindle even further. Some of these students come from Ludlow and Cavendish, towns which have their own problems with dwindling fulltime residents.

At this rate, with housing getting more expensive, and houses being turned into unhosted, short-term rentals, we will have fewer students each year but we will have a refurbished school, a bond that has to be paid off, and our remaining students will be going to Bellows Falls or Springfield for high school.

3) Everyone is crying about the need for “affordable housing”. What we need is “affordable WORKFORCE housing”. We need housing for the people who want to live and work in this area and not just apartments. People want to raise their families in their own homes which used to be a reachable goal.

Unless the number of unhosted, short-term rentals is capped, or they are outlawed altogether, in our town, none of these problems will go away. Morrisville and Burlington have both recognized the need to prohibit unhosted, short-term rentals due to the lack of affordable workforce housing.