1 2 3	TOWN OF CHESTER PLANNING COMMISSION November 27, 2023 Minutes
4 5 6	Commission Members Present: Cathy Hasbrouck, Hugh Quinn, and Barre Pinske at Town Hall. Absent: Tim Roper.
7 8 9 10	Staff Present: Preston Bristow, Zoning Administrator/Town Planner, at Town Hall; Susan Bailey, Recording Secretary, via Zoom.
11 12 13	Citizens Present: Peter Hudkins, Arne Jonynas, and Bill Lindsay at Town Hall. Steve Mancuso, Chester Telegraph, and Robert Harrington via Zoom.
14 15 16	Call to Order Chair Hugh Quinn called the meeting to order at 6:33 p.m.
17 18 19	Agenda Item 1, Review and Approve Minutes from November 6, 2023, meeting Hugh moved and Barre seconded a motion to review and approve the November 6, 2023, minutes. The motion carried and the minutes were approved, as written.
20 21 22 23 24	Agenda Item 2, Citizen Comments Steve Mancuso noted Section 4.3 exceptions included emergency shelters and he thought there was probably a good reason for it. Because it was being done across the nation for climate disasters, he wondered if it included a camper or RV. Cathy thought it was only a public emergency shelter.
25 26 27 28 29 30 31 32	Preston said Act 47, also known as the Home Act, mandated things and there is a new reporting form that required them to check off all the things they did that Act 47 required, and he realized they were supposed to add emergency shelters to things they can't or are limited regulating. Although he never thought it would pass because of the complications it could create for firefighters, it did, and they now allow for affordable housing projects, buildings to be one story above the maximum height allowed by the bylaws. It needed to be included in their bylaws, so Preston lifted the language straight from statute.
33 34 35 36 37	Hugh asked Preston about Steve's question if emergency shelters included campers and Preston said, per statute, towns cannot regulate emergency shelters, which was a defined term, the neighborhood it operates in, and the hours. Preston would look but was almost certain it didn't include campers.
38 39 40 41 42 43 44 45 46	Peter was looking for the language Preston referenced about the bylaws. Preston said the packet included the minutes, the maps, and four sheets and was one of the four sheets, 4.3 included emergency shelters. The height one was the PUD section, 9b under article 4, on page 16. Peter said he could have another floor under 35 feet with a flat roof so it wouldn't change if it remained at 35 feet and Preston agreed. Peter said if it remained at 35 feet, it shouldn't change the fire limitations. Hugh said the definition of a floor height was not defined. Preston said it allowed them to exceed maximum height limitations by one floor which the legislature had adopted. Preston asked if they wished to add clarification about what a floor is. Cathy suggested speaking with the

fire department and Preston agreed that was an option. Peter said if 35 feet was the height, there was more than enough room. Preston doubted it would be actively used in Chester but said he may be wrong. Cathy was concerned that people in low-income housing would burn because they couldn't be reached on the top floor. Peter said they would have a sprinkler system and would be fire rated because it was new construction and Cathy asked what triggered that. Peter thought a 4-unit building would trigger a sprinkler system. Preston thought they required sprinklers for more than 8 occupants in new construction, but it was 16 for renovations and improvements. Preston said anything under affordable housing, the fire and safety division would require sprinklers. Preston said in many parts of the country four stories weren't big buildings and if they were done correctly, they don't burn down. Peter said he had built many buildings that were 74 ½ feet because a high-rise starts at 75. Preston said they hadn't decided anything, and Peter had raised a concern. Hugh said they would figure out what to do when they got to that agenda item.

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Agenda Item 3, Discuss Feedback from Selectboard on Village Center Updates

Because they all had attended the Selectboard meeting, Preston knew they would remember what was said. They had dropped setbacks in the Village District to 5 feet and the Selectboard had questioned if someone had talked with the Fire Chief and they had not, so Preston spoke with him, and the Chief wanted it back at 15 to provide a 30-foot corridor between buildings. The Chief went along with Village Green because that's what most setbacks were. Preston put it back at 15 feet. Barre asked if it had to be that big and if the rules had come down from the State. Barre said the lot next to him has a road on each side, a limited backyard, and saw it as a place for denser housing. The road on each side provided an opportunity to fight fires but was concerned they may limit the ability for density by imposing these rules and thought the setbacks would limit the number of houses that could be put on the lot next to him. Preston said the State was encouraging greater density in village centers and the statutory goal created by Act 47 was they needed to allow at least 5 residential units per acre, whatever the configuration, and Preston thought they could still fit 5 units even with setbacks totaling 30 feet. Preston said everyone was aware of communities all over the country, including Vermont, where buildings have zero setbacks and touch each other and they live with it, and learn to fight the fires, so he didn't think it was impossible to have zero feet or five-foot setbacks, but the Fire Chief wanted 15-foot setbacks. That was Barre's point that one person's perspective, which may not be in the town's best interest, was dictating what they do and noted he meant no disrespect to the Fire Chief. Barre thought doing what the Chief wanted wasn't their job. Hugh said the Commission hadn't used any science determining the setbacks nor any research about what the numbers should be, so for him, the rationale was sound but not as concrete as the Fire Chief saying they could extinguish fires easier if the setback was bigger. The Fire Chief's rationale was convincing enough for Hugh. Cathy said the other part was it encouraged people to build multi-family buildings instead of single-family homes and would be one less strip of 30 feet not used. Barre thought if they built bigger and needed a sprinkler system or elevator, they better get some grant money. Cathy said a 1 or 2 family wouldn't need a sprinkler system. Hugh asked Cathy to clarify how it related to the setback number. Cathy explained that Barre had said building multiple houses on the lot next to him would require 30 feet between each house and limit the density because it didn't have 30 feet to spare and Cathy said putting two buildings together making it a multi-unit, would use the 30 feet that would be necessary for two separate buildings. Peter said the setback only applied to the outside of the property so two buildings could be put on the interior and not require 30 feet between them. Peter said the setback was only 15 feet from the sides of the parcel for multiple buildings. Three buildings on one lot could be closer

together. Barre's romantic idea was to have three small cottages on the strip of land that people could own independently but if that much space was required between them, it may not happen. Barre said it was much easier to fight a fire in a cottage than a multi-unit building. Barre didn't want to argue with the Fire Chief but said many fires around town aren't put out and most stuff burns to the ground. Many articles say it was saved to the foundation and Barre thought it was hard to fight fires around town. Barre suggested making it 10 feet or that more distance only apply to bigger buildings and not small cottages. Preston offered his opinion which was they were on the homestretch and only had a few changes recommended by the Selectboard and didn't want to get into something to delay the process. Barre understood. Steve was close to the responders and, in response to Barre's comment, said the old joke was that they never lost a cellar hole.

Under the definition of bar, packaged liquor was questioned. Preston had spoken with Jason who said he was thinking of crowlers and growlers that may fall under a liquor license and suggested they knock it out if they didn't like it or include in parenthesis after it, "like crowlers and growlers." Hugh thought Lee was concerned it would allow a liquor store and Hugh didn't think it would and Preston agreed. Hugh said they could add an example to help clarify and didn't think it needed to be stricken. Preston agreed.

Preston noted adding emergency shelters under Section 4.3 should be done per statute.

Preston said the Selectboard asked that building and construction trades go back into Neighborhood. Hugh didn't think that would be an issue because it had been allowed under R-40. Hugh added that many conditional uses under R-40 didn't get carried over into Neighborhood and made sense for many of the uses but wanted to go through the list of those not being carried over. They were animal hospital, animal kennel, campground, extraction operations, nursery, processing construction, landscape aggregate, mobile home park, and wood process. Hugh thought they didn't belong in Neighborhood. The others agreed they weren't appropriate in Neighborhood district. Preston said Peter had said some of Routes 11 West and 103 North would be better if they were Mixed Use rather than Neighborhood. Preston said the map now reflected that change, as well as the removal of the high school and town properties as requested by Julie. Peter said on Route 11 West, Neighborhood wouldn't allow Baba Louis (n/k/a Sugar Bob's) or the medical clinic, which were uses that were currently there. Peter said the break even for a restaurant is 40 seats and that would be impossible to build in Neighborhood, but the area has water and sewer. Mixed Use calls for 1/5 acre lots but the entire area out Route 11 West would need to be extended for sewer and could not be done at a reasonable cost. Peter thought the whole Mixed Use section west of Route 11 should be removed and the Village section extended along Route 11 to Blue Hills which would encompass that land. Peter said by making it all Neighborhood, they were taking a lot of land away from those who have bigger lots, which were 30 or 40 acres that they weren't allowing for any of those uses. Peter said they go up Lovers Lane and some that face Stone Village from the other side of the river and the back of the high school and Flamstead were on the other side of the ridge that wasn't accessible and was being labeled as Neighborhood, but the lot size didn't define those. Peter thought once they got outside of Church, River, High, and Grafton Streets, it didn't work. Barre asked if Peter had suggested the lots on Lovers Lane for housing and Peter said yes but said he didn't agree with the uses and they had a ton of conditional uses, which wasn't attractive for prospective businesses. Peter thought the definition fit fine for Neighborhood and what he had pointed out were places in town they could develop for housing. Barre questioned how to separate

different purposes for a similar area. Barre said the lots on Lovers Lane had woods on them and the ones in town had houses on them with kids riding their bikes and wouldn't want kids getting run over if heavy equipment was permitted there. If heavy equipment was allowed in the wooded areas, and someday they wanted to put housing there, in that case, it would make sense to have it be a conditional use. Peter noted they were two separate zones they had combined. Hugh said none of the uses he had listed would be permitted and had not been before. Barre thought they were discussing construction trades. Hugh said it was the Neighborhood zone and there was discussion about putting building and construction trades back in and it was in the existing R-40 so they included it as a conditional use. Hugh said what he added to that discussion was there were other uses that were conditional that they were proposing to be removed and not allowed. Hugh thought they would either put the uses back in as conditional or take more lots out of Neighborhood and put them somewhere else. Barre thought making them conditional would be simple and if housing got there first, the conditional use wouldn't be approved by the DRB. Hugh wanted Preston's point of view about removing more lots from Neighborhood or putting more conditional uses in the Neighborhood district so it could be allowed after going through the DRB process if appropriate. Preston said in terms of the planning recommendations from the State, it used to be zones by the amount of acreage, and they are saying to simplify it and consolidate the zones into Neighborhood. Preston said Peter was right that the areas they identified were because of their potential for sewer down the road, and wanted to preserve that ability if it ever came to pass. Preston didn't have a strong opinion and thought they could either include more uses in Neighborhood or remove some of the bigger lots and address them in January when they addressed rural districts. Preston asked Peter for his opinion. Peter said it depended on what they proposed outside. Peter thought they should put an X in every lot that had gravel in it and said the R-40 District was voted in by the town. Preston said when it was phrased that way, he didn't think Neighborhood should have extraction as an option so they should remove the ones where there are existing quarries that could come back to life and that right should be preserved. Barre thought they had a list of simple things to get done and were getting deeper into the weeds. Barre saw a difference between a plumber or electrician having their truck in the driveway and heavy diesel equipment, which is how he defined construction trades. Barre wondered if the Selectboard viewed construction trades the same as him and thought if this hurdle was addressed first, they could keep focused. Hugh said it was a good point and the Neighborhood zone was marked that way because it had potential for water and sewer access which would allow it to be used more densely for housing and he didn't want to retreat from that objective. Hugh suggested they leave the Neighborhood zone largely in tact and add the other uses back in as conditional, which would provide the best of both worlds and they wouldn't be taking anything away but would allow for a dense housing project. Preston generally agreed and thought the quarries near the village would never be active again because they weren't popular, and Act 250 made them difficult, and he added that exhausted quarries make for some of the best sites for affordable housing. Barre thought part of Hugh's logic in allowing the DRB to decide on conditional uses may burden them and wondered what Arne thought. Arne thought they would either start changing the districts to change the lots or go back over the list of conditional uses that were in R-40 and bring them back but wasn't sure what his opinions would be. Arne said when they removed the uses and looked at the map, it would change things and was worth consideration. Since they were changing rules now and could later do it again, if they took the wooded lots that could be turned into housing, Barre wondered if it could be included later. Barre didn't think they had to decide now unless there was a real reason to plan. Hugh said that was the same logic they used for the property next to the high school and was fine with that approach but

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didn't want to go back to the Selectboard and tell them they added construction trades back in but didn't deal with the other things. Hugh thought they should remove the lots and if they ever become suitable for housing, to deal with it or put some of the conditional uses back in. That was the only way Hugh saw it happening. Barre asked the Selectboard members present if they thought it was clear to the entire board what the definition of building and construction trades was and if it needed to be the size of the equipment. Hugh said at the meeting, he had told them the only thing they were removing was building and construction trades, but they were removing everything, so it was misleading. Barre understood. Barre said the Selectboard felt an electrician may not be able to have their business in Neighborhood and that was his concern. Hugh said even if building and construction trades weren't included, they could have their own business. Barre heard that building and construction trades meant heavier equipment, bigger trucks, and more in business and Hugh said they would go to Preston and apply for a permit because it wouldn't be run as a home occupation. Barre asked Arne and Peter if they felt it should be in Neighborhood. Arne said he learned a long time ago not to speak for the whole board and was only speaking for himself. When Arne first looked at it, building and construction trades stood out but what Hugh brought up was there was a further list of things taken out that had been missed and he wanted to hear the list again because it was part of the entire picture. Arne thought it would come down to some of the definitions. Peter said they eliminated heavy construction trades and combined it with big equipment. Peter saw the same guy with the backhoes as the same guy who was the electrician because they had eliminated the definition, which opened the door. Barre asked when they did that, and Hugh said they got rid of one because they felt the definitions were redundant. Cathy said a man or woman with a van and a decent sized garage could have a home occupation or business, but home business won't allow for storage of stuff outdoors. Preston distributed extra copies from the last meeting that included the definitions. Hugh read the definition of heavy construction trades, "includes but not limited to earth moving, excavation, trucking, and paving," which was a narrow definition. Hugh then read the definition of building and construction trades, "includes but not limited to plumbing, electrical, carpentry, painting, masonry, roofing, excavation, building foundations, and contractor storage yards." They tweaked the definition of building and construction trades to add excavation and contractor storage yards, so it would cover having a big piece of equipment. Barre thought they were trying to be business friendly, and Hugh said they were trying to make it simpler by including it in a single definition and eliminating heavy construction trades because it seemed like a subset of building and construction trades based on the new definition. Hugh said another option was they could go back and add building and construction trades but if they did that and went before the Selectboard on December 6th, there would be a list of everything they've eliminated which could cause them not to approve it. Hugh was a fan of reconciling it and again read the list of things that were no longer allowed that were previously conditional uses. Hugh said in the larger parcels, in what they were now calling Neighborhood where they felt the conditional uses were appropriate for the larger parcels, they either needed to add them as conditional uses or take the parcels out and deal with them later as one of the rural districts. Barre asked how much of an extra burden it would be for the DRB by adding the conditional uses back in and Hugh said it wasn't an extra burden because they were there presently. Hugh said they would be removing 8 or 9 conditional uses that were there. Barre said there were kids on bikes in Flamstead Acres and woods on Lovers Lane and those uses were not allowed in Flamstead Acres before, so if the uses were included, someone could do it in Flamstead Acres but would have to go before the DRB. Barre said the problem was the other areas that weren't in that zone before were now being included in Neighborhood. Hugh thought maybe

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they should remove the larger lots from Neighborhood and address them when they got to the rural districts, unless Preston thought they were Mixed Use candidates. Preston's concern was they tried to make things simpler but if they imposed R-40 uses into R-20, some people would be unhappy, especially the closer you got to the Village Center. Preston reminded them that conditional use was something you add conditions to but if it was an allowed use in the district, they couldn't just say no, and if it was extreme, they put conditions on it, but it still goes forward. Barre said Julie had said spot zoning was illegal and questioned that, and Preston said it was but there was a very specific definition for spot zoning and some people misuse the term. Preston said spot zoning was when zoning is changed on a specific property or a small group of properties for the purpose of letting someone make a financial profit. Barre thought there were certain things they wanted for the orange area but were having difficulty fitting things into the entire area because some was woods, and some was neighborhoods and he wondered if they could utilize the map and take the bigger parcels and turn them into a different district and have Neighborhood 2. Barre wondered if that would be spot zoning because it would cover a whole area and they wouldn't have to deal with it as a rural district. Preston said none of it was spot zoning because someone in the audience wasn't asking for it specifically to benefit them. Preston said they could have two Neighborhood districts, if necessary, but it would slow the schedule down. Cathy said the big pieces in the Neighborhood District included the Pinnacle and the land beyond the Pinnacle that was purchased this summer and may be developed and there was a big flat field across from Lovers Lane that had been there forever. Cathy said the other big parcels were the one on the hill in the middle of town and they weren't getting developed anytime soon as there was no road, and it wasn't flat, and they were taking out the other big pieces which were the high school and the gravel pit. Hugh said in this round of updates, R-40 doesn't go away regardless of what they do and thought if there were parcels they had questions about, they should remove them and deal with them later. Barre said it circled back to his original question whether the Selectboard's concern was having those construction trades that far out of town rather than the whole Neighborhood district. Hugh agreed and said when people looked at the map, nobody was concerned about the construction trades on a tiny lot in what was R-20 and they were looking at Neighborhood and questioned them so Hugh thought if they took the larger lots out of Neighborhood, nobody would question it. Preston pointed out that they were only talking about 2 or 3 lots. Preston thought the Pinnacle would stay in because it was town property and noted on the draft map dated October 18th on Route 11, there was an area that was labeled the Adaptive 3 Zone and they had discussed turning it into Mixed Use and Jason thought it felt a little like sprawl and not quite the right fit and Preston was beginning to agree. Preston asked Peter if he was concerned with the 103 North piece that was changed from Neighborhood to Mixed Use. Peter said he was thinking about that and said he would move the Village out to Blue Hills Road because it included Baba Louis (n/k/a Sugar Bob's) and the clinic, which Preston said were in Village. Though, Peter and Preston agreed the next property over was in Neighborhood. Preston noted the two maps were shown on Zoom and that it would be best to stand around the table and discuss the maps and what should be changed.

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(A discussion between those in attendance and the Commission members took place around the maps on the table.)

Cathy thought they should label the map with a definitive title and Preston agreed, such as the November 27th refinement. Afterwards, Hugh summarized what was discussed around the maps at the table. They understood they had a problem to solve with what had been the R-40 district and

one of the ways they chose to solve it was by modifying the zoning maps by taking stuff they had put into Neighborhood out and deferring it until another time and leave it in its previous zone. In areas where they still have work to do, they are removing it for the next round of changes so they can have a more cohesive definition of the Neighborhood district that everyone can get on board with and for the outliers, they will take them out of play for the next round of changes and pick them up as they move forward next year.

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> Hugh wanted to know if discussions regarding the floor height were necessary before they entertained a motion. Preston agreed it was the only thing they hadn't decided and wondered if it should stay as it was, or if they should recite what the statute is. Hugh was fine with leaving it as it was. Peter said it didn't define the number of floors only that maximum height, which for Chester is 35 feet, may be exceeded by one floor, so that could be up to 14 feet and would be a living floor. Peter said that would be expensive for the town because it would cost \$1 million for a firetruck. Cathy wondered if the firetruck would be necessary, and it was thought it would be. Hugh wondered if it would be possible to have an extra floor without exceeding 35 feet and Peter said there was. Hugh thought one way to allude to the capability to do it was to drop the exceed the height language and state another floor could be added without exceeding 35 feet. Preston said the statute allows for the height limit to be exceeded. Barre said he and Tim debated it and his building from the back side is taller and there's a precedent in town for taller buildings and now they're limiting the ability because a ladder truck would be necessary and Tim had argued that having sprinklers and a modern building with firewalls, it could be done. Barre thought they were in the middle of trying to come up with a way to solve the issue created by trying to appease the bylaws, the State, and the Fire Chief. Barre appreciated Peter's creativity but wondered who would build something like that in town when they couldn't even get someone to build a shack. Preston said there is a view from fire safety that sprinkled buildings don't burn but there are exceptions. Arne thought the State's law didn't seem very clear and Preston agreed. Preston said the legislature is supposed to write things clearly, but they didn't define what one floor meant. Preston had thought it wouldn't pass because fire departments would be against it. Peter wanted to know when Preston learned about it. Preston was aware it was considered the last session in March and was only reminded recently that it had passed. Peter recommended parring it down until they got to the next one. Preston agreed and said State law trumps their bylaws and if a developer wanted an extra floor and they hadn't dealt with it, they would have to allow it. If they deal with it and define it, they will be better off. Preston said he must send a summary to ACCD about what they did, and he could tell them that they will deal with it but not now. Barre thought it made sense to do that. Preston said they will satisfy the grant to modernize their bylaws to follow State law and he wasn't too worried.

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Bill Lindsay said regarding adding another unit on top of an existing building and they had a contractor who wanted to add onto the old school and couldn't. Bill asked if they had impact fees and if they wanted to have them, there would be a process to go through and mentioned Okemo. Preston said Killington had someone who wanted to build 100 condos, which was the economic driver, so to buy the town a firetruck was the cost of doing business. Bill thought that was good. Hugh summarized they were leaving the side and rear setbacks at 15, they would make changes based on the roundtable with the map, and for now, would drop the language regarding the additional floor and defer it to another round of changes when they can more clearly define it. Preston asked if they would keep in building and construction and Hugh thought, based on how

they were redefining Neighborhood, they should drop it. Barre thought the last part was important for clarity for the Selectboard. Hugh moved to make the following changes to the proposed bylaws that they would resubmit to the Selectboard on December 6th: they would include the 15-foot rear and side setbacks, drop the language associated with the additional floor exemption, and make a number of changes as described in a map titled November 27th Annotated Zoning District Map. Cathy seconded Hugh's motion. The motion passed unanimously.

Hugh asked if they wanted to meet the following Monday, December 4th. They decided not to meet, so Hugh would bring Tim up to speed. Preston said there weren't a lot of changes to digest. Cathy added if they met for some compelling change on the 4th, it wouldn't give the Selectboard time to digest it. The Commission would be ready for the December 6th Selectboard meeting.

Agenda Item 4, Short-Term Rental Status and Next Steps

There was a discussion at the last Selectboard meeting about potential additional options for regulating short-term rentals. The Selectboard agreed to codify their ideas about what they thought would be potential additional regulations and have the Planning Commission conduct an impact assessment and report back to the Selectboard. Hugh noted one option was a waiting period of up to two years before a property could be permitted to short-term rent, another idea was to require new short-term rentals to go through the conditional use process and whether it should be done everywhere in town or only certain areas. Hugh wanted the Commission to have a heads up that something would come to them for them to assess and provide guidance back to the Selectboard. Barre asked if it would end up as an ordinance or bylaw and Hugh said it could be either. Barre saw them as a subcommittee being tasked with studying their options. Preston said the Commission had done the legwork for the Selectboard's ordinance in the beginning but if they went the conditional use route, it would need to be a bylaw. Preston added they could do site plan review rather than a conditional use review, but they would discuss that later. Site plan review was a little quicker than conditional use but not a lot quicker.

Agenda Item 5, Adjournment

Hugh moved to adjourn, and Cathy seconded the motion. The motion carried unanimously. The meeting was adjourned at 8:28 p.m.