

1. Call to Order

The Chester Planning & Zoning Commission held its regular meeting on Thursday, July 14, 2016, immediately following a public hearing. Chairman Lavy called the meeting to order at 7:36 PM.

2. Roll Call & Seating of Alternates

Members in attendance and seated were Jon Lavy, Sally Murray, Steven Merola, Keith Scherber, Peter Zanardi, Pat Bisacky (seated for M. Seifert), Michael Sanders (seated for D. Joslow) and Jacqueline Stack (seated for H. Krempel).

3. Audience of Citizens – no one spoke at this time.

4. Old Business

(a) Appointment of Full Member to fill vacancy

Chairman Lavy noted a full member needs to be appointed to fill vacancy due to the resignation of Errol Horner a few months ago. Last month a letter was received from the Democratic Town Committee, LoriAnn Clymas, dated March 10, 2016. Lavy read said letter into the record. Chairman Lavy referenced last month's Meeting Minutes having to do with this discussion. He noted State Statute says the Planning & Zoning Commission fills a full member vacancy and the Board of Selectmen fill any open alternate vacancy. Mike Sanders pointed out anyone filling a vacancy typically has to run in the next municipal Election (2017) for the remainder of the term. There was discussion regarding the process for running. Sanders noted he appreciated the support last month from Doreen Joslow, but that he would support the appointment of Jacqueline Stack if she wanted the position. Jackie Stack noted she would be interested in serving, but that she couldn't attend last month's meeting as she was in Oregon for her son's graduation. She noted she would serve Planning & Zoning well.

Motion by Sanders, second by Murray, to accept the Democratic Town Committee recommendation to appoint Jacqueline Stack as full Zoning member to fill vacancy of Errol Horner. Unanimously Approved.

Peter Zanardi noted he would like to go on record that this was silly. It was noted the Selectmen can now appoint an alternate to fill the vacant alternate position.

(b) Medical Marijuana Producers and Dispensaries, Extension of
Moratorium until February 28, 2017

Chairman Lavy noted a public hearing was held prior to this meeting. **Motion by Sanders, second by Murray, to approve Extension of Moratorium on**

Medical Marijuana producers and dispensaries within the Town of Chester until February 28, 2017. Unanimously Approved.

(c) Continued Discussion – Medical Marijuana Regulations

Chairman Lavy noted articles previously distributed by the Planning & Zoning attorney and Attorney Cronin were emailed to everyone. Last month there was a lot of discussion regarding this topic. The Commission needs to decide how to proceed. Should it be regulated or should it be banned in the Town of Chester?

Sally Murray noted an outright ban might be dicey. State says these facilities are permitted. She was uncomfortable overriding that. She also noted there is a pragmatic reason to institute a ban. The Federal Government failed to take responsibility and the State has pushed it off on the Towns. The production or dispensary of medical marijuana is not protected under Federal Law. The Feds could come in and arrest these people under Federal Law.

Sally Murray further noted the Commission could make an argument it is an unsafe public environment. If it is the will of this Commission that our Special Exception regulations would not be adequate and prefer a ban, she felt that would be a viable argument. The Commission has to be on solid ground. She noted she would support a ban on that basis.

Mike Sanders noted as a person who lives in a regulated environment in his day job, thinks a lot of these regulations are outdated. As a member of EDC, he would hesitate to start the ball rolling on “just because”. The slippery slope is do we not allow it “just because.” The Commission has been told it is anti-business because of our process compared to other towns. Sanders was concerned about setting a precedent.

Jackie Stack noted she agreed with Sally Murray in that it might be an unsafe business. This is a totally cash business where large amounts of money are generating an unsafe environment. Sally Murray noted to her knowledge there were no statistics in CT regarding increase in crime. The State requires extremely strict burdens for security.

Chairman Lavy noted the Commission spent a lot of time talking about the 1000 foot buffer. However, Mel Seifert noted at the last meeting there was nothing in the most recent regulation about that buffer. It was noted a ban should be based on safety and land use issues.

Various town regulations having to do with this subject were briefly reviewed –

Bethel, Guilford, Torrington, Harwinton.

Keith Scherber was in favor of banning it. He felt it was a threat to the community. He noted he does security for a living and didn't feel this was safe for the Town of Chester. Both production and dispensaries should be banned on the basis of physical safety.

Pat Bisacky noted when the regulations don't prohibit things, it might be a slippery slope to start prohibiting. If a regulation was written with a 1000 foot buffer, that basically prohibits it.

It was noted the Commission attorney stated there is no case law regarding this, it has not been tested yet in Court.

Peter Zanardi asked if this same principle could be applied to something else. It scares him to make a rule for only one business.

John Schroeder noted a zone would be created for a specific product.

Mike Sanders noted some towns have done this and there is no case law on it. This is an evolving situation. We would need to pick the right reason for an outright ban.

Steven Merola felt a regulation should be written that is tougher than what the State has. He wasn't really in favor of a ban, but would be in favor of something very restrictive in town.

Chairman Lavy referenced Attorney Royston's letter of February 11, 2016. Sally Murray noted Madison did a regulation within a zone.

Chairman Lavy urged all members to review past meeting minutes on this subject. He would like some kind of a direction put forth from the members at the September meeting.

John Schroeder noted he distributed a Consumer Reports article at the last meeting. A friend of his who is a Yale Psychiatrist works with veterans with PTSD. Schroeder noted the point that strikes him is the health and welfare of the Town. That was the point of the article. The State rushed to put this legislation in place and the research hasn't been done on the effects of marijuana. He reiterated its the safety, health and welfare issue as grounds for banning production and dispensary of marijuana.

Jackie Stack noted Emergency Room admission in Colorado are going through the

roof. Would this in some way tax the services of our Town ambulance and police departments.

(d) Application Fees – continuing review – nothing further at this time.

5. New Business

(a) Preliminary Discussion – Chester Point Marina – reconstruct damaged building

Steve Karlson and Tom Metcalf were present representing Chester Point Marina. Mr. Karlson, President of BLP Enterprises, noted this building collapsed last February with several boats inside. This is now a priority.

Tom Metcalf noted this is a preliminary discussion. They have a variance application pending before the Zoning Board of Appeals. Once the variance is obtained, they will be in a position to apply to Planning & Zoning in September.

Mr. Metcalf reviewed the site and the plan. The property is 13 acres. The proposal is to build a 15,000 square foot building, a little larger than the old building. It will be at the same elevation as the old building. The entire property is in a FEMA flood zone. Metcalf briefly reviewed the flood regulation governing flood elevations and the reason for the variance.

Mr. Metcalf noted favorable approvals for the variance were received from the Office of Long Island Sound and Gateway Commission. Inland Wetlands Agency indicated no wetland permit was necessary. Harbor Management indicated they did not have jurisdiction.

Mr. Metcalf briefly reviewed construction and erosion control measures. It would be a metal building with foundation. It would have a large door in order to get boats inside. Building color would be muted (grayish with blue trim). Mr. Karlson noted they are anxious to start construction so would do so immediately upon receipt of approvals. He also noted the location of this building is close enough to the travel lift. The open area has dredge spoils and is very soft.

Tom Metcalf noted the issue of landscaping was raised by the Gateway Commission. He indicated there isn't much that can be done in the middle of an active yard. He also noted in response to a question from Pat Bisacky that they can't bring in fill to raise the building because boats will be going in there.

Chairman Lavy noted he would like to see color samples and light locations on the site plan when they return with an application.

(b) Preliminary Discussion – Joseph Mingoello – Housing Project

Joe Mingoello and Attorney Joseph Rini were present for a preliminary discussion regarding a proposed housing project at the very end of Dock Road. The project would consist of two buildings with upscale adult condos. They are also proposing on site sewerage treatment because of the 5 acres. The Army Corp would have to approve that. It was noted Mr. Mingoello put in a small planned community in Haddam called FieldStone. He has also done residences, commercial and multi-family buildings. The number of buildings was discussed as was the number of allowed bedrooms for multi-family dwellings.

6. Report of Officers and Subcommittees

(a) Report from Zoning Compliance Officer

(i) Report on complaint re 48 Maple

ZCO Brown read into the record a letter which has been sent to both Pat Woomer and Andrew Becker regarding the status of 48 Maple Street. There is a 30 day appeal period to the decision of the ZCO.

ZCO Brown reported on the following items -

16-18 Main Street and 136 W. Main Street – she has not heard back from either of these individuals since the last meeting.

Pattaconk Bar & Grille – Cease & Desist Order had been issued for outdoor dining for lack of copy of current liquor license, having 5 tables (only 4 are allowed) and not bringing the tables in at night time. Copy of active liquor license has since been received, but there are still 5 tables and tables remain out all night. There is a 30 day appeal period to the Cease & Desist Order.

L & E, Good Elephant – zoning permit for outdoor dining was denied as they have not submitted a copy of their liquor license and have not come in to sign and date their application, therefore, the application is incomplete. There is a 30 day appeal period to the ZCO denial.

Fastcorp, Inspiration Lane – they currently have valid permit to assemble, test and ship vending machines. They have added exercise equipment to their product list which is used in the exercise business next door. Commission members felt the addition of exercise equipment to their product list did not require any additional permitting.

ZCO Brown had a question as to what “total” meant under the Village Regulations setback section. Members agreed it referred to a “total” of both side setbacks.

Chapco, Denlar Drive – Brian Weinstein had inquired if they could cut down some trees in the front right along the road to obtain more parking spaces. The RLM landscaping regulation says there must be a 6 foot wide buffer along the street between the street and the front of the building. They have a dirt parking lot with 3 or 4 openings already (which has been there for years), no designated parking layout. Commission members suggested Chapco have a site plan prepared showing designated parking areas. This may allow for additional parking.

7. Bills for Payment – none.

8. Communications, Receipt of New Petitions, New Applications – none.

9. Approval of Minutes – June 9, 2016 Regular Meeting Minutes

Motion by Zanardi, second by Merola, to approve June 9, 2016 Regular Meeting Minutes amended as follows -

Under 3. Audience of Citizens – 2nd paragraph, 2nd last sentence, change the word “feer” to “beer”. Aproved with Sanders and Stack abstaining.

10. Pending Litigation – nothing further at this time.

11. Adjournment

Motion by Murray, second by Zanardi, to adjourn at 9:15 PM.

Unanimously Approved.

Respectfully submitted,

Sally Murray /jrb

Sally Murray, Secretary