

1. Call to Order

The Chester Planning & Zoning Commission held its regular meeting on Thursday, December 14, 2017, at the Chester Town Hall, 203 Middlesex Avenue, Chester, Connecticut. Acting Chairman Sally Murray called the meeting to order at 7:33 PM.

2. Roll Call & Seating of Alternates

Members present and seated – Sally Murray, Jacqueline Stack, Henry Krempel, Peter Sanardi, Elaine Fitzgibbons, Michael Sanders, Elizabeth Perreault (seated for vacancy) and Jon Lavy (seated for S. Merola). Others present included Attorney David Royston (Commission Counsel), First Selectwoman Lauren Gister and about 10 citizens.

Acting Chairman Murray noted she would like to skip to Election of Officers and asked the Commission members to nominate and elect a Vice Chairman for this evening as it is her intention to submit a letter of resignation and there needs to be an officer to conduct business for the remainder of the meeting. Commission members agreed.

**Motion by Krempel, second by Zanardi, to nominate Michael Sanders as Vice Chairman. Unanimously Approved w/Sanders abstaining.**

Acting Chairman Sally Murray submitted her letter of resignation effective at 7:35 PM on December 14, 2017.

3. Filling of Vacancies

Vice Chairman Sanders noted there are two full member vacancies one being created by the resignation of Sally Murray. The second one is a minority representation vacancy. Vice Chairman Sanders and Attorney Royston explained the minority representation rules.

**Motion by Krempel, second by Zanardi, to appoint Jon Lavy to replace Sally Murray who resigned as full member. Unanimously Approved w/Lavy abstaining.**

**Motion by Sanders, second by Krempel, to appoint Bettie Perreault as full**

**member in vacancy position. Unanimously Approved w/Perreault abstaining.**

Attorney David Royston, being a Commissioner of the Superior Court, swore in the two new full members.

4. Election of Officers

**Motion by Zanardi, second by Fitzgibbons, to nominate Jon Lavy as Chairman. Being no further nominations, the motion was unanimously approved with Lavy abstaining.**

Chairman Jon Lavy took over as Chairman for the remainder of the meeting.

**Motion by Krempel, second by Zanardi, to nominate Michael Sanders as Vice Chairman. Being no further nominations, the motion was unanimously approved with Sanders abstaining.**

**Motion by Zanardi, second by Sanders, to nominate Bettie Perreault as Secretary. Being no further nominations, the motion was unanimously approved with Perreault abstaining.**

5. Audience of Citizens

Lois Nadel, 7 E. Liberty Street, noted she would like to make a few comments and read a neighbor's letter into the record. Her comments started with "Why do we have Zoning?" She noted she found the answer in the Zoning Regulations, Section 10, Preamble. For the purpose of lessening congestion in the streets, preventing the overcrowding of land and avoiding undue concentration of population, conserving the value of buildings, regulating and restricting the location of trades and industries. Ms. Nadel also referenced Section 10B which states, "It is hereby declared that nonconforming use, improvements and characteristics are incompatible with and detrimental to permitted uses. It is a fundamental principle of zoning law that nonconformities are not to be expanded and that they should be abolished or reduced to conformity as quickly as the fair interests of the parties will permit." With Section 10 in mind, Ms. Nadel indicated she would like to comment on a few parts of the proposed draft regulations for Short Term

Rentals. She referenced and read the definition of “family.” She referenced Sections (D) and (E) from the draft regulation and asked why events are even being considered. This is a purely commercial activity. She noted Section (F) was the area of greatest concern with the simplest solution. There should always be a manager on site. In conclusion, she noted that by learning from the problems caused by 18 E. Liberty Street, Planning & Zoning has the opportunity to understand how quickly things can get out of hand, 45 cars, busses, fireworks without permits, increased contamination of waterway, cars driving in and out of neighbors driveways day or night, loud music at all hours...the list goes on. Ms. Nadel felt the proposed regulations were inadequate for a residentially zoned street both in the stated terms of “minimizing any adverse effects” and preventing unintended consequences in the future.

Chairman Lavy read into the record the letter Lois Nadel emailed to the ZCO dated November 25, 2017.

Ms. Nadel next read into the record the letter submitted by Karli Gilbertson-Spinella entitled “An Eyewitness Account of Storm Term Rental at 18 East Liberty.”

Carol Riordan, 24 E. Liberty Street, submitted an article from the Connecticut Lawyer Summer 2017 entitled “The Rise of AirBnB and Short Term Rentals: Implications for Local Zoning Regulations.” She also read into the record a letter she sent to Richard Leighton, Fire Marshal, regarding fireworks. Her son, Finn, was home alone when the fireworks took place. The police didn't notify the Fire Marshal so he didn't come. The police came but it took a long time. There was no responsible owner there to talk to about the fireworks. They requested a copy of the police dispatch log but were told no.

Finn Riordan, 24 E. Liberty Street, noted he didn't recall the date or time but fireworks were being set off. He heard several large booming noises and contemplated calling the police. He stepped out on their gravel driveway and saw fireworks heading towards their house. As he was going inside, a fireworks bounced off their roof landing in the road and exploded. He shielded his face with his arm and a piece of fireworks bounced off their chimney and landed on his arm. He brushed it off quickly. Potentially the roof could have caught fire.

Debra Vilcheck, 23 Butter Jones Road, noted she read the draft regulation. She stated the Zoning Regulations limit family to 6 unrelated people. This property is being used as a commercial property and needs to be reined in. If other people want to use their homes as AirBnB's, there should be a resident care taker. Ms. Vilcheck noted she has been to AirBnB's and in all cases, there has been a resident on site. That protects the neighborhood and the property. She noted parking should be defined. Henry Krempel noted the regulation states no street parking. Ms. Vilcheck noted an insurance binder should be provided. Why have it renewed annually? Each event needs to be approved to control frequency of rentals and the events.

Paul Spinella noted Ms. Nadel already read his wife's letter into the record. He indicated they are directly effected as they live next door. He stated their life this last year has been miserable. He always considered his house as a safe haven. He is a lawyer in Hartford and saw this as a place to enjoy his property. They have great neighbors and raised two great kids. The owners of 18 E. Liberty even brought in a crew to produce a movie. Mr. Spinella noted his wife has a calendar showing listing all the events. He indicated the regulation being proposed is no where near enough. Somebody should be living on the property. Should we take things into our own hands? He indicated he tries to leave that stuff in his office and not get into a legal battle with the neighbor.

Lauren Gister, 41 Railroad Avenue, noted she was speaking as a private citizen and has expressed her opinion about a couple of things. She felt strongly that Short Term Rentals in a residential neighborhood should not be allowed to have special events even by permit. She further noted if she wanted to have her daughter's wedding on her own property, that is different. She also noted she was sorry about the movie filming, but every response we received to questions asked turned out to be a complete untruth. She also noted there needs to be more discussion regarding frequency of rentals.

Debra Vilcheck noted Lauren Gister's comments just reinforce thoughts in her mind about turn over and the number of people coming around. The State has controls over motels that are considerable. We're talking human safety, human trafficking. Chester can't watch over everything. The Town has commercial

regulations in place and they need to be enforced.

Chairman Lavy reviewed written comments received as follows -

Email from Karli Spinella, December 12, 2017 – frequency of use in residential neighborhood, did not address the need for on site management which leaves real time monitoring to the neighbors, 9 cars next door on a continual basis does not solve the extra traffic problem.

Joel Severance submitted several written comments to the proposed draft regulation which were read into the record.

Martin Nadel noted he had a question about Cease & Desist Orders. Attorney Royston explained two Cease & Desist Orders have been issued. The first one is for the use of the property beyond that allowed for a single family residence in the zone in which it is located. A single family being related by blood or marriage or 6 persons who are unrelated. Karli Spinella's Affidavit was critical to demonstrate that the use was beyond single family. The Zoning Compliance Officer does not have permission to enter on to property without a warrant. Photos were taken from the street of large numbers of cars. Royston further noted he expressed the opinion to the ZCO that this is a transient type use even though it is a single family residence rented out to a large family. There are other types of uses for a single family residence such as Bed & Breakfast and Boarding Houses but no permits have been issued. The Cease & Desist Order has been issued and under the law the recipient has 30 days to appeal to the Zoning Board of Appeals. In between there are no options to obtain a restraining order in those 30 days unless there is a health and safety issue. If the ZBA agrees with the ZCO and the matter goes to Court, there are penalties for willful violation. Mr. Nadel asked who does the enforcement action? Attorney Royston stated if they haven't brought an appeal from an unfavorable ZBA decision, the ZCO is entitled to bring a lawsuit. If one doesn't appeal the ZBA ruling, then one isn't allowed to contest that in Court. Royston also noted anyone can bring his own lawsuit for private nuisance. Mr. Spinella noted if this goes to Superior Court and the lawsuit says a Cease & Desist Order has been filed and they have no viable defense, then the Judge should issue an Injunction that all future activity stop and the police would have to go in and enforce that.

Bettie Perreault noted what she is hearing is that we know legal steps are in place. All the neighbors are asking what do we do when something happens on a Friday night. Attorney Royston noted their remedy is a private nuisance lawsuit or breach of peace (police). He also noted if there is an appeal, the ZCO would want neighbors or persons with real knowledge to testify.

Debra Vilcheck noted wouldn't it be a willful violation if a Cease & Desist Order is in place and the property is advertised for rent up to 20 people. Michael Sanders replied maybe not if they are all family members. Chairman Lavy responded that the Commission is being proactive. Sanders noted the Commission can't restrict the property owner from advertising.

Chairman Lavy noted the Commission has heard all public comment and would like to review the draft regulation.

## 6. Old Business

### (a) Draft AirBnB Regulation, for discussion purposes

Attorney Royston reviewed in detail the draft regulation noting he has described this as a transient use (the coming and going) vs. single family use. He also noted there is no case law that he has discovered which defines the difference. Short Term Rental has to be defined (less than 30 days?). Michael Sanders asked about the 30 days in case law. Attorney Royston indicated most of it is in the definition of a regulation. Henry Krempel noted the Commission should talk about frequency separately.

Attorney Royston noted he started with Section 60 indicating the Commission could decide to ban them any place in the Town of Chester, but he would not recommend against that. Michael Sanders noted if we start doing this, it would create a burden on other people in town. Attorney Royston noted if this were to be considered a General Principal Use not subject to a public hearing, the Commission would first need to decide what if any of that use would be treated as a General Principal Use.

For discussion purposes it should probably start with number of bedrooms. Michael Sanders noted this is not a B&B as there is no resident owner. Much

discussion took place as to less than 3 bedrooms being a General Principal Use and more than 3 bedrooms being a Special Principal Use (requiring a public hearing). There was further discussion regarding parking and events (there should be a limitation on the outside events). Royston noted if the Commission finds that bedrooms are the key, those are determined by the number on the Assessor's Records.

Peter Zanardi asked if number of bedrooms could be limited. Attorney Royston replied yes. He also noted on site or local management is defined in the regulation. There is no provision in this draft for limiting the number of rentals over a specific period of time.

Michael Sanders noted the Commission should rewrite Bed & Breakfast and probably treat the Village District differently.

Elaine Fitzgibbons noted she was looking for something reasonably enforceable. This seems so complex.

Chairman Lavy noted the regulations are living documents. The consensus for Attorney Royston to continue working on the draft regulation is as follows -

- Simplify General Principal Use
- Continue to look at Special Principal Use – duration of time and number of rentals over a period of time.
- Make specific events clearer.
- Section 132 – STR – on site B&B; STR – on site 3 bedrooms or less, STR – on site 4 bedrooms of more.
- Look at the Village Regulations, should encourage B&B use in the Village.

Martin Nadel thanked the Commission for the effort and concern it is putting in this matter. He urged Commission members to think of the next door neighbor and would they be happy if they had to abide by the regulations that are finally adopted.

## 7. New Business

- (a) Everett Reid, 59-61 Main Street, Preliminary Discussion, Use of Second Floor

Everett and Linda Reid were present. They wanted some clarification as to what the Zoning Regulations say could be the use of the second floor at 59-61 Main Street. They have used the second floor as an extension of the first floor use which is allowed. They indicated they would be interested in someone else using it as a restaurant, which would mean there would be two separate restaurant owners. The Reids also asked if it could be office space. The reply was yes. Another approved use is an extension of the first floor use. It was noted there were specific conditions on the Reids' previous approval for the second floor, mainly it had to be under the same ownership, same licenses and same financial arrangements.

Everett Reid noted they would continue to oversee the operations. There is a separate entrance for the second floor. The Fire Marshal and Sanitarian do their inspections. He indicated they have always tried to comply with everything.

Chairman Lavy noted if it is going to be an office use, that's fine. If the ownership of the restaurant changes, that would be a new special exception. However, the Commission cannot give an opinion without an application.

## 8. Report of Officers and Subcommittees

### (a) Report from Zoning Compliance Officer

ZCO Brown reported on the following -

1. Masonic Care (formerly Chester Village West) has requested a new sign.

Commission members reviewed the proposal for the new sign and agreed it was similar in size to the old one.

2. 18 E. Liberty Street – Cease & Desist Order issued. Mr. Landino's attorney has been in touch with the ZCO's attorney, Sylvia Rutkowska, who is handling the litigation part of this matter.

3. 15 Prospect Street, School Bus property – Notice of Violation has gone out. Haven't heard back from Mr. Castelli yet so will probably be issuing Cease & Desist Order.

### (b) Plan of Conservation & Development Update

Chairman Lavy noted he would be happy to be on the POCD Committee. He urged any Planning & Zoning member to attend the POCD meetings. Michael

Sanders noted the next meeting is on the 5<sup>th</sup> Monday of January at 6:30 PM at Town Hall.

9. Bills for Payment

**Motion by Sanders, second by Perreault, to approve invoice of J. Brown Associates in the amount of \$575.00 for secretarial services from July thru November 2017. Unanimously Approved.**

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

11. Approval of Minutes – November 9, 2017 Regular Meeting Minutes

**Motion by Krempel, second by Zanardi, to approve November 9, 2017 Minutes as written. Unanimously Approved w/Perreault and Stack abstaining.**

12. Pending Litigation – nothing further to report.

13. Adjournment

**Motion by Zanardi, second by Krempel, to adjourn at 10:30 PM. Unanimously Approved.**

Respectfully submitted,

*Bettie Perreault*

Bettie Perreault, Secretary