

**Chichester Planning Board
Minutes of Meeting
Thursday February 4, 2021**

Members Present on ZOOM: Stan Brehm (Chairman), Michael Williams, Richard Bouchard (ex-officio), Tom Jameson, Allen Mayville, Tom Houle, Dan Humphrey, Dr. Kevin Mara, John Healy, David Jobin and Kristy Willey, Secretary.

Others present on ZOOM: Jodi Pinard, Matt Monahan, Chief Quimby, Mike Tardiff, Katie Nelson, Jonathan Halle, Bob McKechnie, Donna Chagnon, and other members of the public.

Mr. Brehm called the meeting to order at 6:30pm

Mr. Brehm read this into the minutes:

As Chair of the Planning Board, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to this meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, I am confirming that we are:

a) Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means:

We are utilizing ZOOM for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # **+1 253 215 8782, : Meeting ID: 812 4413 2712 & Password: 316915**

. Follow along using a digital copy from our website at: ChichesterNH.org. We will also be streaming the meeting as a webinar which you join by going to this link :

<https://us02web.zoom.us/j/81244132712?pwd=Mk9qUlhISE90b3ZDeTRqT1cvdGk4dz09>

b) Providing public notice of the necessary information for accessing the meeting:

We previously gave notice to the public of the necessary information for accessing the meeting, including how to access the meeting using Zoom or telephonically. Instructions have also been provided on the website of the Board at: www.ChichesterNH.org.

c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access:

If anybody has a problem, please call 603-798-5350 ext. 201 or email at: KWilley@ChichesterNH.org

d) Adjourning the meeting if the public is unable to access the meeting:

In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

Please note that **all votes** that are taken during this meeting shall be done by **roll call vote**.

Let us start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during this meeting, which is required under the Right-to-Know law.

A roll call vote was taken, and the attendees are listed above.

Approval of Minutes for 01/07/2021

Mr. Williams stated that he went back to the documents that Mr. Halle provided for last meeting and found that there were two different sets of waiver requests. One on the Site Plan application and another on a separate document entitled wavier requests. He stated that the appropriate information was discussed that night, however the header from the waivers was copy and pasted from the wrong document and do not match up in the minutes. Those headers need to be corrected.

Mr. Williams made a motion and Mr. Humphrey seconded to approve the minutes with the changes discussed. Roll Call Vote. Brehm, aye. Williams, aye. Bouchard, aye. Houle, aye. Jameson, aye. Humphrey, aye. Mayville, aye. **Motion passes.**

Continued Public Hearing

Site Plan-Chichester Commons

Location: 114 & 114A Dover Road, Map 4 Lot 161 & 161-A

Developer: Jonathan Halle

Engineer: Bedford Design Consultants, LLC.

Mr. Halle sent this email to the Planning Board and asked it be entered into the meeting minutes as public record:

I received an email from Matt Monahan stating receipt of the revised site engineering plans showing the additional parking required to meet the 2 spaces per apartment zoning regulation, bringing the total parking count to 48 spaces. I also revised the grading around the building and redesigned the building roof to bring the ridge down to no more than 35' above adjacent grade. The architectural building elevations and site engineering drawings, including grading and stormwater calculations, were updated, and submitted to both Matt and the review engineer by email and copied to you as well. I have received no comments from either regarding these changes. Please note these proposed changes negate the need for both waivers that were previously denied.

Briefly, I want to recap the following history of this project and the precedent for waivers previously granted.

In 2015, I came before the Planning Board with Counsel and requested and was granted Four Waivers to allow the construction of a **42 units "Multi-Family Structure"** style project. Those waivers included the following:

1. **Waiver 1:** Article II, section 2.04(F); district CV, Commercial Village, subsection (VI) Paragraph 12 of the zoning ordinance to permit the construction of a building with a footprint of **13,550 sf where 5,000 sf** is permitted.
2. **Waiver 2:** Article 2, section 2.04(F) District CV, Commercial Village, subsection (VIII) Paragraph 11(B) of the zoning ordinance to permit the development of a **41-unit multi-family structure on 2.369 acres where 22 acres** is required.
3. **Waiver 3:** Article 2, Section 2.04(F) District CV Commercial Village, sub section (VIII) of the zoning ordinance to permit the development of a building with a maximum height of 45 feet where the building height cannot exceed 35 feet from its foundation at ground level to the highest point on the building.
4. **Waiver 4:** Article 2, Section 2.04 (F) District CV Commercial Village, subsection (VI) paragraph 12 of the zoning ordinance to permit the construction of a building with a footprint of 10,000 where only 5,000 sf is permitted for the retail complex.

In 2018, I came before the Planning Board and requested and was granted Five Waivers and One Conditional Use Permit to allow the construction of a 14 units Multi-Family Workforce Housing project. Those waivers included the following:

1. **Waiver 1:** Article II, section 2.04(F); district CV, Commercial Village, subsection (VI) Paragraph 12 of the zoning ordinance to permit the construction of a building with a footprint of **9.995 sf where 5,000 sf** is permitted.
2. **Conditional Use Permit:** Article 2, section 2.04(F) District CV, Commercial Village, subsection (VIII) Paragraph 11(B) of the zoning ordinance to permit the development of a **14-unit multi-family structure on 2.369 acres where 8 acres** is required.

3. **Waiver 2:** Article 2, Section 2.04(F) District CV Commercial Village, sub section (VIII) paragraph 11 (h) of the zoning ordinance to permit the development of a building with a maximum height of **29 feet in the front and 39 feet in the rear where the building height cannot exceed 35** feet from its foundation at ground level to the highest point on the building.
4. **Waiver 3:** Article 2, Section 2.04 (F) District CV Commercial Village, subsection (VI) paragraph 12 of the zoning ordinance to permit the construction of a building with a footprint of 10,000 where only 5,000 sf is permitted for the retail complex.
5. **Waiver 4:** Article 2, Section 2.04(F), District CV Commercial Village, subsection (VI) (a) to permit the continued commercial parking at the Mall with a total of 39 spaces where 50 is required.
6. **Waiver 5:** A waiver was requested to allow two uses, residential and retail, to be allowed on one merged lot. This issue/situation was not specifically mentioned within the zoning ordinance whereby town council suggested with a prohibitive ordinance by lack of mention it would not be allowed.

In July 2018, the two existing lots, one for the housing and one for the retail were voluntarily merged based on the condominium subdivision approved at the previous hearing. It should be noted that this approval has the exact same footprint as the 2021 proposal we are seeking tonight.

In June 2020, I came before the Planning Board and requested and was granted site plan approvals for a revised 13 units Multi-Family Workforce Housing project. The waivers from the previous 2018 approval were maintained. One unit on the corner of the footprint was removed reducing the overall size of the footprint of the proposed building. Because of Financial difficulties a 13-unit project proforma did not work.

I am back before this Planning Board this evening as a continuance of last month's meeting, with a revised (24) one-bedroom Multi-Family Housing project designated for those over 55 years of age. This project has requested the following waivers:

1. **Waiver 1:** Article II, section 2.04(F); district CV, Commercial Village, subsection (VI) Paragraph 12 of the zoning ordinance to permit the construction of a building with a footprint of **7,548 sf where 5,000** sf is permitted. This waiver was granted at the last meeting.
2. **Waiver 2:** Article 2, section 2.04(F) District CV, Commercial Village, subsection (VIII) Paragraph 11(B) of the zoning ordinance to permit the development of a **24-unit multi-family structure on 2.369 acres where 13 acres** is required. This waiver was tabled at the last meeting.
 - a. I would argue that we have previously been granted 42 units, 14 units, and then 13 units on the same parcel that the current 24-unit proposal bears no greater burden on the public, the water supply or septic system and that the request is both reasonable and fair based upon precedent of this board. In review with my own Council, we have found no changes in the subsequent site plan regulations or zoning ordinances revised up thru 2020, that would state anything different. This waiver was granted in 2015, 2018, 2019 and 2020 for 42, 14, and 13 units, respectively.
3. **Waiver 3:** Article 2, Section 2.04(F) District CV Commercial Village, sub section (VIII) of the zoning ordinance to permit the development of a building with a maximum height of 49 feet where the building height cannot exceed 35 feet from its foundation at ground level to the highest point on the building. This waiver was denied at the last meeting deemed detrimental to public safety.
 - a. A completely revised set of building plans and elevations, bringing the ridge line of the building down to 35' above adjacent grade, was submitted to the Planning Board, SWRPC and the town engineer on 1/20/2021, for their review and comment. No reply has been received to date. I would argue that we meet the parking requirements of the zoning ordinance with the plan before you tonight.

4. **Waiver 4:** Article 2, Section 2.04 (D) District CV Commercial Village, subsection (IV) paragraph I(t) of the zoning ordinance to permit a Conditional Use Permit to allow Multi-Family use in the CV District. This waiver was tabled at the last meeting.
 - a. I want to remind the board that at each of the previous hearing, we brought to the Planning Boards attention that the 2044 Master Plan recommends the modification of the zoning ordinance to allow for elderly housing complexes, the need for said housing, the positive impact on the overall tax base and that the Planning Board should encourage this type of development. In review with my own Council, we have found no changes in the subsequent site plan regulations or zoning ordinances revised up to 2020 that would state anything different. This waiver was granted in 2018 for 14 units and I assume transferred to the 13-unit site plan approvals in 2019.
5. **Waiver 4:** Article 2, Section 2.04 (D) District CV Commercial Village, subsection (IV) paragraph I(t) of the zoning ordinance to permit the 1.5 parking spaces where two parking spaces per one bedroom apartment are required. This waiver was denied at the last meeting as note meeting criteria 1 and 4.
 - a. A completely revised site plan, with grading and stormwater calculations to accommodate 12 additional parking spaces, was reengineered and submitted to the Planning Board, SWRPC and the town engineer on 1/20/2021, for their review and comment. No reply has been received to date. I would argue that we meet the parking requirements of the zoning ordinance with the plan before you tonight.

This has been a long road, and I hope tonight's meeting will result in a positive decision for this to move forward.

Discussion on Elevations-

Ms. Willey shared the screen to show the elevations provided by Mr. Halle.

Mr. Bouchard asked Mr. Halle how far off the building are you holding the elevation.

Mr. Halle stated that its ten feet.

Mr. Brehm stated that there is a small area in the back of the building that is taller than the rest.

Mr. Halle stated that his argument is that it is unoccupied space, and it holds the fire suppression equipment.

Mr. Halle stated that he updated the parking and added additional parking spaces and updated drainage calculations.

Mr. Monahan stated that he did speak with Mr. Vignale, and he is comfortable with the new calculations.

Mr. Williams had questions about the elevations.

Discussion on Parking-

Mr. Halle stated that they changed the pitch of the roof to meet the height requirements.

Mr. Bouchard had questions on the parking regarding the six spaces on the strip mall side and the 6 spaces on the apartment side.

Mr. Halle stated his intention is to put up a sign that says housing parking only.

Discussion on density-Waiver 2

Mr. Halle stated that the same density issue has come up the past three times he came before the Board with a similar multifamily project. He stated that he has found no subsequent changes in the site regulations that would change this. He stated that there is no greater burden on the public for this site, nor does it affect the water or septic. He believes that this is a reasonable and fair request.

Mr. Humphrey asked about the nature of the waiver on 41 units as opposed to 24 units. He wanted to know why it was granted for that amount previously.

Dr. Mara stated that looking back it made sense at the time because the Planning Board was being encouraged to build up the commercial zone.

Mr. Houle stated that his concern is all the waivers opens up pandoras box and sets precedent for over developers and this is not the direction the Town wanted to take in the Master Plan.

Mr. Bouchard stated that most of the Board was not on the Board at that time and they did not approve this in the past. This is not the same project and the Board has to decide what is best for the Town now.

Mr. Williams stated that he was not on the Board in 2015 so he is not going to guess why they approved it. Between then and now we have had a couple of significant changes. Then we were being encouraged to provide workforce housing. This project is no longer workforce housing and is now 55 and older and since then we have already approved another 55 and older development at the other end of Route 4 so the Town needs to decide if this additional project will be a benefit to the Town.

Mr. Halle stated that the 2014 Master Plan specifically calls having an innovative zoning on RT 4 in the Commercial Village. It specifically says that elderly housing is encouraged.

Mr. Humphrey stated that he does not see how previous waivers impact this project. Why should the waivers be extended on its own merit. The previous waivers are interesting but why should we go outside the current zoning for this project. We are tasked with zoning and upholding what was voted on by the Town.

Mr. Halle stated that he knows that the Board does not think that the previous waivers set precedent, but he feels that they do. 41 units were previously approved and now he is asking for 24 with double the average.

Mr. Humphrey stated that he thinks this is a great project however, it also needs to meet current zoning.

Dr. Mara stated that he believes what happened before does not matter. This is a brand-new project. The Board prior took the waivers and granted them on the merits at that time.

Chief Quimby stated that he does not know what the future will hold. This will impact the Town; he just cannot say to what extent. There will be roughly 48 cars in and out which will impact RT4.

Dr. Mara discussed the traffic on RT 4 and asked if he already had his driveway permit.

Mr. Halle stated that he did have a current driveway permit from district 5.

Mrs. Pinard stated that she wanted to respond to Dr. Maras comments. RT 4 is a state-maintained Road, but the first responders are the Chichester FD and PD and that it will be a big impact on the Town with 48 cars going in out on RT 4. Its an unlit intersection on a very busy Road that already has accidents not to mention the age factor. Its going to impact Fire, Police and

response times and the general service to the Town.

Mr. Houle does not think that this is what the Towns people want.

Mr. Brehm stated its important to remember that the only project that every made it to final approval is the 13-unit workforce housing which was a 3-4 vote. He also stated that it does not say anywhere in the master plan that we need to exceed density. He was in favor of the last project, even though it slightly exceeded the density. He felt comfortable because he could see the benefit for towns people to move out of larger homes and be able to stay in Chichester so there was a benefit to the Town. He was on the Board in 2015 but was not the chairman. He has tried to recall the reason he felt comfortable at the time giving the waiver but cannot. It was a different time, and since then we have already added a 55+ community and now we are not getting the workforce housing.

Mr. Jameson stated that it is his opinion that this is a new application, and we should not be looking so much at the past. He also stated around that time the commercial village was reduced to keep it more commercial.

Mr. Williams stated that he was not on the Board when it was 2015 so this is a matter of first impression for him. He stated that we need to remember that the Master Plan is a guidance for zoning, which zoning establishes density and this project exceeds that density. He feels that the density should not be waived due to criteria number 3 compromise the goals, objectives, standards, and requirements of the Commercial Village District and number 4 which is its not reasonable or appropriate due to the scale and size of the project.

Mr. McKechnie stated that it is concerning for the Planning Board stated that it is concerning with the number of cars and traffic on the RT 4.

Mr. Monahan advised to go through each of the five criteria and vote yes or no.

Mr. Halle made the plea to five years into the is and \$200,000.00 into it and a negative vote is going to kill this. He stated he would have no recourse but to go to court. He would like the Board to consider the Town council having some discussions with his council before a decision is made and do the vote at next months meeting.

Mr. Humphrey stated that he would like a compelling reason to approve the exceeded density that does not include that it was approved previously.

Mr. Halle stated that he has done several of the projects and is an experienced architect. This is the only zone in Chichester to allow for greater density and stated that this project would not have any negative impact on the Town.

Mr. Bouchard stated that he feels Mr. Halle's project has been sloppy. He is frustrated with the number of issues there have been with wrong or incomplete documents and receiving things very last minute before meetings and not having enough time to review them.

Mr. Halle disagreed with Mr. Bouchard comments and stated that he sent out documents and didn't receive Mr. Monahan's memo until very late.

Mr. Monahan stated that he was on active duty for 5 weeks and that he came to the last meeting which he was not obligated to try to help this move along and he got to thing as soon as he could.

Mr. Bouchard stated that this is no reflection on Mr. Monahan. Thank you for all that you do.

Mr. Williams stated that Mr. Halle would like to table this until the next month so attorneys can talk.

Mr. Brehm stated if the applicant is requesting the vote be continued, we should honor that.

Mrs. Pinard asked if the applicant would like the attorneys to speak, is the applicant prepared to pay the towns attorney fees since this would not be funds expended otherwise.

Mr. Halle agreed to pay the Towns attorneys fees to speak with his attorney.

Mr. Williams made a motion and Mr. Houle seconded to table the density issue to the March meeting. Roll call vote. Brehm, aye. Williams, aye. Bouchard, aye. Houle, aye. Jameson, aye. Humphrey, aye. Mayville, aye. **Motion passes.**

Master Plan Update-

Mr. Tardiff and Ms. Nelson presented the updated draft Master Plan section for natural resources.

Ms. Nelson stated that the maps are still in development and will be available soon. She stated that after this discussion with the Planning Board, they are planning to send the Chapter to the Conservation Commission to review and provide input as well.

The section includes an introduction, community survey results, land and water resources, trail management and protection of aquifers.

Mr. Tardiff stated that after the Conservation Commission has given their comment it will be ready for final approval.

Adjournment- Having no further business, a motion was made and seconded by to adjourn the meeting at 8:41pm. Roll call vote. Brehm, aye. Williams, aye. Bouchard, aye. Houle, aye. Jameson, aye. Humphrey, aye. Mayville, aye. **Motion passes.**

Respectfully submitted,
Kristy Willey, Secretary

Not approved until signed.

Chairman, Stan Brehm