These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

Town of Chester
Planning Board Meeting
Wednesday, March 9, 2016
Municipal Complex
Approved Minutes

Members Present
Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Cass Buckley, Member
Dick Trask, Ex-Officio Member

Members Absent:
Brian Sullivan, Chairman
Richard Snyder, Alternate Member
Michael Weider, Member

Staff Present:
Andrew Hadik, Planning Coordinator

Vice-Chairman Evan Sederquest called the meeting to order at 7:06 p.m.

Agenda

- Review & Sign Invoices
- Review and approve minutes for 3/2/16
- Review correspondence
  - Proposed "storm hardening" of transmission lines by Eversource Energy
  - Review & approve SNHPC contract for annual updates of CIP & impact fees
- FYI & Updates:
  - ZBA public hearing on 3/15/16 for application for a Special Exception for a composting facility in gravel pit in Mill Pine Subdivision.
- Public Hearings:
  - Application by Michael Babin, 241 Sandown Road (Map 5, Lot 111) for a 1-Lot Subdivision
  - Proposed zoning amendments to Article 9 – replace original article: Conversion of Existing Dwellings with new article: Accessory Dwelling Units, pursuant to the new requirements set by SB 146 (RSA 674:71 through 674:73).
  - Proposed zoning amendments to section 6.12.2 & 6.12.3 of Article 6 – Open Space Subdivision.
  - Proposed zoning amendments to Article 5.6 – Flood Plain Conservation District (Zone FP.).

- Proposed zoning amendments to Article 4.4 – Signs pursuant to the 2015 U.S. Supreme Court Ruling on Reed v Town of Gilbert.

- Future Meeting Dates:
  - March 16, 2016?
  - March 23, 2016 – PH Towle, PH Lot Line Adjustment, SPR – Busch Academy, Zoning Amendments

Review Invoices

The Board reviewed invoices. There was no further discussion.

Review and approve minutes for 3/2/16

Mr. Trask made a motion to approve the minutes for 3/2/16 as written; Ms. Richter seconded the motion. Motion approved, 4-0.

Review & approve SNHPC contract for annual updates of CIP & impact fees

The Board reviewed the updated scope of work and cost estimate from SNHPC for providing an annual update of the CIP and impact fees. Mr. Trask noted that the scope of work provided a cost estimate for impact fees for recreation, roads, police, and fire and inquired if the cost would be more if school impact fees were added. Mr. Hadik stated that it would be more but stated that the Board had budgeted for that. Mr. Trask asked if the Board needed to sign the new contract as the cost estimate was based on a given hourly rate. Mr. Hadik stated that he would follow up on that. Ms. Richter clarified that this updated scope of work is a streamlined version of the previous scope of work submitted by SNHPC. Mr. Buckley noted that the cost estimate was given for 3 work tasks but that the scope of work included 4 work tasks. Mr. Hadik stated he would follow up with Jack Munn, from SNHPC. Ms. Richter noted that the agreement by SNHPC to cap the fee was a good thing. The Board agreed to table the contract for additional review once Mr. Hadik was able to report back on the issues identified.

Proposed "storm hardening" of transmission lines by Eversource Energy

Mr. Hadik reviewed information from Eversource Energy regarding proposed storm hardening work that will take place along the 391 transmission line which passes through the Town and is located on town-owned property. Eversource notes that this work is not related to the Northern Pass Project and is intended to upgrade and strengthen transmission infrastructure to reduce the possibility of service interruptions, especially during severe weather. The work will take place entirely within Eversource's transmission right-of-way and may include removal of brush and tall vegetation, mowing, improvements to existing access roads, snow plowing, the installation of timber mats and building construction pads to support heavy equipment. Work will take place between March and June and is not expected to interrupt electric service to Eversource customers.

ZBA public hearing on 3/15/16 for application for a Special Exception for a composting facility in gravel pit in Mill Pine Subdivision

Mr. Hadik provided information to the Board that the ZBA will be holding a public hearing on 3/15/16 for application for a Special Exception for a composting facility in the gravel pit located in Mill Pine Subdivision.

Update regarding proposed zoning amendments to Article 4.4 – Signs pursuant to the 2015 U.S. Supreme Court Ruling on Reed v Town of Gilbert

Mr. Hadik reported that the final version of the proposed zoning amendment to Article 4.4 – Signs will be ready for Public Hearing on 3/23. He noted that he has already consulted with Attorney Jennifer St. Hilaire regarding the proposed amendment and was currently reviewing ordinances from other towns to see if there were additional items to consider for the amendment.

Update regarding McLean Subdivision

Mr. Hadik reported that there had been an error on the plans provided, requiring them to be revised. After consultation with Attorney Jennifer St. Hilaire, it was determined that the revision was not a substantive change and did not require another Public Hearing. However, a new open space deed will be required.

Update regarding Pipit Estates Subdivision

Mr. Hadik reported that he was contacted by the Engineer for the Pipit Estates Subdivisions, who stated that he was unable to get digital copies of the previous plans for the road. As a result, they will be drafting new plans; however, the road will be identical to the previous plans. The Engineer inquired if Pipit Estates will need to submit those plans for approval as they remain unchanged and were approved previously. The Board was in agreement that because the original plans were approved in 2008, a new review would be required. Mr. Hadik noted that Pipit Estates will also be submitting an application for a redesigned 7-Lot Subdivision.

Update regarding Busch Academy Site Plan Review scheduled for 3/23/16

Mr. Hadik reported that the Busch Academy Site Plan Review scheduled for 3/23/16 will not be taking place on that date. Mr. Hadik reported that Busch Academy has yet to retain Dubois and King to review the plans. Mr. Hadik also noted that Busch Academy will need to go before the ZBA to request a variance as it was discovered that the proposed addition encroaches on the wetland setback. Mr. Hadik reported that Busch Academy was informed that the Planning Board will not consider the Site Plan Review until they obtain a variance from ZBA.

Timeframe for Dubois and King to review projects and issue engineering review letters

The Board reaffirmed the scheduling policy for project reviews by the Town's engineer, Jeffrey Adler of Dubois and King.

For a completely new project, all plans and materials must be submitted, and a signed review contract, and a check for a retainer fee received, before an engineering review is initiated. Furthermore, these requirements must be met four weeks prior to the public hearing for which the engineering review letter is expected, otherwise the applicant should expect a continuance of their public hearing.

For changes to previously reviewed projects, Mr. Adler requires three weeks of lead time to review the changes and issue an engineering review letter.

Update regarding the CIP methodology discussion held by the Board on 3/2/16

Mr. Hadik noted that the goal was to finalize and adopt the CIP by the end of April so that it is ready for the Town Meeting in May, and discussed some possible dates for Jack Munn of SNHPC to review the planning process and methodology with the Board in the next few weeks. The Board agreed to meet with Jack Munn for this workshop on Wednesday, March 30th at 7 p.m.

Update regarding Public Hearing Scheduled for 3/23/16 regarding a Lot Line Adjustment

Mr. Hadik reported that the public hearing scheduled for 3/23/16 for a Lot Line Adjustment will not be happening on that date as scheduled. Mr. Hadik noted the possibility that the application may be withdrawn.

Public Hearing: Application by Michael Babin, 241 Sandown Road (Map 5, Lot 111) for a 1-Lot Subdivision

The Board held discussion regarding procedural issues related to acceptance of the application. Mr. Buckley noted that there were some pending items in the application and reported that he was under the impression that applications with pending items would not be accepted. In further discussion, Mr. Hadik noted that applications have been submitted with certain items in question, and stated that these items are not always available in advance as part of the acceptance process, but are included as a Condition of Approval.

Ms. Richter made a motion to accept the Application by Michael Babin for a 1-Lot subdivision and open the Public Hearing; Mr. Buckley seconded the motion. Motion approved, 4-0. The Public Hearing was opened at 7:50 p.m.

Mr. Eric Mitchell, Engineer, presented the proposed plan on behalf of Michael Babin. Mr. Mitchell stated that the application was to subdivide a 27 acre lot, by creating a 2.7 acre lot which currently contains a house and barn. The remaining lot will be approximately 24 acres. He noted that in the future, Mr. Babin may subdivide the remaining 24 acre lot but stated that this is not part of the current application. Mr. Mitchell reminded the Board that under New Hampshire law, lots over 5 acres do not need approval and so the only lot needing approval would be the 2.7 acre lot containing the house and barn.

The Board and Mr. Mitchell held some discussion around the proposal for clarification as the report from Dubois and King listed items pertaining to further subdivisions of the 24 acre lot. Mr. Mitchell stated that Mr. Babin had asked Dubois and King to review plans for a possible future subdivision of the 24 acre lot while reviewing the current subdivision of the 2.7 acre lot. The Board expressed concern that even if the plans for subdivision were approved by Dubois and King now, Mr. Babin may need additional engineering approval again in the future. Mr. Mitchell stated he understood. Mr. Mitchell noted that Mr. Babin had addressed Dubois and King's concerns regarding the existing well and septic system. Mr. Mitchell stated that Mr. Babin would be requesting a waiver from 4.8 of the Subdivision Regulations - Erosion and Sediment Control, noting that the lots were individual, not contiguous. Mr. Buckley stated that he was not comfortable granting a waiver as it would apply to the proposed subdivisions that were not part of the current application. Mr. Mitchell agreed that if it was not currently needed, then Mr. Babin would not be requesting this waiver. Mr. Mitchell provided copies of the entire 27 acre lot plan to the Board in order to provide a clearer picture of the location of the house lot, to address review comment #5 regarding scale. Mr. Mitchell noted that he is still waiting for NH DES approval for the subdivision of the lot. He reported that the NH DES had asked them to do another test pit in another area due to location of the current well and septic system, and stated that this test pit will be completed soon.

The Board expressed concern that the comments from Dubois and King were in regard to the subdivision of 5 lots, making it difficult to parse out what comments were for the current application. The Board asked for a report from Dubois and King that addressed only issues related to the current application for a single lot subdivision; Mr. Hadik stated that he will follow up with Mr. Adler about this issue.

Mr. Sederquest inquired if there was any public comment; there was no public comment. Mr. Buckley made a motion to continue the Public Hearing to April 13, 2016 at 7:45 p.m; Mr. Trask seconded the motion. Motion approved, 4-0. The Public Hearing was closed at 8:10 p.m.

Public Hearing Proposed zoning amendments to Article 9 – replace original article: <u>Conversion of Existing Dwellings</u> with new article: <u>Accessory Dwelling Units</u>, pursuant to the new requirements set by SB 146 (RSA 674:71 through 674:73).

Mr. Trask made a motion to open the Public Hearing for all proposed zoning amendments; Ms. Richter seconded the motion. Motion approved, 4-0. The Public Hearing was opened at 8:10 p.m.

Mr. Hadik presented some background on the proposed zoning amendment to Article 9. He reported that the State Legislature has become increasingly concerned about the shortage of "workforce" or "affordable housing" in New Hampshire. In response to this, the State recently adopted S.B. 146, "an Act Relative to Accessory Dwelling Units". Article 9 – Conversion of Existing Dwelling has been part of the Town's zoning ordinance since 1986. During this time, the ZBA and the Building inspector have noted numerous concerns with the interpretation, application, and limitations of the Article. In addition, many Town residents were unhappy with this Article. With S.B. 146 coming into effect, the Town's current Article 9 will be void. To address these issues, the Planning Board recommends replacing the original Article 9 – Conversion of Existing Dwellings with a new Article 9 – Accessory Dwelling Units. The intent of the proposed article is to create a preemptive ordinance in anticipation of S.B. 146 so that the Town will not lose control over the creation and location of accessory dwelling units and to establish standards, review and approval processes for new accessory dwelling units.

In reviewing the Proposed Article 9 – Accessory Dwelling Units, Ms. Richter asked if there would be language included stating that "current Article 9 is hereby repealed". Mr. Hadik stated that in the new ordinance there would be a footnote and it would also be noted in the minutes.

Mr. Hadik discussed with the Board their recommendation from 3/2/16 to remove language at the end of 9.4.12 regarding applying for a variance for detached accessory dwelling units. The Board was in agreement that residents could always apply for a variance for a detached accessory dwelling unit as it was part of the regular variance process and therefore did not need to be stated explicitly. The Board's concern was that stating it explicitly might invite applications for a variance.

Mr. Hadik also noted that he had added a minimum size for accessory dwelling units as requested by the Board.

Ms. Janet Boyden provided public comment as a representative of ZBA. She stated that she felt the need for workforce or affordable housing was great, and that this Article would help to address that. She stated the ZBA had not had an opportunity to review this proposal and that she wanted to bring forth some items that she felt needed to be addressed at the public hearing. Ms. Boyden stated that she was concerned about the language in section 9.4.4. She said she felt that that applicants should demonstrate a new design and have it on file, but not necessarily implement unless needed. Mr. Buckley noted that many homes can't get approval for a current system from DES. Ms. Boyden agreed that many older houses don't have current septic systems on file. Mr. Eric Mitchell suggested that applicants be required to apply to DES; noting that DES will decide if a new system is needed or not. Mr. Trask inquired about situations where a lot wouldn't allow for an improved system meeting current standards. Mr. Mitchell stated that in some lots, a new design couldn't work and would therefore mean the homeowner couldn't pursue an expansion for an accessory dwelling unit there. The Board agreed to

use the current language from S.B. 146 regarding sewage, while striking the reference to water supply: "The applicant(s) shall obtain NH DES approval pursuant to the requirements of NH RSA 485-A:38, to verify the existing sewage disposal system has the capability to meet the anticipated increased demand created by the proposed accessory dwelling unit". Mr. Buckley noted that it is more explicit in letting applicants know that they must apply to DES.

Ms. Boyden also provided comment regarding section 9.4.8 Aesthetic Standards. She stated that ZBA cannot determine whether the proposed design and construction style conforms to the intent of the ordinance, arguing that is the Building Inspector's purview. Mr. Hadik suggested that ZBA's process is to set a condition for Site Plan Review, which would include architectural drawings. Ms. Richter suggested deleting the last sentence, noting that they would be able to determine that the style conforms to the intent through the process.

Ms. Boyden also noted the need to address supporting amendments, such as 5.3.3.3 Special Exception use. The Board reviewed this amendment and recommended changing the language to "conversion of or addition to a single family dwelling to accommodate an accessory dwelling unit" for clarity as an accessory dwelling unit may be conversion of interior space, as opposed to an addition. The Board also discussed amendment 11.4 conditions for granting of special exception. Ms. Boyden and the Board held discussion around whether it should be required or does that ZBA require Site Plan Review by the Planning Board. The Board reviewed the language, which stated that ZBA "may" require Site Plan Review. Ms. Richter noted that "may" means the ZBA can decided on a case-by-case basis but it would be possible to add the ZBA "may, in its discretion," for additional elaboration. Ms. Boyden noted that others in the office had reviewed 9.4.5 and were in agreement with it as written.

Mr. Hadik noted that the changes discussed in the hearing were not substantive.

Mr. Trask made a motion to move the proposed Article 9 – Accessory Dwelling Units to public hearing on 3/23/16; Mr. Buckley seconded the motion. Motion approved, 4-0.

Proposed zoning amendments to section 6.12.2 & 6.12.3 of Article 6 – <u>Open Space Subdivision.</u>

Mr. Eric Mitchell provided public comment regarding Article 6 – Open Space Subdivision. He noted that public water systems and community water systems were different and suggested the intention was to require community water systems, not public, as written in the proposed Article. Mr. Buckley agreed with Mr. Mitchell stating that public water system implies the town manages it. The Board agreed to strike "public" and add "community".

Mr. Mitchell expressed concern that community water systems have fallen out of favor and stated that they seem to create more problems than they solve, noting that water testing or changes in ownership can be an issue. He stated that with private wells, households can always find water if they drill deeper. He stated that if a developer did not want to run a community water system and needed to create 1.25

acre lots in order to do so and was still held to a 50% open space requirement, then the developer might chose not to pursue an open space development but rather a traditional development.

Mr. Hadik stated that typically the community water systems are run by private companies such as the Pennichuck Water Service Co. He also stated that as the quality of land available in the Town for development declines, developers are facing more wetlands, setbacks, and other siting issues. He noted that there have been examples of standard 2-acre subdivisions which had difficulty locating alternative locations for wells due to wetland and side setbacks. He noted that even if they were to get relief from the Town for siting a well, DES may not allow it.

Mr. Mitchell expressed concern that requiring 1.25 acre lots may decrease the value of a subdivision property as fewer homes could be built. Mr. Hadik stated that he would argue that it could increase housing diversity. That a developer could reach his unit density by designing a subdivision without lot lines, or building a number of units as duplexes. Ms. Richter noted that whenever towns change zoning, properties may be devalued as highest possible use might change.

Mr. Mitchell expressed concern that developers would need to install the entire community water system infrastructure prior to developing the land; before the first house was sold. Mr. Buckley noted that this may be the reason behind why community water systems fell out of favor; that it was due to cash-flow concerns of developers rather than the desires of homeowners. Mr. Hadik stated that the installation of water systems can be phased, the same way the construction of roads can be phased.

Mr. Mitchell asked about definition of constrained land in the section on buildable areas and whether it included setbacks. He stated that constrained land includes wetlands, right of ways, and slopes of 25% or more. He suggested that the language be amended to include setbacks. Mr. Hadik stated that the intent was not to include setbacks, only buildable land. Mr. Hadik noted that lots are not required by open space zoning but developers often opt for lots.

Mr. Mitchell asked whether the Board has encountered specific problems where curbing and closed drainage systems has been needed. The Board reported that it has encountered issues with density in developments without curbing that led to runoff in homes and garages and pooling in yards and driveways.

Mr. Hadik asked Mr. Mitchell what minimum lot size would he believe required community water. Mr. Mitchell stated between .75 and 1.00 acres. The Board stated it felt comfortable with setting the minimum lot size as 1.00 acre.

Mr. Trask made a motion to move Article 6 – Open Space Subdivision, as amended, to a Warrant Article; Ms. Richter seconded the motion. Motion approved, 4-0.

The Board noted that the changes to Article 5.6 were mostly unsubstantial, and had already been discussed at a prior meeting.

Mr. Buckley made a motion to move Article 5.6 Flood Plain Conservation District to a Warrant Article; Ms. Richter seconded the motion. Motion approved, 4-0.

Mr. Trask made a motion to close the Public Hearing; Ms. Richter seconded the motion. Motion approved, 4-0. The Public Hearing was closed at 9:29 p.m.

Non-Public Meeting

Ms. Richter made a motion to go into non-public meeting under RSA 91A3IIJ; Mr. Trask seconded the motion. Roll call vote: Mr. Buckley, aye; Mr. Trask, aye; Ms. Richter, aye; Mr. Sederquest, aye. The Board entered into non-public meeting at 9:30 p.m.

Adjournment

The Meeting was adjourned at 9:35 p.m.

Respectfully submitted,

Julie Christenson-Collins
Recording Secretary