

1 These Minutes are subject to possible revisions/corrections during their review
2 at a subsequent Planning Board Meeting.

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4 **CHESTER PLANNING BOARD MINUTES**
5 **WEDNESDAY, JANUARY 6, 2010**

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7 Members Present:

8 Regular

Absent

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10 Brian Sullivan, Chairman (Sullivan)

11 Evan Sederquest, Vice Chair (Sederquest)

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13 Liz Richter (Richter)

Richard Snyder (Snyder)

Andrew Hadik (Hadik)

Michael Jung (Jung)

Rob Brown, Ex-Officio (Brown)

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17 Alternate

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19 Michael Weider (Weider)

20 Raymond Boyden (Boyden)

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22 Staff

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24 Cynthia J. Robinson, Planning Coordinator (Coordinator)

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26 Chairman Sullivan called the meeting to order at 7:30 P.M.

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28 Chairman Sullivan announced that Alternate Raymond Boyden would be sitting in for
29 Regular Member Richard Snyder and Alternate Michael Weider would be sitting in for
30 Regular Member Michael Jung.

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32 **CONTENT**

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- 35 1. Review of Minutes for December 2, 2009, December 16, 2009, Non-Public
36 Minutes for December 16, 2009 and December 23, 2009.
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38 2. Review letter from Fire Chief regarding ROW at 29 Purington Lane.
 - 39
40 3. The Home Business Application of Richard Brown who is requesting approval to
41 operate a contractor's shop at 68 Quail Hill Road (009-081-032).
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43 4. The Home Business Application of Robert Brown who is requesting approval to
44 register a plow truck at 35 Purington Lane (001-048-000).
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46 5. Home Business Application of Lawrence Dillon who is requesting approval to
47 operate a retail nursery and greenhouse at 240 Sandown Road (005-112-003).
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- 49 6. Board review and motion to take the following proposed zoning amendments to a
50 public hearing:
51
52 a. Article 16 – Groundwater Protection
53 b. Table 1 – Maximum Building Coverage
54 c. Article 13 – Growth Management
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56 7. Adoption of the Chester Planning Board Rules of Procedure and By Laws.
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58 8. Miscellaneous.
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61 **MINUTES**

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63 **Review of Minutes for December 2, 2009, December 16, 2009, Non-Public Minutes**
64 **for December 16, 2009 and December 23, 2009**
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- 66 1. Board members reviewed the Minutes of December 2, 2009. **MOTION:** Weider
67 made a motion to accept the Minutes of December 2, 2009 as written. Richter
68 seconded. Motion passed unanimously.
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70 Board members reviewed the Minutes of December 16, 2009. Richter noted in
71 line 100 the word “that” should be “who”. **MOTION:** Richter made a motion to
72 accept the Minutes of December 16, 2009 as amended. Weider seconded.
73 Motion passed unanimously.
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75 Board members reviewed the Non-Public Minutes of December 16, 2009.
76 **MOTION:** Weider made a motion to accept the Non-Public Minutes for
77 December 16, 2009 as written. Richter seconded. Motion passed unanimously.
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79 Board members acknowledged the non-meeting on December 23, 2009 due to
80 the Christmas Holiday.
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83 **Review letter from Fire Chief regarding ROW at 29 Purington Lane**
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- 85 2. Board members reviewed the email from Chuck St. Aubin regarding the
86 emergency ROW on his property at 29 Purington Lane and Mr. St. Aubin’s desire
87 to remove the ROW because the property it serves now has a driveway onto
88 Purington Lane. Following a brief discussion, the Board authorized the
89 Coordinator to contact legal counsel for guidance on how to go about resolving
90 this request.
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The Home Business Application of Richard Brown who is requesting approval to operate a contractor's shop at 68 Quail Hill Road (009-081-032)

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3. Chairman Sullivan opened the Public Hearing on the Home Business Application of Richard Brown who is requesting approval to operate a contractor's shop at 68 Quail Hill Road. Chairman Sullivan asked Mr. Brown to fill out and sign the Checklist that is required with the Application. Chairman Sullivan asked Mr. Brown to clarify what he is looking to do on the property. Mr. Brown stated he wants to operate his commercial plow truck six months out of the year. Chairman Sullivan explained to the public that the operating of the contractor's shop is not what Mr. Brown wants it is simply to operate his truck for snow plowing purposes. Chairman Sullivan went down the Checklist with Mr. Brown who answered "True" to all questions.

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Chairman Sullivan asked Board members if they had any questions. Richter referenced the email from Lawrence J. Smith at 41 Quail Hill Road. Richter asked Mr. Brown if the parking is screened. Mr. Brown stated the truck is parked at the State Shed during the winter months and during the summer months it is parked in the trees on his property. Chairman Sullivan explained these questions are used to set conditions and for code enforcement purposes. Weider asked when was the Application filled out. The Coordinator stated the Application was submitted in November of 2008. At that time the Board tabled the Application and then in June of 2009, the Board sent Mr. Brown a letter giving him options and around October Mr. Brown requested a public hearing. Weider asked if there was any change in the equipment. Mr. Brown stated he has one dump truck and one trailer. Mr. Brown noted the trailer is on site all year long and is parked in the same area as the truck.

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Chairman Sullivan asked if there are any abutter questions. Mr. Derek Muir asked if any trees were going to be removed and was the parking area going to be paved. Mr. Brown answered no to both questions. A resident of Chester Hill Estates, not an abutter, asked the Board whether the non-adherence to covenants affects their decision relative to the enforcement of zoning. The Coordinator stated the Board does not get involved with private covenants. Another resident of the development asked how the covenants get enforced. Enforcement of covenants is up to the residents of the development. Mr. Brown stated he is asking for a permit because this is the only way he can register his truck. Chairman Sullivan stated for clarity purposes, the Board gets involved when someone wants to operate a Home Business. Code Enforcement chose to utilize registering commercial vehicles as a "red flag" indicating someone is operating a business. This is when the Planning Board gets involved; the Board has nothing to do with the registering of vehicles only with the permitting of a Home Business. A resident of the development asked Mr. Brown if he was going to put up a sign and Mr. Brown stated no he was not. A resident asked how limits are placed on the Permit. Chairman Sullivan explained Mr. Brown is applying for a specific use for the vehicle, the Permit will note the use and limits will be noted on the Permit.

144 Leroy Scott asked for clarification of the date on the Application. The
145 Coordinator repeated what she had told Weider earlier in the meeting. Chairman
146 Sullivan explained in December of 2008 the Board tabled all Home Business
147 Applications and set a March 2009 date to respond in order to give the Board
148 time to clarify the process. Following the Board clarifying the process letters
149 were sent out to Applicants who had submitted Applications giving them options
150 on how to proceed with their request. Chairman Sullivan asked Mr. Scott what
151 his concern is with the 2008 date. Mr. Scott stated he feels today's date should
152 be on the Application or the Planning Board should be held to task as to why it
153 took so long to have the hearing. Chairman Sullivan stated over the past several
154 months at various meetings he has made the reasons clear.

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156 Board members went over the Conditions of Approval. The Coordinator noted
157 the Purpose for the Permit and the Conditions and asked Board members if they
158 want to add any additional Conditions. Richter asked Mr. Brown the dimensions
159 of the trailer (6 ft x 10 ft) and he stated the weight of the truck is 33,000 GVW.
160 Truck and trailer are to be screened from public view by natural or man-made
161 materials. **MOTION:** Weider made a motion to grant the Home Business Permit
162 to Richard Brown of 68 Quail Hill Road to use a commercial weight truck for
163 plowing snow subject to the following conditions: 1) Commercial truck is limited
164 to one 33,000 GVW dump truck and one trailer (6 ft x 10 ft) and 2) Truck and
165 trailer are to be screened from public view by natural or man-made materials.
166 Boyden seconded. Motion passed unanimously.

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169 **The Home Business Application of Robert Brown who is requesting approval**
170 **to register a plow truck at 35 Purington Lane (001-048-000)**

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172 4. Chairman Sullivan opened the Public Hearing for Home Business Application of
173 Robert Brown who is requesting approval to register a plow truck at 35 Purington
174 Lane. Chairman Sullivan asked Mr. Brown to fill out the required Checklist and
175 then sign it. Chairman Sullivan asked Mr. Brown the size of the truck and
176 whether there was a plow blade. Mr. Brown stated the truck is a 33,000 GVW
177 dump truck with a plow blade and a trailer (6 ft x 10 ft). Chairman Sullivan noted
178 the purpose of this Application is the same as the previous Application.
179 Chairman Sullivan asked if there were any abutters present who wished to
180 speak. No abutters were present. Richter asked Mr. Brown about a public notice
181 relating to his house. Mr. Brown stated that was his business. Mr. Brown stated
182 that he is applying for this Permit because the town forced him to. Mr. Brown
183 stated he does not do business out of the house all he does is plow snow for the
184 State of New Hampshire. Mr. Brown noted that up until recently he was allowed
185 to register his truck, then the Town Clerk and Code Enforcement Officer
186 implemented the policy that in order for commercial vehicles to be register you
187 needed a Home Business Permit. Mr. Brown stated he doesn't feel he meets the
188 criteria for a Home Business but he filled out the Application and put himself on
189 the agenda in order to get this squared away. Mr. Brown noted he registered his
190 vehicle elsewhere.

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Richter stated it is her opinion these two applications are not real Home Business Applications. Richter feels this process has been subverted for some other agenda. Chairman Sullivan feels the Planning Board has fixed the process for issuing a Home Business Permit noting when someone is doing something outside zoning it is a code enforcement issue. In an attempt to streamline the Home Business Permit process further, Chairman Sullivan noted that anytime someone makes a dollar that is a profit in a business sense. As an example of this process being “broken”, Mr. Brown gave an example of someone inheriting a commercial weight truck and having to create a phony business in order to register it.

Mr. Brown noted that he would be moving to Fremont Road and because this Home Business Permit is not transferable, he will be back for a new Permit. Chairman Sullivan stated the Board must go through the process so as to not be criticized for not being consistent. The Coordinator questioned why the pick up truck with a plow doesn't fall under this process. Chairman Sullivan stated it is only because the tool used to identify the business is the registering of a commercial vehicle. Richter asked where Mr. Brown stores the vehicle and was it screened. Mr. Brown stated during the winter months it is at the State Shed and during the summer months it is parked behind trees. Mr. Brown asked what the next step is for him, he would like the Permit issued. Chairman Sullivan noted that by issuing the Permit, Mr. Brown would be in line with the Ordinance. **MOTION:** Richter made a motion to grant the Home Business Permit to Robert Brown of 35 Purington Lane to use a commercial weight truck for plowing snow subject to the following conditions: 1) Commercial truck is limited to one 33,000 GVW dump truck with a snow plow and one trailer (6 ft x 10 ft) and 2) Truck with snow plow and trailer are to be screened from public view by natural or man-made materials. Sederquest seconded. Motion passed unanimously.

Home Business Application of Lawrence Dillon who is requesting approval to operate a retail nursery and greenhouse at 240 Sandown Road (005-112-003)

- Chairman Sullivan opened the continuation of the Public Hearing for the Home Business Application of Lawrence Dillon who is requesting approval to operate a retail nursery and greenhouse at 240 Sandown Road. Mr. Dillon was present and received a copy of the draft Conditions of Approval. Chairman Sullivan asked Mr. Dillon if he had any questions regarding the Conditions of Approval. Mr. Dillon stated no. Weider read the draft Conditions of Approval consisting of hours of operation and the storage and screening of materials and equipment. Chairman Sullivan explained to Mr. Dillon should his business grow, he should come back before the Planning Board. **MOTION:** Weider made a motion to approval the Home Business Application of Lawrence Dillon who is requesting approval to operate a retail nursery and greenhouse at 240 Sandown Road subject to the Conditions of Approval as presented tonight. Richter seconded. Motion passed unanimously.

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Board review and motion to take the following proposed zoning amendments to a public hearing: Article 16 – Groundwater Protection, Table 1 – Maximum Building Coverage and Article 13 – Growth Management

- 6. Board members reviewed the final draft of the proposed zoning amendments on the following: Article 16 – Groundwater Protection, Table 1 – Maximum Building Coverage and Article 13 – Growth Management. **MOTION:** Weider made a motion to take the proposed zoning amendments as presented tonight to a public hearing at the earliest possible date. Sederquest seconded. Motion passed unanimously.

Adoption of the Chester Planning Board Rules of Procedure and By Laws

- 7. Board members reviewed the comments from legal counsel regarding the Rules of Procedure and By Law. Board members discussed the recommendations about defining the duties of Alternate members that include but are not limited to; placement at the table, participation in Board discussion and voting. Weider suggested using wording from an article in Town and City magazine dated July/August 2007 on page 38. Chairman Sullivan recommended using the wording from page 39 of the same Town and City article to explain the intent of the Board relative to Alternate members participation. Alternate duties are to be added to the By Laws in the section on Quorum and Voting. The Coordinator will add the section about Joint Meetings to the Rules of Procedure along with legal counsels other recommendations and bring back to a future meeting.

Miscellaneous

- 8. Weider asked the Coordinator what Jack Munn said about input from the Fire Chief and Health Officer relative to the Site Plan and Subdivision Applications concerning groundwater protection. The Coordinator will check her emails from Jack Munn and bring his response back to a future meeting.

MOTION: Richter made a motion to adjourn at 9:01 P.M. Weider seconded. Motion passed unanimously.

Respectfully submitted,

Cynthia J. Robinson
Planning Coordinator

288 Dates of upcoming meetings:
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290 January 13, 2010
291 January 27, 2010
292 February 3, 2010
293 February 10, 2010
294 February 24, 2010