

2-14-18 These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

Town of Chester
Planning Board Meeting
Wednesday, February 14, 2018
Municipal Complex
Approved Minutes

Members Present

Evan Sederquest, Vice Chairman
Richard Snyder, Member
Elizabeth Richter, Member
Aaron Hume, Alternate Member
Cass Buckley, Ex-Officio

Members Absent

Brian Sullivan, Chairman
Michael Weider, Member
Jacob Weider, Alternate Member

Staff Present:

Andrew Hadik, Planning Coordinator

Others Present at Various Times

Kim Devanney, 88 Lady Slipper Lane
Kevin Hatch, Cornerstone Survey Associates, Inc.
John and Rhonda Lamphere, 527 Fremont Road
Yanai Liberman, 12 Bayberry Road
Ann Parnell, 512 Fremont Road
Penny Williams, Tri-Town Times

Vice Chairman Sederquest called the meeting to order at 7:01 pm.

Vice Chair Sederquest said that Mr. Hume is the alternate for Chairman Sullivan.

Meeting Agenda

General Business

- Review and sign invoices and time sheets.
- Review and approve minutes for February 8, 2018.
- Chairman to sign letter to the Registry re: Scott - Map and Lot 1-95-1.
- Review draft of the CIP.
- Review draft of the proposed amendments to zoning Article 4.4 – Signs.
- FYI quick update on the RSMS field data collection.

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7:10 PM – Appointments

Kim Devanney and Yanai Liberman re: Discuss acceptance of Chesterbrook Estates roads.

Public Hearings

1. Continuation of the Public Hearing for the subdivision application by the DAR Builders, LLC 305 Massabesic Street, Manchester, NH, 03104, for a 60-lot subdivision of Map 11, Lots 30 and 30-7 off Crowley Road, Candia, NH.
2. Continuation of the Public Hearing for the subdivision application by Rob Brown (Owner), 501 Fremont Road (Map 9 Lot 83), for a 2-Lot Subdivision off Fremont and Shepard Home Roads in Chester, NH.
3. Continuation of the Public Hearing for the Site Plan Review Application by Kristy DeCesare (Operator) and Busche Academy (Property Owner) to operate a licensed 40-child capacity, daycare center in the former CCNE Nutting Hall Building (Map 5 Lot 14), 66 Chester Street, Chester, NH.

Future Meeting Dates:

February 28, 2018 – PH to adopt CIP.

March 7, 2018 – 1st PH for Zoning Amendments

March 14, 2018 – Finalize Annual Report

March 28, 2018 – 2nd PH for Zoning Amendments?

Review and approve minutes for February 8, 2018.

The Board reviewed the draft minutes from February 8, 2018.

Line 69 had “the” added to it.

Mr. Snyder made a motion to accept the February 8, 2018 minutes as amended; Mr. Buckley seconded the motion. Motion approved, 3-0-2, Mr. Buckley and Mr. Hume abstained.

FYI quick update on the RSMS field data collection.

Mr. Hadik noted that the good weather has caused melting thereby allowing the Southern New Hampshire Planning Commission to complete the data gathering for the RSMS; he said that the data has been transferred for input to T-Squared at UNH. Mr. Hadik said that the program is still on schedule though there is a minor software rewrite in progress.

Chairman to sign letter to the Registry re: Scott Map and Lot 1-95-1.

The Board agreed that Vice Chair Sederquest can sign the letter to the registry re: Scott Map and Lot 1-95-1 in Chairman Sullivan’s absence.

7:10 PM – Appointment

Kim Devanney and Yanai Liberman re: Discuss acceptance of Chesterbrook Estates’ roads.

Ms. Devanney and Mr. Liberman came before the Board at 7:10 pm.

Ms. Devanney explained that she and Mr. Liberman are residents of, and Association Board members for Chesterbrook Estates. She said they are representing the Association and are before the Board to find out how they can get the three private roads that are part of Chesterbrook Estates accepted by the Town as Public roads.

Ms. Devanney said that Chesterbrook Estates residents would like to see the three roads in the development made Public to have those roads maintained by the Town, and to provide a safer environment for the children who live in the development by providing shorter walks to school bus pickups. She noted that the furthest walk in the development is a half a mile. Ms. Devanney noted that there are many residents in Chesterbrook Estates that have children who attend Chester Academy and Pinkerton Academy.

Ms. Devanney said she would like to learn the process to get the roads accepted by the Town.

Mr. Hadik said that the Town has a two-part road acceptance policy that must be met. The first part is a laundry list of documents and plans to be approved by the Planning Board. The Board then recommends to the Board of Selectmen (BOS) the road is ready for acceptance at the annual Road Acceptance hearing every April. The BOS have their own review list before the road can become a Public road. He explained that the acceptance policy lists multiple requirements for acceptance, such the As-Built record drawings, deeds etc. Mr. Hadik noted that they did end up in court, possibly twice, with the developer of Chesterbrook Estates over issues during the construction of infrastructure for the development. Mr. Hadik said that the developer ended up putting the roads in without completing that road and underground utility inspection processes required to allow the roads to qualify for acceptance as Public roads, thereby making the roads Private.

Mr. Hadik said that regardless of what the Planning Board would recommend, ultimately the Board of Selectman make the final decision and have final authority regarding acceptance.

Mr. Hadik and the Board discussed multiple issues and then suggested that Ms. Devanney and Mr. Liberman go before the Board of Selectman to seek their guidance, as well as consulting a Land Use attorney.

Mr. Liberman said that they want to prevent "going down a rabbit's hole" spending their own money if it won't result in acceptance. He noted that they are paying taxes to the Town and the Town is not providing road maintenance and plowing services to them.

The Board explained to Ms. Devanney and Mr. Liberman that they bought the homes on existing private roads.

Ms. Devanney asked what they specifically would be looking for in the As-Built.

Mr. Buckley said that everything that was installed underground as part of the development is what they would require.

Ms. Devanney said that there are 40 homes in this neighborhood, and, regarding the underground utilities, there is concern from residents to prevent something catastrophic from happening to these utilities. She asked how they could start the process for generating As-Built and possibly acceptance of their roads.

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Mr. Hadik noted that they sympathize with the residents, and he recommended as the first step that they find out from the Board of Selectman what they would require at a minimum to consider accepting the roads.

Ms. Devanney and Mr. Liberman departed the meeting at 7:29 pm.

Public Hearings

1. Continuation of the Public Hearing for the subdivision application by the DAR Builders, LLC 305 Massabesic Street, Manchester, NH, 03104, for a 60-lot subdivision of Map 11, Lots 30 and 30-7 off Crowley Road, Candia, NH.

Mr. Snyder made a motion to reopen the Public Hearing for the subdivision application by the DAR Builders, LLC 305 Massabesic Street, Manchester, NH, 03104, for a 60-lot subdivision of Map 11, Lots 30 and 30-7 off Crowley Road, Candia, NH; Mr. Buckley seconded the motion. Motion approved, 5-0-0.

The Public Hearing was opened at 7:31 pm.

Mr. Hadik read to the Board an email from Mr. Mitchell (not present) requesting a continuance of the Public Hearing until March 14, 2018.

Mr. Snyder made a motion to continue the Public Hearing for the subdivision application by the DAR Builders, LLC 305 Massabesic Street, Manchester, NH, 03104, for a 60-lot subdivision of Map 11, Lots 30 and 30-7 off Crowley Road, Candia, NH until 7:15 pm on March 14, 2018; Mr. Buckley seconded the motion. Motion approved, 5-0-0.

2. Continuation of the Public Hearing for the subdivision application by Rob Brown (Owner), 501 Fremont Road (Map 9 Lot 83), for a 2-Lot Subdivision off Fremont and Shepard Home Roads in Chester, NH.

Mr. Snyder made a motion to open the Public Hearing for the subdivision application by Rob Brown (Owner), 501 Fremont Road (Map 9 Lot 83), for a 2-Lot Subdivision off Fremont and Shepard Home Roads in Chester, NH; Ms. Richter seconded the motion. Motion approved, 5-0-0.

Mr. Hatch joined the Board at the meeting table at 7:33 pm and explained the changes that were made to the plans since the last public hearing.

The Board reviewed the most recent letter from DuBois and King, and the revised plans Mr. Hatch distributed, along with the draft Conditions of Approval.

Vice Chair Sederquest asked for Public comment.

Mr. Lamphere came before the Board at 7:36 pm.

Mr. Lamphere said that he is an abutter to the property. He explained that he took the Planning Board's advice, from several weeks ago, to discuss with the Building Inspector the violations of which he is aware on

the property he abuts. Mr. Lamphere said that the Building Inspector (not present) told him that he will not do anything about code enforcement on that property without the Selectman's directive. He noted that code enforcement is broken.

Mr. Buckley asked Mr. Lamphere what are the specific issues of which he is aware.

Mr. Lamphere said that Mr. Brown is running his construction business out of that property without a home business permit. He said that the other issue is that the building that Mr. Brown is remodeling had formerly been used as multi-family housing for many years. Mr. Lamphere said that he brought copies of a letter from the file when a different Building Inspector was in place, which he gave to the Board, that says the building can be used as a multi-family house. He said that it still has an apartment over the garage.

Mr. Snyder pointed out that the plans, note number three, specifically say this is subdivide into two single-family lots only. The note (number eight) related to the apartment over the garage had been removed.

Mr. Lamphere reiterated that the house has been a multi-family house, a.k.a. duplex, for multiple years which the letter declared it as such in 1999.

Mr. Buckley said that if they approve the plan, the house will no longer be a duplex, it will be approved as a single-family house.

Mr. Hadik, noted that according to the Zoning Ordinance, a lot must be at least 3 acres in size to be able to have a duplex on it. Reducing the lot size/s below 3 acres per this subdivision makes both lots ineligible to be duplexes unless variances are obtained.

Mr. Hatch said that the apartment over the garage is an allowed use as an auxiliary dwelling unit (ADU) apartment which has historically been there, per the current zoning laws.

Mr. Hadik disagreed with Mr. Hatch's statement. He countered the ADU zoning was only recently adopted, therefore if Mr. Brown wants to have an ADU he must apply to the ZBA for a Special Exception.

Ms. Richter noted that the ADU would be allowed after they go through the required process with the ZBA.

Mr. Hatch said yes, after they go through the process, but this has nothing to do with why they are here tonight, which is to approve the two single-family residential lots.

Mr. Hadik noted the Building Inspector agreed that this approval is for single-family dwellings and that he is not acknowledging any existence of the ADU until the process for obtaining an approved ADU is successfully accomplished.

Mr. Buckley said that if there are no current issues with code enforcement, the historical use of the property should not affect the decision of the Planning Board.

Mr. Hatch stressed that the apartment over the garage is allowed per the zoning ordinances in Town.

Mr. Hadik noted that if Mr. Brown should want to reconstitute the apartment, he would have to apply to the ZBA for a Special Exception for the ADU under Article 9 - Accessory Dwelling Units.

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229 Mr. Snyder agreed, noting that Mr. Brown cannot have an auxiliary dwelling unit there until he goes
230 through the proper approval process.
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232 Mr. Lamphere said that the construction business is being run out of the garage that is out back. He pointed
233 out that the garage is going to be on the new lot, noting that if Mr. Brown stays in the house in which he is
234 living now, he cannot have a home business on the other lot even with a home business permit.
235
236 Mr. Buckley said that that issue sounds like a code enforcement issue. He noted that he, as the BOS liaison
237 to the Planning Board, will have a conversation with the Building Inspector and find out if there is a business
238 being run out of the garage that is not a permitted business.
239
240 Mr. Hadik and Mr. Hatch agreed that it is a non-issue until the property is approved recorded, deeded, and
241 the new lot is transferred to a different owner.
242
243 Mr. Buckley said he will get more information and follow-up on this with the Building Inspector.
244
245 The Board had more discussion on this issue.
246
247 Mr. Buckley said that if there is a business on the property that has not been permitted then possibly
248 something should be put into these Conditions of Approval before accepting the plans.
249
250 Mr. Buckley, the Board, and Mr. Hatch discussed the issue; the Board did not agree with Mr. Buckley that
251 any special condition should be added to the Conditions of Approval.
252
253 Mr. Snyder said that he didn't understand why the Building Inspector is being held up by the BOS on
254 following up on code enforcement, but that the Planning Board has nothing to do with code enforcement.
255
256 Mr. Lamphere said that there appears to be a question about whether a business is being run on that lot; he
257 presented the Board with a copy of a check that is from Mr. Brown to the Planning Board for the subdivision
258 approval that has the business address as the same address at issue.
259
260 The name and address on the check was read aloud: Brown Brothers' Construction, 501 Fremont Road,
261 Chester, New Hampshire.
262
263 Mr. Snyder said that the check suggests that they have an approved business.
264
265 Mr. Buckley said it means they have a bank account with that name on it.
266
267 Mr. Hadik said that the main dispute is whether the Planning Board can force the Applicant to obtain a
268 Home Business permit via the conditions of approval.
269
270 The Board discussed conditioning versus code enforcement and which entity is responsible for code
271 enforcement.
272
273 Mr. Snyder made a motion to close the Public Hearing; Ms. Richter seconded the motion. Motion
274 approved, 5-0-0.

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The Public Hearing was closed at 7:53 pm.

The Board reviewed and discussed the subdivision's conditions of approval.

The Board discussed the Building Inspector and code enforcement.

Ms. Richter made a motion to accept the subdivision application by Rob Brown (Owner), 501 Fremont Road (Map 9 Lot 83), for a 2-Lot Subdivision on Fremont and Shepard Home Roads in Chester, NH, 03036, identified as Lots 009-083-000, and Lot 009-083-001, as shown on a certain plan entitled "Subdivision Plan, Tax Map 9 Lot 83, Fremont Road, Chester, New Hampshire" dated May, 2017, last revision date January 25, 2018, subject to Conditions of Approval dated February 14, 2018; Mr. Snyder seconded the motion. Motion approved, 4-0-1, Mr. Buckley abstained.

Mr. Hatch, Mr. And Ms. Lamphere, and Ms. Parnell departed the meeting at 8:01 pm.

3. Continuation of the Public Hearing for the Site Plan Review Application by Kristy DeCesare (Operator) and Busche Academy (Property Owner) to operate a licensed 40-child capacity, daycare center in the former CCNE Nutting Hall Building (Map 5 Lot 14), 66 Chester Street, Chester, NH.

Mr. Snyder made a motion to reopen the Public Hearing for the Site Plan Review Application by Kristy DeCesare (Operator) and Busche Academy (Property Owner) to operate a licensed 40-child capacity, daycare center in the former CCNE Nutting Hall Building (Map 5 Lot 14), 66 Chester Street, Chester, NH; Mr. Buckley seconded the motion. Motion approved 5-0-0.

Public Hearing opened at 8:08 pm.

Mr. Hadik noted that he has a written request to continue their Public Hearing to March 7, 2018.

Mr. Buckley made a motion to continue the Public Hearing for the Site Plan Review application by Kristy DeCesare (Operator) and Busche Academy (Property Owner) to operate a licensed 40-child capacity, daycare center in the former CCNE Nutting Hall Building (Map 5 Lot 14), 66 Chester Street, Chester, NH to March 7, 2018; Mr. Hume seconded the motion. Motion approved, 5-0-0.

Review draft of the CIP

Mr. Hadik informed the Board that since the February 8, 2018 Board meeting, at which time they had reviewed the CIP and removed some projects, he has received feedback directly and indirectly from both Board members and Selectmen. Mr. Hadik noted that based on that feedback, he is recommending that some items that were taken out of the CIP be reinstated in the CIP.

Mr. Hadik said that the first item for review is the F-150 type utility vehicle with plow for \$50,000 for the 2021-2022 fiscal year.

Mr. Hadik and the Board discussed the trucks available to the Town, how the current truck would be replaced, and the value of keeping this truck in the CIP as a placeholder.

The Board agreed to put the truck back into the CIP.

Mr. Hadik said that the \$6,770 to replace the Transfer Station south side doors, wiring, openers and wall construction in the 2018-2019 is a capital improvement that needs to be in the CIP, regardless of whether it is being put in the CIP for an upcoming year.

Mr. Snyder asked why the item was removed.

Mr. Hadik explained that the argument for removing the item was that it is being put in for the upcoming year only to be funded and subsequently dropped from the next CIP update. He said that listing this project in the CIP is beneficial; the CIP is a tracking document of capital improvements that support and validate the impact fees.

Mr. Hadik and the Board discussed the issue.

The Board agreed to put the Transfer Station doors, wall etc. back into the CIP.

Mr. Hadik said that another item to reconsider is the Highway Department's F-550 truck for snowplowing.

Mr. Hadik and the Board discussed that the F-550 truck in the CIP is a replacement truck for the Highway Department's existing F-550 and is not intended as a second F-550 plow truck. It is being used as a placeholder for the time when the existing truck, which is already six-years old, may need to be replaced. Mr. Hadik noted the current F-550 might be transferred over to Maintenance & Grounds Keeping when it is retired from the Highway Department.

The Board agreed to reinstate the Highway Department's F-550 truck back into the CIP project list.

Mr. Hadik reviewed other changes to the CIP and questions that were asked at the last meeting.

Mr. Hadik noted that he had asked the Fire Department about the date for the replacement of the Fire Engine Two in 2021-2022, as had been discussed at the last meeting. Chief Bolduc Deputy Chief Clark have explained there would be a one-year lead time to receive the truck after it is ordered. Mr. Hadik said that the existing truck will be older than twenty years for when the replacement is currently scheduled. While the truck only has minor maintenance issues currently, it needs to be kept in the 2021-2022 fiscal year as a placeholder.

Mr. Hadik noted that he had discussed with Chief Berube the question regarding the \$14,000 listed in grant funding. He said that the Chief reiterated that having funding in the CIP to apply for the grants as they come available will allow savings of approximately \$2,000 per year over the next 7 years. He said the Chief had also supplied a written explanation which will be available at the public hearing on the 28th.

Mr. Hadik and the Board discussed the CIP further.

Other

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368 Mr. Hadik briefly reviewed the meeting with NHDOT and State Representative Kari Learner held in this
369 morning. He said he was doing this because of all the chatter on Facebook. He showed the Board pictures
370 of the roundabout that is being proposed as a potential solution to the problems of that exist at the
371 intersection of Rt. 102 and Rt.121. He noted only the investigation into the feasibility of a roundabout was
372 currently under consideration by NH DOT. He and the Board discussed the recommendation and the other
373 fixes to the intersection.

374

375 **Adjournment**

376

377 Ms. Richter made a motion to adjourn the meeting; Mr. Buckley seconded the motion. Motion
378 approved, 5-0-0.

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380 Meeting adjourned at 8:55 pm.

381

382 Respectfully submitted,

383 C. Molly Qualters

384 Recording Secretary