

9--22: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, September 28, 2022
Approved Minutes**

The meetings are broadcast live on Comcast Channel 20, and streamed on Government (cablecast.tv) - click "Watch Now".

Members & Staff Present:

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Mike Weider, Member
Elizabeth Richter, Member
Selectman Chuck Myette, Liaison
Andrew Hadik, Town Planner

Members Absent:

Richard Snyder, Member

Guests and Members of the Public Present:

Jason Lopez, Keach-Nordstrom Associates
Ryan Redmond, Lifestyle Homes of Chester
Suzanne Rieter, 100 Sandown Road
Doug MacGuire, The Dubai Group
Angela Currie, 65 Emerson Road
Michael Shackelford, 265 Old Sandown Road
Christine Cavedon, 24 Emerson Road
Resident, 200 Fremont Road
Debbie Chase, 163 Old Sandown Road
Rebecca Haggart, 54 Emerson Road

Gloria Pirozzi, 126 Fremont Road
Janet Janiak, 30 Emerson Road
Lynn Boutin, 74 Emerson Road
Amber Ragnarsson, 72 Trillium Lane
Margaret Voss, 189 Old Sandown Road
John Pirozzi, 126 Fremont Road
Troy Lefebvre, 67 Emerson Road
and other residents unknown to the Recording
Secretary
Chester PACT

Meeting Agenda

7:00 PM – General Business

1. Review & approve invoices, sign documents etc.
2. Review & approve the minutes for 9/14/22 PB meeting.
3. Review ADU Impact Fee Assessment memo.
4. Review & approve PD PPE purchases.
5. Review PB's annual budget.
6. Departmental CIP project reviews.

7:15 PM – Appointments

None scheduled

7:15 PM – Public Hearings

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1. Continuance of subdivision application by Lifestyle Homes of Chester, LLC (Owner), 3 Myles Drive Derry, NH 03038, for an 11-lot subdivision (aka Colby Farm) located at 181 Haverhill Road in Chester, NH (Map 15 Lot 18 & Map 5 Lot 97).
2. Site Plan Review of application by Old Sandown RD, LLC (owner – Paul Garabedian, Jr.) 352 South Broadway Street, Salem NH 03079, for a gravel pit located at 152 Fremont Road in Chester, NH (Map 5, Lot 85).

Non-Public Session - None scheduled

Meeting Minutes

Chairman Sullivan called the meeting to order at 7:00 p.m.

7:00 PM – GENERAL BUSINESS

1. Review & approve invoices, sign documents etc.

Documents and invoices were reviewed and signed.

2. Review & approve the minutes for the 9/14/22 PB meetings.

Mr. Weider moved to approve the minutes of the 9/14/22 Planning Board meeting as written. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

3. Accessory Dwelling Unit (ADU) Impact Fee Assessment memo.

Mr. Weider moved to bring ADU impact fees described in memo written on September 13, 2022 from Southern New Hampshire Planning to a public hearing on October 12, 2022. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

Mr. Hadik noted that the document will not be a standalone document. It will be parsed out and incorporated into each impact fee accordingly. He also noted that this time the fees for ADUs are calculated by square footage.

4. Review & approve PD PPE purchases.

Mr. Weider moved to release Police impact fees in the amount of \$1,079 for a ballistic vests / body armor based on the 2022-23 CIP budget. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

5. Review PB's annual budget.

The Board reviewed and approved the draft budget, which is due on October 3rd. They discussed the proposed position in the Planning Department in regard to future planning for the department.

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6. Departmental CIP project reviews.

Mr. Hadik advised he is currently trying to schedule the CIP project reviews with the stakeholders. Mr. asked if the department heads are reviewing their CIP projects with the Board of Selectmen before presenting them to the Board. Mr. Hadik said he did email a remainder.

7:15 PM – Appointments - None scheduled.

7:30 PM – Public Hearings

1. Continuance of subdivision application by Lifestyle Homes of Chester, LLC (Owner), 3 Myles Drive Derry, NH 03038, for an 11-lot subdivision (aka Colby Farm) located at 181 Haverhill Road in Chester, NH (Map 15 Lot 18 & Map 5 Lot 97).

Chairman Sullivan recused himself from the Board at 7:20 p.m. for this portion of the meeting.

Mr. Weider moved to reopen the public hearing for the subdivision application by Lifestyle Homes of Chester, LLC (Owner), 3 Myles Drive Derry, NH 03038, for an 11-lot subdivision (aka Colby Farm) located at 181 Haverhill Road in Chester, NH (Map 15 Lot 18 & Map 5 Lot 97). Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 4-0-0.

Mr. Jason Lopez of Keach-Nordstrom Associates appeared before the Board to continue the discussion regarding the location of the reference line that determines the wetlands setback. The edge of the beaver impoundment / pond was flagged by the wetlands consultant and located by the surveyor, and was measured 204 feet from the talus slope of the easternmost drainage structure. He has not been able to contact the DES for ruling, despite numerous attempts.

He proposed compiling information showing where the GIS data is and where that setback is, and provide survey data on the beaver impoundment. The RSA specifically states that when the ordinary high water mark is not discernable, it may be determined by the DES. He will submit a permit application presenting the available information, which will require the DES to respond within 30 days.

The Board discussed why two of the three conditions on the fact sheet presented do not apply in this situation.

The Board agreed to add the Shoreland Protection Bureau (SPB) to the permits listed in the conditions of approval. Either a permit shall be obtained from the SPB, or a letter shall be obtained from the SPB stating that a permit is not required.

The Board opened the hearing to public comment.

Ms. Suzanne Reiter, 100 Sandown Road, thanked the Board for their attention to this matter and for thoroughly examining the criteria for the protecting the river. The Board thanked Ms. Reiter for expressing her opinions and participating in this process. They reiterated that the Board wants Town residents to have a voice at these hearings so that all questions can be answered before a decision is finalized.

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The Board reviewed the Finding of Facts and the Conditions of Approval for the subdivision.

Mr. Weider moved to close the public hearing. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion passed 4-0-0.

Mr. Weider moved to approve the amended Conditions of Approval for the Colby Farm subdivision dated September 28, 2022. He also moved to accept the amended Finding of Facts for the same subdivision dated September 28, 2022. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion passed 4-0-0.

Chairman Sullivan rejoined the Board at ~7:52 p.m.

2. Site Plan Review of application by Old Sandown RD, LLC (owner – Paul Garabedian, Jr.) 352 South Broadway Street, Salem NH 03079, for a gravel pit located at 152 Fremont Road in Chester, NH (Map 5, Lot 85).

Chairman Sullivan explained, for the members of the public in attendance, the purpose of conducting a site plan review and the process involved. Mr. Hadik added a reminder that the meeting is being broadcast live and being recorded. He said the Board members have not dealt with a new gravel pit in their years on the Board and explained the special stature of gravel pits in the State RSA. He noted the RSA limits a Town's ability to regulate gravel pits and asked those in attendance to be patient as the Board moves through the SPR process.

Selectman Myette disclosed that he is an abutter, living at 159 Fremont Road. He recused himself from voting, although he will participate in the discussion as a member of the Board and as a citizen. Mr. Weider disclosed that he is also an abutter. He too will ask questions as a member of the Board and as a citizen, but he will recuse himself from voting. Chairman Sullivan emphasized that their presence is valuable, due to their expertise.

Mr. Hadik reviewed the plans for the project. While the application is complete, he expressed his reservation that there is no mapping of the groundwater table across the first proposed excavation area.

Vice Chairman Sederquest moved to accept the application and open the public hearing. Ms. Richter seconded the motion. A vote was taken. Mr. Weider and Selectman Myette abstained. The vote passed 3-0-2.

Mr. Doug MacGuire of The Dubay Group explained that the plans previously submitted have been expanded at the request of the Board. The expanded plans were reviewed by the Town engineer, DuBois & King, who signed off on them. As a result, Mr. MacGuire has increased the detail on the plans as well as adding a full drainage analysis and updating the Stormwater Pollution Prevention Plan (SWPPP).

Mr. MacGuire reviewed the updated plans for the Board, including the proposed excavation areas. These plans focus on the first excavation site of 18.5 acres. Any plans involving other excavation areas

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would be addressed by new permit applications. He said the plans comply with the permitting processes required for excavating material from an area.

He noted the excavation site is well above the surrounding wetland areas. A significant amount of material is mounded in the center of the property, so a "bowling effect" will not be created by removing this material. They are maintaining drainage flow patterns. He said the plan meets local and state reclamation standards. The site will be excavated and stabilized in four approximately 5-acre phases. Equipment fueling will be done by a third-party that will come onto the site. Erosion control-related details are also included on the plan.

Mr. MacGuire noted there is a SWPPP currently in place on the property, which requires that regular inspections. These will be conducted by The Dubay Group and reports submitted to the Town. Mr. Hadik has not seen any reports so far, so Mr. MacGuire will ensure those are sent to him. Mr. Hadik requested they also be sent to Code Enforcement Officer Myrick Bunker as well.

Mr. Hadik asked how the excavation will not dewater the wetlands to the east of the excavation, as it proposed to excavate as much as 14 feet below the elevation of the wetlands. Mr. MacGuire said the seasonal high-water table has not been mapped. He explained the edges of the cut will be sloped, and he does not think water will flow out the edges into the cut. Mr. MacGuire said the design takes this into consideration. They also believe they might encounter ledge. He explained that the water table will restabilize to surrounding areas, and discussed the characteristics of a wetland, which includes poorly drained soil.

Mr. Hadik asked for copies of the soil scientist's report. Mr. Weider asked if they had referred to the USGS maps that outline the minerals on the property, which Mr. MacGuire said they have not done. Mr. Weider expressed concern over how long each phase will last and asked how this can be estimated, if the existing materials are not known. Mr. MacGuire responded that the parties doing the mining can use any type of material found.

Mr. Weider pointed out specific issues regarding mining that the Board will be questioning. Selectman Myette noted blasting has not been mentioned before: that this project has been presented as a gravel pit, not a quarry operation. Selectman Myette noted the amount of infiltration is going to be significantly more than it is today and there will be decreased runoff to the wetlands. More information on the hydrology is needed so that the Board is comfortable that the environment will not be negatively impacted.

Mr. Hadik noted the project's timeline will be impacted by the strength of the economy. He also explained the Legislature has removed the former 60-day extension to review and approve or deny applications. So, at the end of 65 days, the Board is required to either approve the application or deny it without prejudice, so the applicant can return with more information. He asked if the applicant would consider this application covering the first phase of the operation instead of the entire 18.5 acres, as it would be difficult if not impossible to cover all issues and obtain all of the information the Board will require in a 65-day period. This would be especially true if blasting and quarrying is going to occur. Mr. MacGuire agreed, saying they would be updating the plan as they go.

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Mr. Hadik presented a list of issues (*attached*) the Board will be considering as they create the conditions of approval. A Board member questioned whether the applicant might need to approach the ZBA to request a special exception, but Mr. MacGuire said they will not go back to that level. He believed that by DuBois & King reviewing the plan, all concerns would be alleviated. Mr. Hadik clarified that review by DuBois & King does not preclude the Board from asking questions before the conditions of approval are drafted.

Chairman Sullivan asked the Board if this is being considered as a phased project. There are currently 3 acres of disturbed land. The Board clarified they are trying to help the applicant through the process and ensure that the community is comfortable with the operation. They will honor the rights of the landowner, but will do it in a way that everyone involved believes due diligence has been performed. Selectman Myette pointed out this operation will change the neighborhood, and the advantages and disadvantages to the community must be considered. Mr. MacGuire said the phased approach is reasonable and manages the expectations of both parties. He will discuss with the owners which areas would be the most productive to address first.

Chairman Sullivan opened the hearing to public comment.

Angela Currie of 65 Emerson Road expressed her concerns regarding health and safety. The proposed expansion area is much closer to the homes on Emerson Road than the current excavation area. She asked when answers will be given to the concerns listed in the conditions of approval. Mr. Hadik explained the process and assured her the information will be posted on the website. Mr. MacGuire said the level of detail on the plan is to empower the Board and Code Enforcement Officer Bunker to address any issues that might occur. Chair Sullivan said the public is welcome to review the notes on the plans, which are on the website as well as available in the Planning Office (*or the Town Clerk's office*).

Ms. Currie asked if information of interest to the public could be provided in a more digestible fashion. Ms. Richter explained the Board cannot digest and present the information in a simplified form, and the information is easily accessible. Mr. Hadik explained there are minutes of each meeting available on the website and encouraged the public to review the notes on the plans and the documents, whether in person or online.

Michael Shackelford of 265 Old Sandown Road noted a surveyor or drawing error on page 2, where the Stowe Road Cut intersects Old Sandown Road. The property line asserts that the end of Stowe Road is within their property, which is incorrect. The property markers being used are his, not the other property owner's. So, the right-of-way is incorrectly located. This could be an issue in future phases. Mr. MacGuire will investigate this.

Christine Cavedon of 24 Emerson Road thanked the Board for the amount of detail being considered. This is the first she and other residents have heard about this project and they are very upset. She suggested the Board consider that Chester is an agricultural community and not an industrial town. She is concerned about the noise as she works from home, the wells, and the water table, and said they have rights as property owners as well.

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264

265 The resident at 200 Fremont Road expressed his concern that his well is 100 feet off Stowe Road. He is
266 also concerned about the amount of traffic that will be traveling by his house abutting Stowe Road as
267 the result of this project.

268

269 Debbie Chase of 163 Old Sandown Road expressed her concern that her house is near the road, so her
270 property borders the project. As the setback is measured from the dwelling, not the property line, the
271 project will come up to her backyard. She asked if it was possible to establish a buffer from her property
272 line and ensure that trees are not removed, to buffer the noise. Mr. Hadik clarified the RSAs limit any
273 excavation within 50 feet of the property line of a disapproving abutter. He has requested the property
274 owner include a 100-foot buffer and also leave all the current vegetation. Mr. MacGuire pointed out a
275 100-foot buffer is included in the local regulations, but will verify that the plan is correct and does
276 include this 100-foot buffer.

277

278 Rebecca Haggart of 54 Emerson Road asked if a timeline will be established for this development. Mr.
279 MacGuire said when they return for the phase discussion, they will have a more specific timeline. Ms.
280 Haggart expressed concern over the buffer at the back of her property as well as the need to warn any
281 potential buyers of her home that there will be a gravel pit in the backyard. Selectman Myette pointed
282 out it is a fair question to ask how long this operation will occur.

283

284 Gloria Pirozzi of 126 Fremont Road expressed her concern about the noise, especially blasting, the
285 trucking damage that will occur to Fremont Road, their health, and the potential devaluation of their
286 property. They moved to Chester to live in the country. She wishes this project would not happen.

287

288 Janet Janiak of 30 Emerson Road thanked the Board for the concerns they have raised. She expressed
289 her concern regarding her well, her property value if she wants to sell her home in the future, the noise
290 as she works from home, and the displacement of wildlife. She is unsure if she will have the same
291 quality of life in the future as she has now. She asked regarding the 65-day process and Mr. Hadik
292 clarified the two options that the Board has, to either approve or deny without prejudice. The 65-day
293 period begins this evening.

294

295 Lynn Boutin of 74 Emerson Road thanked the Board for the questions they have raised. She asked Mr.
296 MacGuire why a picture at least 7 years old was used in the plan that is not accurate as to the current
297 excavation. He explained they use aerial imagery to create a representation at that scale and there is no
298 updated imagery available. Ms. Boutin pointed out Google Maps has an updated image as of spring
299 2022. Mr. MacGuire will update this image and said there was no intent to deceive the public. They
300 utilize imagery from New Hampshire Granit GIS, which does high-precision photos, just not as often as
301 Google Maps.

302

303 Ms. Boutin is concerned about the impact this project will have on her property value, the water table
304 and her well, and the character of the neighborhood. She voiced a desire for the project to be policed
305 by a third-party instead of The Dubai Group, as is currently stated. Mr. MacGuire clarified it is
306 monitoring and reporting, not policing, and it would be unethical to misrepresent the existing

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conditions. He also pointed out the SWPPP allows the operator to monitor their own operation, as long as they are credentialed.

Ms. Currie returned to point out there is an issue with the abutters' drawing, which does not mention the residents at 72 and 74 Emerson Road or the conservation easement she co-owns with 72, 74, and 67 Emerson Road. It is listed as being owned by Abdallah, which is not the case. Mr. Hadik pointed out this is an error in the Town's assessing database and not of The Dubai Group.

Amber Ragnarsson of 72 Trillium Lane asked if this is an acceptable residential use, as the area is zoned residential and was told that it is. She asked who will conduct oversight of the project on the Town's part. Mr. Weider explained Mr. Bunker, as the Code Enforcement Officer, will monitor the conditions set by the Board. Reports generated by the Town would be reviewed by the appropriate Town boards and committees. The state allows landowners to use their land as they wish, as long as they meet the established requirements.

Selectman Myette read RSA 15(e), which governs earth excavations, one of which includes complying with special exception criteria set forth by the ZBA. Mr. MacGuire requested an official determination of this and said his client will consult his attorney on the need to meet with the ZBA. He stated the pit was grandfathered in and this plan is an update to the existing 1993 excavation permit, and they will not meet with the ZBA.

Mr. Hadik responded, saying the Board agreed this was a grandfathered operation. The property owner has agreed to go through the update process and provide data as though it were a new permit. There was no discussion of going back to the ZBA. The Board is following the path that counsel advised. Mr. MacGuire noted the Board of Selectmen has signed off on the intent of the property owner to excavate this property for over 30 years. Selectman Myette clarified that there was no indication that any excavation was done.

Margaret Voss of 189 Old Sandown Road expressed her concern over the quality of the water in the water table once blasting is complete. Mr. MacGuire explained that for any blasting over 5,000 cubic yards, the state mandates groundwater monitoring reporting. This would evaluate every well within 2,000 feet of a proposed area pre-blast and post-blast. Any problems found would be addressed by the property owner. Mr. Weider confirmed the groundwater monitoring requirements.

John Pirozzi of 126 Fremont Road asked where the water will be obtained to keep the dust down, as any well drilled will affect the wells of the neighbors. Mr. MacGuire pointed out a property owner has the right to drill a well on their property.

Troy Lefebvre of 67 Emerson Road asked if there was an EPA element to this project. Mr. MacGuire explained an EPA Notice of Intent and SWPPP specific to the site were filed. Mr. Lefebvre is also concerned about the impact on wildlife. Mr. MacGuire reiterated that the area of disturbance, the operational area, will only be 5 acres at a time out of 158 total acres. He believes the owner will, at some point in the future, use the land for a productive use, which could include residential development.

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Mr. Weider moved to continue the hearing for Old Sandown RD, LLC (owner – Paul Garabedian, Jr.) 352 South Broadway Street, Salem NH 03079, for a gravel pit located at 152 Fremont Road in Chester, NH (Map 5, Lot 85) to October 12, 2022. Ms. Richter seconded the motion. A vote was taken. Mr. Weider and Selectman Myette abstained. The vote passed 3-0-2.

Future Meeting Dates

- September 29 – Theokas BOS reappointment @7:30 pm
- October 5 – P. Foscitt APP, Jigsaw Candia Rd. SUB,
- October 12 – ADU Impact Fees PH, CIP Project Reviews?
- October 19 – CIP Project Reviews?
- October 26 – CIP Project Reviews?

Ms. Richter moved to adjourn the meeting. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

The meeting was adjourned at 10:44 p.m.

Respectfully submitted,
Beth Hanggeli, Recording Secretary

Gravel pit discussion items:

Permits

Gravel Pit permit Local/state

Alteration of Terrain Permit

Wetlands Permit

Agency review

DES

Planning Board

Conservation Commission

ZBA

Public Health and Safety (monitoring)

Excessive noise drilling, blasting, crushing, screening, backup alarms, and truck braking (decibels/ noise plan)

Excessive dust in operation area, in adjacent lands/waterways, on Fremont Road and neighboring properties (dust/ sweeping plan),

Excessive fumes or odors,

and traffic (hours of operation and standing, number of trucks per day, weight limits on Fremont Road, dirt and rocks tracking on Fremont Road, ban on truck downshift engine braking (traffic plan).

Maintain Stowe Road to be safe for pedestrians, mountain bikers, and horseback riders.

Operations

No excavation within 100' of a disapproving abutter's property line.

Maintain existing vegetation within 100' of a disapproving abutter's property line for the purposes of erosion & dust control, visual screening, noise reduction, and property valuation.

Hours of operation (weekdays, no weekends or holidays except by special permission)

Number of trucks per day

Weight of truck loads / size

Discuss hauling route/s.

In order to protect and increase the longevity of Chester's bridges and roads, a sign shall be placed at the end of Stowe Road stating vehicles registered over GVW of 30,000 pounds shall only turn left on Fremont Road (towards Rte. 102). This notice shall also be prominently displayed at the top of each bill of lading for each vehicle taking materials from the site.

No onsite fuel storage. Spill pads used during refueling, and under equipment when inactive.

Ban on blasting and crushing? If not need noise and blasting plan (protocols), limitation on blasting powder (no perchlorates) monitoring plan for water quality. Pre-blast survey?

No excavation below high groundwater elevations (*needs to be mapped!*)

155-E: (m) A log of borings or test pits that extend to either the seasonal high-water table, ledge, or a minimum of four (4) feet below the maximum proposed excavation depth, including location and soils data. A certified soils scientist, recognized as such by the Regulator, shall provide a written report as to any indications of the presence of a seasonal high groundwater mark within four (4) feet below the desired depth of excavation

No excavation within 4' or 8' of the high-water table.

Grading plans

Temporary slopes 15' or taller shall not exceed a grade of 1:1.5 without a temporary fence along the top.

The proposed final 1:1 slope proposed at the end of the excavation of Cell 1 is too abrupt. See 155-E:5

Environmental

Air, dust, baseline and annual water monitoring (procedures/ monitoring plan)

Wetlands / vernal pools and migration pathways / stream identification and protection (setbacks)

Groundwater and stream water quality monitoring (monitoring points and well locations)

Environmental monitoring shall be conducted by a mutually agreed upon independent 3rd party, without financial ties to either the regulator or the applicant.

Un-reclaimed excavation area cannot exceed 5 acres at any one time.

Habitat assessment (current)

Monitoring for physical danger resulting from excavation activities (ex: deep pits and steep slopes).

Security and Fencing?

Third party Monitoring (Quarterly and Annually with spot inspections) approved and contracted by the Town, paid for by the landowner

Annual Operations Report

Annual payment to town (host fee)

Fremont Road Bond \$507K

Reclamation Bond

Process for Complaint Resolution (protocols)