

10-12-22: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, October 12, 2022**

Approved Minutes

The meetings are broadcast live on Comcast Channel 20, and streamed on Government
<https://reflect-chesterctv-from-nh.cablecast.tv/CablecastPublicSite/?channel=1> - click "Watch Now".

Members & Staff Present:

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Selectman Chuck Myette, Liaison
Mike Weider, Member (joined remotely at 7:40 p.m.)
Dana Theokas, Alternate
Andrew Hadik, Town Planner

Members Absent:

Richard Snyder, Member

Guests and Members of the Public Present:

Doug MacGuire, The Dubay Group
Al Cavedon, 24 Emerson Road
Valerie Weider, 80 Red Squirrel Lane
Angela Curry, 65 Emerson Road
Lynn Boutin, 74 Emerson Road
Carla Beck, 24 Shetland Road
Matt Offord, 36 Elizabeth Road, Sandown
Christine Cavedon, 24 Emerson Road
Chester PACT

Meeting Agenda

7:00 PM – General Business

1. Review & approve invoices, sign documents etc.
2. Review & approve the minutes for 10/5/22 PB meeting.
3. Colby Farm Subdivision - abutter's question.
4. Discuss Alternate for SNHPC.

Non-Public Session

Non-public hearing was scheduled under RSA 91-A:3, the hiring of any person as a public employee.

7:15 PM – Appointments - None scheduled

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7:15 PM – Public Hearings

1. To adopt updates to the Town’s impact fees for Accessory Dwelling Units (ADUs).
2. Continuation of Site Plan Review 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).

Meeting Minutes

Chairman Sullivan called the meeting to order at 7:06 p.m. He announced that Ms. Dana Theokas would be sitting in for Mr. Weider at this meeting, as he will be attending remotely and is therefore not able to vote.

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 10/5/22 PB meeting.

Vice Chairman Sederquest moved to approve the minutes of the 10/5/22 Planning Board meeting as written. Ms. Richter seconded the motion. A vote was taken. All were in favor except Ms. Theokas, who abstained. The motion passed 4-0-1.

3. Colby Farm Subdivision - abutter’s question.

Mr. Hadik said Ms. Suzanne Reiter, an abutter of the Colby Farm Subdivision, contacted him with a question about one of the conditions of approval. She was concerned that, if the Shoreland Protection Bureau failed to respond within 30 days, whether the Board would consider this an automatic approval by the SPB. Mr. Hadik said he explained the condition was drafted stating “The applicant shall obtain from this bureau either the required permit or a letter stating that a permit is not required for this project”. The Board confirmed this wording confirmed the Board’s intent.

4. Discuss Alternate for SNHPC.

An alternate is needed for the Southern New Hampshire Planning Commission. Mr. Hadik explained the responsibilities and time commitment and Ms. Theokas volunteered.

Ms. Richter moved that the Planning Board appoint Ms. Dana Theokas as the alternative commissioner to the Southern New Hampshire Planning Commission. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

Non-Public Meeting

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95 ***Ms. Theokas moved to go into a non-public session under RSA 91 A:3, II(b), the hiring of any person as***
96 ***a public employee. Ms. Richter seconded the motion. A roll call vote was taken. Sullivan – aye,***
97 ***Sederquest – aye, Myette – aye, Snyder – aye, Theokas – aye. The motion passed 5-0-0.***
98

99 The Planning Board went into non-public session at 7:10 p.m. Ms. Kim Raines remained in the room.

100
101 The Planning Board came out of non-public session at 7:31 p.m.

102
103 ***Ms. Richter moved to seal the minutes of the non-public session for 30 days. Vice Chairman***
104 ***Sederquest seconded the motion. A roll call vote was taken. Richter – aye, Sederquest – aye, Theokas***
105 ***– aye, Sullivan – aye, Myette – aye. The motion passed 5-0-0.***
106

107 **7:30 PM – Public Hearings**

108 109 **1. To adopt updates to the Town's impact fees for Accessory Dwelling Units (ADUs).**

110
111 ***Ms. Richter moved to open the public hearing to adopt the updates to the Town's impact fees for***
112 ***Accessory Dwelling Units (ADUs). Ms. Theokas seconded the motion. A vote was taken. All were in***
113 ***favor. The motion passed 5-0-0.***
114

115 Mr. Hadik explained that the Town's impact fees for ADUs have been updated, and now will be
116 calculated on the more equitable basis of square footage.

117
118 Chairman Sullivan asked if any members of the public had questions. There were none.

119
120 ***Vice Chairman Sederquest moved to close the public hearing to adopt the updates to the Town's***
121 ***impact fees for Accessory Dwelling Units (ADUs). Ms. Richter seconded the motion. A vote was taken.***
122 ***All were in favor. The motion passed 5-0-0.***
123

124 Ms. Richter asked when the fees would take effect. Mr. Hadik stated the fees will be effective for all
125 permits pulled after the public hearing was noticed for the updated fees.

126
127 ***Ms. Theokas moved to adopt the updates to the Town's impact fees for Accessory Dwelling Units***
128 ***(ADUs). Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The***
129 ***motion passed 5-0-0.***
130

131 **2. Continuation of Site Plan Review application by Old Sandown RD, LLC (owner – Paul** 132 **Garabedian, Jr.) 352 South Broadway Street, Salem NH 03079, for a gravel pit located at 152 Fremont** 133 **Road in Chester, NH (Map 5, Lot 85).**

134
135 ***Ms. Richter moved to continue the Site Plan Review application by Old Sandown RD, LLC (owner – Paul***
136 ***Garabedian, Jr.) 352 South Broadway Street, Salem NH 03079, for a gravel pit located at 152 Fremont***
137 ***Road in Chester, NH (Map 5, Lot 85). Vice Chairman Sederquest seconded the motion. A vote was***
138 ***taken. All were in favor. The motion passed 5-0-0.***
139

140 Mr. Hadik reported that the previous Stormwater Pollution Protection Plan (SWPPP) inspection reports
141 were sent to the Board members and the Building Inspector's office.

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Mr. Doug MacGuire presented revised project plans and reviewed changes made in response to requests from the Board and abutters. Test pits were dug throughout the proposed excavation area to determine the potential depth to ledge.

To address the concern regarding dewatering the wetlands, proposed excavation areas along the eastern border were altered on the plan to be farther from the wetland. The grading will also be sloped less steeply. He shared a photograph of the area and explained that only a small portion of the proposed excavation area is draining into the wetland system, so it will not have any noticeable impact on the water supply source of the wetlands. He also showed the edge of the nearest of the three proposed excavation areas is about 1,750 feet from the closest home on Emerson Road and that the processing area and initial phases are much further away.

Mr. MacGuire said the property owner is not opposed to phasing the project. The first phase would consist of Phase 1, which would encompass developing the processing area and does not include much excavation work, and Phase 2, which would involve excavation. Mr. Hadik clarified that State and Town excavation regulations require that no more than five acres of an excavation can remain unreclaimed at any one time and cannot stay unreclaimed for more than two years.

Mr. MacGuire said blasting will be required as a part of this operation and that they will follow all requirements. Chairman Sullivan asked if blasting and quarrying are synonymous with a project classified as a gravel pit. Mr. MacGuire replied that he and the state view it as synonymous as this is an excavation operation, which involves processing the material onsite. They always believed and expressed that bedrock would be encountered.

Mr. Hadik quoted from RSA 155 E:2, 1(e), which addresses obtaining a permit for quarrying or crushing bedrock for the first time on an excavation site after August 4, 1989. Mr. MacGuire believes they have applied for all necessary permits and that if this site was being developed for a subdivision, excavation and blasting would be performed. He will make sure they have applied for the necessary permits.

Mr. Hadik asked for clarification regarding "taking out material to be processed" and asked if the material would be processed onsite. Mr. MacGuire said it is preferable for the contractor to process material onsite, as the value of an operation such as this is that any job will need one or more specific types of material.

Selectman Myette pointed out that as a result of the findings from the test pits, the current plans indicate more of a quarrying operation than a gravel pit. He asked for clarification, as it appears that more rock is being removed than gravel. Mr. MacGuire responded that many different types of materials are needed. Chairman Sullivan asked how the area will be backfilled. Mr. MacGuire said that the correct procedures for excavating any type of site will be followed and explained the process.

Mr. Hadik asked if the processing area would be moved occasionally, and Mr. MacGuire said it would as the project progresses. Mr. Hadik noted there would be public concern if areas were left unreclaimed during the project and Mr. MacGuire replied that the proposed 18.5-acre excavation area is in the middle of the property and thus not visible. Selectman Myette pointed out the plans state the area will be reclaimed, not stabilized. The Board discussed the regulations and the need to follow them with

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regard to reclamation vs. stabilization. They also discussed the definitions of stabilization and reclamation.

Mr. Hadik started reviewing proposed conditions of approval and Mr. MacGuire responded to questions that arose. They discussed the need for the project to be presented to the Chester Conservation Commission to obtain recommendations to minimize conservation issues. Mr. MacGuire said they are not proposing to impact wetlands, therefore a state wetlands permit is not required. The logistics of blasting, dust control, hours and days of operation, refueling, and number and weight of trucks leaving the site per day were discussed. The depth of the water table and seepage management was also discussed. Selectman Myette requested information on the bottom of the excavation and where that will be in relation to the seasonal groundwater level. The Board agreed to continue these discussions at a later date to allow the public present to comment and ask questions.

Chairman Sullivan opened the meeting for public comment.

Mr. Al Cavedon of 24 Emerson Road expressed his concern over living in an industrial-sounding zone and how it will affect his life in a rural community. He also is concerned over the effect on his property value. He asked regarding a timeline of the phases involved in this project. He asked if a 2+-acre segment of the project was started before approval or permit with no environmental protections in place, and if a fine was levied. Mr. Hadik replied that it was started without the Town being notified, but no fines have been levied. Mr. Cavedon believes The Dubai Group is not qualified to report weekly to the Board on the project's environmental monitoring.

He asked if the reclamation plan for the original sandpit was executed within the required 12-month period. Mr. Hadik said the ~1-acre excavation existed before 1991 and did not meet the 2-acre reclamation threshold at the time. Mr. Cavedon said blasting and crushing of stone were not included on the original plan, so this is a new plan, not one grandfathered from 1991. Mr. Hadik referred to RSA 155 E:2, 1(e) and explained that the property owner is appearing before the Board to obtain the required permit.

Mr. Cavedon expressed his concern regarding the impact of truck traffic on Fremont Road. He asked how road weight restrictions will be managed and Mr. Hadik said this issue will be negotiated. The owner will be required to put up a bond for their proportionate share of rebuilding the road. Mr. Cavedon asked about the length of the project and the operating hours. He expressed his concern that the blasting will impact his water supply. He said his family is not in favor of this project.

Ms. Valerie Weider of 80 Red Squirrel Lane asked if private and public wells will be monitored and the standard at which perchlorates will be measured. Mr. Hadik replied that perchlorates are banned and if isotopes from explosives are detected, then blasting will be halted and remediation should occur. This will be included in the conditions of approval. Ms. Weider also noted that MSHA (Mine Safety and Health Administration) is not familiar with nor enforces EPA regulations. Mr. Hadik said he will advocate for a trained third party to do the environmental monitoring. Ms. Weider noted in setting up for a blast, machines will be drilling for many days.

Ms. Angela Curry of 65 Emerson Road expressed her concerns regarding silica and the areas not being reclaimed as well as piles not being sprayed on the weekends. She is concerned about the potential health concerns from blowing dust. She asked about monitoring these toxins in a residential area and

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what protections will be in place to protect vulnerable populations. Mr. Hadik replied that an environmental monitoring plan would include groundwater and air quality monitoring. Selectman Myette pointed out the dust needs to be monitored onsite.

Ms. Lynn Boutin of 74 Emerson Road asked if the project has been declared grandfathered. Mr. Hadik has consulted with the Board's counsel, and it is a gray area. A prior Board had agreed the project was grandfathered at the time (circa 1991/1993). Mr. Hadik explained that intent to excavate and excavation reports were filed annually. The project was shut down recently for multiple reasons not associated with the grandfathering issue. She expressed her concerns about silica dust and the potential for well contamination. She asked if the property owner could be required to post a bond to cover the cost of dealing with potential dust or water issues instead of citizens having to sue the owner. Mr. MacGuire said the blasting company is bonded and explained that there will be monitoring.

Ms. Carla Beck of 24 Shetland Road lived on Jenkins Farm Road and experienced nine years of blasting in that location and the associated issues. She asked what considerations are being made to protect the students of the Chesterbrook Natural School of Learning, which teaches students in the woods during the blasting times. She is concerned about the issues associated with this project, including quality of life and long-term health effects.

Mr. Hadik explained that the Board is continually faced with the opposition of abutters to projects as well as the reality that everyone has rights to do certain types of projects. He said this is an iterative process and the Board can require the property owner to return between phases. There will also be environmental monitoring, so if issues are discovered, the project will be halted until problems are resolved.

Mr. Matt Offord of 36 Elizabeth Road, Sandown expressed his concerns regarding Stowe Road. He cited RSA 236:9, which states that the road cannot be changed or altered, but the property owner blocked and altered the road. He asked if the owner was fined for this. He also asked if the Class VI road will be turned into a Town road in the future to access the potential housing development. Mr. Hadik responded that the boulders were removed, and the road was treated with finer materials to smooth out the riprap. He is not aware of fines being issued. If a housing development is proposed, the developer will have to obtain permission to use the Stowe Road.

Mr. Offord asked who has the right of way to use the road during work hours and who will be at fault if an accident occurs, as this is a single-lane road. Mr. Hadik said the property owner is an abutter to Stowe Road and they have the right to access their property. There might need to be pullouts created along the road for safety. Selectman Myette reviewed the conditions associated with a Class VI road and explained that the property owner will need to ask the Board of Selectmen for permission to use it for commercial purposes, including improving and maintaining the road. Mr. MacGuire asked for clarification regarding upgrading a Class VI road to Class V. Mr. Hadik explained the process and offered to send more information.

Ms. Boutin asked why the property owner does not need to meet with the ZBA. Mr. Hadik answered that certain parts of RSA 155 E exempt them from certain regulations and that they are grandfathered. Ms. Boutin asked why the property owner is allowed to operate a commercial business when the area is zoned residential. Mr. Hadik replied that this is a permitted use in a residential/agricultural zone. He explained the state created certain exemptions for gravel pits to minimize the cost of building roads.

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Ms. Boutin feels there should not be a blanket approval of this project, due to the property owner being shut down in the past for various violations.

Ms. Weider asked for a timeline for this project. Mr. Hadik said this is on the list of discussion items and per Mr. MacGuire, it will depend on the types of materials encountered and the demand for those materials. Selectman Myette clarified that the current discussions pertain to the section of property off Stowe Road. Another phase will involve the property closer to Old Sandown Road. Mr. MacGuire said most of the material is in the section currently under discussion, due to the natural topography. He estimated that the first two phases would have somewhere between 300,000 and 400,000 yards, which would likely take three years to remove.

Ms. Christine Cavedon of 24 Emerson Road said the reason many abutters from Emerson Road were in attendance was that for many types of home improvements, they are required to meet with the ZBA. She asked why the property owner is not required to meet with the ZBA for approval, as the grandfathered project was for a gravel pit, and this is a quarry. Mr. MacGuire said the property owner has been following the Board's direction for over a year, in spite of the project being grandfathered. Chairman Sullivan clarified that the language which states that the project has been in existence since August 24, 1979 determines that it is grandfathered. Ms. Richter pointed out that if this was a new application, it is likely that it would be approved anyway, as this type of operation is allowable by special exception, which are easier to obtain than variances.

Ms. Richter moved to continue the Site Plan Review 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) to October 26, 2022. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 5-0-0.

CIP Project Reviews & Approvals.

Mr. Hadik noted that Mr. Weider is opposed to the Board reviewing and approving CIP projects before the Board of Selectmen have had a chance to weigh in on them. The SAU, Recreation, and Police Department are presenting their proposed CIP projects to the Planning Board for review on October 19th. There are typically two review sessions, where questions are asked, and feedback given. At the third meeting, the Board decides what goes into the CIP. By following this timeline, it should give the departments enough time to meet with the Board of Selectmen to discuss their projects. This should address Mr. Weider's concerns.

Selectman Myette said the Board of Selectmen is willing to have joint meetings with the Planning Board when the meet with the departments. Mr. Hadik believes this would be the most efficient way of achieving this and will invite the Selectmen to the October 19th and November 2nd meetings.

Future Meeting Dates

- October 19 – CIP Project Reviews: SAU, Recreation, Police Dept.
- October 20 – PB Budget review with BOS
- October 26 –
- November 2 – CIP Project Reviews: Government Buildings, Fire Dept., Highway Dept.

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

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332 The meeting was adjourned at 10:39 p.m.

333

334 Respectfully submitted,

335 Beth Hanggeli, Recording Secretary