

10-26-22: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester  
Planning Board Meeting  
Wednesday, October 26, 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  
Richard Snyder, Member  
Mike Weider, Member  
Dana Theokas, Alternate  
Selectman Chuck Myette, Liaison  
Andrew Hadik, Town Planner

**Guests and Members of the Public Present:**

Doug MacGuire, The Dubai Group  
Al Cavedon, 24 Emerson Road  
Nancy Myette, 159 Fremont Road  
Shawna Davis, 7 Opossum Drive  
David Lavita, 235 Raymond Road  
Jason Colone, 24 Ledge Road  
Sabrina Harris, 140 Crawford Road  
Chester PACT

**Meeting Agenda**

**7:00 PM – General Business**

1. Review & approve invoices, sign documents etc.
2. Review & approve the minutes for 10/19/22 PB meeting.
3. Update on the status of the repaving of the Southwoods subdivision's "North" road.
4. Discuss PB meeting schedule for November.
5. New Planning Board assistant.

**7:15 PM – Appointments - None scheduled**

**7:15 PM – Public Hearings**

1. Continuation of the subdivision application by Jigsaw Builder, LLC (owner), PO Box 325, Chester, NH 03036, for a 3-lot subdivision located at 685 Candia Road in Chester, NH (Map 11, Lot 20-6).

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2. Continuation of the Site Plan Review / Permit 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 PM.

#### **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 10/19/22 PB meeting.**

*Mr. Weider moved to approve the minutes of the 10/19/22 Planning Board meeting as written. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor except Ms. Richter, who abstained. The motion passed 5-0-1.*

##### **3. Update on the status of the repaving of the Southwoods subdivision's "North" road.**

Mr. Hadik was contacted by the owner of the Southwoods subdivision, who notified him of the intent to repave the "North" road and had some questions about the acceptance process. The owner was invited to attend last week's Board meeting to discuss his questions, but did not appear. Mr. Hadik visited the site and found equipment staged to reclaim the road. He emailed the owner the conditions of approval and a copy of the Subdivision Surety regulations, but received no response.

Road Agent Mike Oleson notified Mr. Hadik on Monday that the road had been reclaimed. Mr. Hadik was notified by the owner that NHDOT had no permit on file for this road to tie into Route 102. A request for approval was filed and they received a verbal approval. A representative from DuBois & King was present during the subsequent paving, which included the cul-de-sac. However, one of the requested features was not included (paving to the wall in front of the fire cistern). Mr. Hadik noted the potential for a receiving a bond reduction request from the owner in the near future.

##### **4. Discuss PB meeting schedule for November.**

The Board discussed their availability for November meetings.

##### **5. New Planning Board assistant.**

Mr. Hadik reported that Ms. Kim Raines has begun working in the Planning Office and is doing an excellent job.

#### **7:30 PM – Public Hearings**

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**1. Subdivision application by Jigsaw Builder, LLC (owner), PO Box 325, Chester, NH 03036, for a 3-lot subdivision located at 685 Candia Road in Chester, NH (Map 11, Lot 20-6).**

Mr. Hadik reported that the owner has requested the public hearing for this application be continued to November 2<sup>nd</sup> because DuBois & King has not been given enough time to review the resubmittal of the amended plans.

***Mr. Weider moved to continue the public hearing for the application by Jigsaw Builder, LLC (owner), PO Box 325, Chester, NH 03036, for a 3-lot subdivision located at 685 Candia Road in Chester, NH (Map 11, Lot 20-6) to November 2, 2022. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion passed 6-0-0.***

**2. Continuation of the Site Plan Review / Permit 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).**

***Mr. Snyder moved to open the public hearing for the Continuation of the Site Plan Review / Permit 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). Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 6-0-0.***

Board member Mr. Michael Weider, 80 Red Squirrel Lane, recused himself, as he is an abutter of the project. He will participate in the discussion as a citizen. Chairman Sullivan announced that Ms. Theokas will sit in for Mr. Weider, as he will not be voting.

Board member Mr. Charles Myette, 159 Fremont Road, recused himself, as he is an abutter of the project. He will participate in the discussion as a citizen but will not be voting.

Mr. Doug MacGuire of The Dubay Group offered clarification on the proximity of the excavation cuts next to the eastern wetlands and the potential for dewatering of this wetland area. Additional test pits were dug in the presence of a certified soil scientist, Mr. Luke Hurley of Gove Environmental Services, who provided a report on the results of these tests. The test pits support that the wetland is sourced by seasonal runoff and not a shallow, rising groundwater table, so there will not be a dewatering issue. He noted that the excavation as it exists today serves as a test case, as there are no issues of water ponding or weeping into the area of the cut from these wetlands.

Mr. MacGuire presented a revised phasing plan as requested, which shows four “construction” excavation phases. This plan will allow any issues that arise to be addressed in a timely manner. The applicant will need to return to the Board in three years or at the end of the first “excavation” phase (comprised of “construction” phases 1 & 2), whichever occurs first. At that time, there will be another review of the project.

Mr. MacGuire clarified what will occur in each phase. The Board discussed the size of the area that will be disturbed, stabilized, and reclaimed, and the associated standards. The timing and specifics of reclamation were also discussed. At no time should there be more than 10 active acres total, which are

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in the process of either being stripped, excavated, blasted or stabilized. The Board felt further discussion is required.

Mr. MacGuire noted the potential need to upgrade Stowe Road to access the portion of the property that has already been excavated (*historically, across the brook*) for reclamation purposes. Mr. Hadik requested that this area be evaluated for erosion issues, standing water, and sediment runoff into the wetlands and Mr. MacGuire agreed. Mr. Myette pointed out that the existing (*historical*) excavation area is used for trash disposal and a shooting range, so reclaiming it might help alleviate some of these issues.

Mr. Hadik continued to review the list of issues that was presented at the last meeting. The Board discussed local regulations that require excavation to be 4 feet or 8 feet above the high-water table, which Mr. MacGuire disputed. Mr. Hadik explained the history and reasoning for the excavation regulation. Mr. MacGuire said it is not possible to comply with the existing regulations when excavating and their intent is to avoid impoundment of water. The Board did not agree.

The Board discussed the proposed 25-foot excavation buffer and the local regulations that requires a 150-foot buffer to wetlands over five acres (*which are located to the west of the proposed excavation*). Mr. MacGuire noted that this project will be at a significantly higher elevation than this wetland, so there will be no dewatering. Mr. Myette clarified that the buffer is for filtration to protect water quality. Mr. MacGuire said there is no water being directed toward the wetland and noted the elevation of the site.

Mr. Snyder asked where the water in the detention pond will drain. Mr. MacGuire explained there will not be a dewatering pipe in the detention pond during the construction phase, but instead other measures will be used that will clean the water (plunge ponds, spillway). The Board discussed the need for the owner to request a waiver regarding the wetlands 150-foot buffer requirement. Mr. MacGuire pointed out that this is a grandfathered gravel operation that was originally approved in 1993 with no wetlands setbacks. He does not believe it is reasonable to retain a 150-foot buffer, but can apply for a waiver if necessary.

The Board also discussed the need for fencing above temporary slopes of greater than a specified ratio and who will maintain the fencing in the future. There is a concern regarding the safety of the proposed 1:1 slope, but Mr. MacGuire said they assume this will be exposed rock and will not be an issue.

The requirement that a third party perform environmental monitoring was brought up and Mr. MacGuire said while they agree, the cost must be reasonable. The need for groundwater and stream water monitoring was discussed. Mr. MacGuire said there should be only one discharge point from the site during construction and this will be monitored.

Mr. Hadik asked if environmental scientists have examined the property for wildlife and endangered species. Mr. MacGuire said as part of the State permitting, they are required to file with the New Hampshire Heritage Bureau and New Hampshire Fish & Game, and no concerns were found.

The Board discussed the need to charge a host fee, as the Town will only receive two cents a cubic yard for the material that is removed. Mr. Hadik will research how other towns handle this issue. Mr. MacGuire said this is a stretch if it is not in the Town's regulations.

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Mr. Hadik said the proportionate share of the cost of grinding and rebuilding of Fremont Road needs to be calculated for the road bond, which will be done by DuBois & King. Mr. Myette asked if the engineer could estimate an appropriate weight limit for the road.

Mr. Hadik said DuBois & King will be asked to calculate a reasonable reclamation bond. The Board agreed the property owner needs to create a process for complaint resolution, as the Town should not bear the burden of this process.

Chairman Sullivan opened the meeting for public comment and/or new questions.

Mr. Al Cavedon of 24 Emerson Road asked if the protocols that exist today were in place in 1989, when this project was first approved by the Board, which did not include blasting. Mr. Hadik said the excavation dates probably back at least a decade before the establishment of Town regulations, and little historical data exists from that time. Mr. Cavedon questioned whether the permit should have been granted and asked to see the original meeting minutes. He also asked if the property owner met all of the original requirements of the first permit, as this is a blasting operation and no longer a gravel pit, and if they did not meet these requirements if this puts the operation into an abandoned state. Mr. Hadik says the original excavation dates back so that there may not be any records such as minutes or a permit.

Mr. Cavedon asked for a guarantee that the aquifer and wells will not be damaged. Mr. MacGuire replied that the Chester Fire Department requires full bonding that will address any problems that might occur during blasting.

Mr. Hadik reviewed the timeline and conditions set by the State regarding approval of an application.

Mr. Cavedon shared pictures of the excavated area, pointing out there is not a 25-foot buffer from the wetlands and the excavation area will be 200 feet below his water source. Mr. MacGuire said they are removing an isolated mound, not going below grade, so it should not impact the water table. Mr. Cavedon suggested performing boring samples, which would show the type of rock and surface water on the property.

Ms. Nancy Myette of 159 Fremont Road expressed her concern over her quality of life in light of the processing of material, which appears will be constant rock grinding. She asked what could be done for the abutters, so they do not have to listen to this for 20 years.

Ms. Shawna Davis of 7 Opossum Drive expressed her concern over the impact the quarry operation will have on the abutters' air and water quality. She asked who the counsel is that was consulted regarding the grandfathered status and if a second opinion could be obtained. Mr. Hadik explained the Board's counsel is Mr. Steven Bennett, a land use attorney, although issues are discussed with other attorneys in the firm as well. There was no second opinion sought, as his response was straightforward. Mr. Snyder said it is not a normal process to seek a second opinion, although abutters have sought legal counsel in the past.

Ms. Davis asked if the appropriate paperwork was filed every year for this project and Mr. Hadik replied that he found at least a decade's worth of Intents to Excavate and Reports of Excavation. He will have

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his assistant try to find if records exist prior to that. Ms. Davis said the property was posted a year ago and notes the existence of video surveillance. She is concerned the property owner is claiming the prior excavation occurred on the site that was excavated a year ago. Mr. Hadik said he believes the area was posted to protect any equipment left onsite at the new site. Mr. MacGuire said he is not aware of any video surveillance and did not know they were required to post the property, but will do so.

Ms. Richter said it is not the Town's responsibility to investigate reports that are filed. Mr. Hadik noted there are minutes from 1991-93 era stipulating that the Board ruled the excavation was grandfathered. Mr. Snyder clarified that regardless, whether or not it is grandfathered, the Board will hold the project to all local and State requirements. Mr. Hadik said so far, the property owner is providing everything he has been asked to provide, regardless of whether or not the operation is grandfathered.

Ms. Richter said this type of operation is expressly allowed by State law and the Board is required to comply with statutes and regulations. Mr. MacGuire noted they are excavating 18 (*actually 18.5*) acres of the 158-acre property, and this is a small area. He said the intent is to make the land usable and then develop it accordingly. Ms. Davis pointed out that 18 acres is a lot to the abutters.

Ms. Davis asked who will be performing ongoing monitoring to ensure the conditions of approval are being met. Mr. Hadik said there will be an independent third party responsible for the monitoring. Ms. Davis asked what the process will be for abutters to report concerns over the conditions not being met, and the Board reiterated that there will be a complaint process established.

Ms. Davis asked what the Town stands to gain from this project.

Mr. Hadik thanked Ms. Davis and Mr. Cavedon for the research they have done on this issue. He reviewed the history of this application and the work that the property owner has done to comply with Town and State regulations.

Mr. David Lavita of 235 Raymond Road said the Town does not have adequate services to support the number of people moving into the new subdivisions in Chester and is concerned that taxes will increase. He expressed concern over the safety of a quarry where children will swim and asked that it be fenced. Mr. MacGuire clarified that this is a different type of quarry and will not be a swimming hole. Mr. Lavita stated the harmony Chester has will disappear and this operation will create a mess.

Mr. Jason Colone of 24 Ledge Road said the RSAs state that local Boards can reject a permit application if the project poses a risk to safety and health, and will cause undue change to the characteristics of the neighborhood. He asked what process the Board is following to determine if this operation poses a serious health risk. Mr. Snyder responded that the Board follows the RSAs the State provides as a means to regulate operations such as this.

Mr. Colone asked if health impact assessments have been done regarding particulates and what could trigger a rejection of this permit. Mr. Sullivan noted the Board is responsible for ensuring the applicant complies with the regulations. Mr. Colone said he believes the owner did not comply with the requirements of the original permit. Mr. Weider responded that counsel has offered an opinion that differs. Mr. Sullivan said the conditions of approval address the concerns being presented. Mr. Weider said Town residents have options for addressing this issue and that this Board is charged with using the statutes to make sure the rules are followed to protect the community.

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Mr. Hadik said the standards to be followed will be recommended by the third party performing the environmental monitoring. He noted that while growth cannot be prevented, it can be managed and controlled within the framework of New Hampshire laws and, to a lesser degree, the zoning of the town. Mr. Myette pointed out the third party will create a plan that will include State drinking water standards and a dust mitigation plan which measures and monitors particulate matter. He also said that the reason the Board of Selectmen stopped the operation a year ago was that the property owner did not have everything in place that was required.

Mr. Colone asked if the initial project was abandoned as under the RSAs, the Board is not obligated to issue a permit if that is the case. Mr. Snyder noted that even if the project was abandoned, the owner can still apply for a permit. Mr. Myette noted that this issue is under the jurisdiction of the ZBA, not the Planning Board.

Ms. Sabrina Harris of 140 Crawford Road asked if there are Town sound ordinances and Mr. Hadik said there are not. She also asked if the application includes estimates of the noise and Mr. Hadik said he is not aware of any. Ms. Harris expressed concern regarding the increased truck traffic and how it will impact children riding bikes on Crawford and Fremont Roads. She asked what is being done to ensure that safety protocols are in place for the truck traffic. Mr. Snyder replied that State requirements are being followed in terms of traffic ordinances and signage. Mr. Hadik noted there is a Town Highway Safety Committee that considers these issues. They will be looking at traffic-calming measures on the Town's busiest roads, Fremont Road being one.

Mr. Cavedon noted that he is in favor of keeping the loam onsite to reclaim both excavation sites.

On another matter, Mr. Hadik clarified that as long as there is a quorum physically present, a Board member can attend the meeting remotely and vote, as long as the Board agrees.

***Mr. Snyder moved to continue the public hearing for the Site Plan Review / Permit 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 November 16, 2022, at 7:15 PM. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion passed 6-0-0.***

***Ms. Richter made a motion to go into a non-public session under RSA 91 A:3, II(c) Matters which, if discussed in public, would likely affect adversely the reputation of any person other than a member of this Board. Mr. Snyder seconded the motion. A roll call vote was taken. Sullivan – aye, Sederquest – aye, Myette – aye, Snyder – aye, Weider – aye, Ms. Richter – aye. The motion passed 6-0-0.***

The Planning Board went into non-public session at ~10:21 p.m.

The Planning Board came out of non-public session at ~10:34 p.m.

***Ms. Richter moved to come out of non-public. Mr. Snyder seconded the motion. A roll call vote was taken. Sederquest – aye, Snyder – aye, Sullivan – aye, Weider – aye, Myette – aye, Ms. Richter – aye. The motion passed 6-0-0.***

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***Ms. Richter moved to seal the minutes of the non-public session until such time the Board determines that release of the minutes will not render the proposed action ineffective. Mr. Snyder seconded the motion. A roll call vote was taken. Sederquest – aye, Snyder – aye, Sullivan – aye, Weider – aye, Myette - aye, Ms. Richter - aye. The motion passed 6-0-0.***

#### **Future Meeting Dates**

- November 2 – CIP Project Reviews: Government Buildings, Fire Dept., Highway Dept.
- November 9 – Jigsaw SUB PHC, CIP Project List Finalization
- November 16 – Garabedian Gravel Pit CPH
- November 23 – no meeting?

***A motion was made and seconded to adjourn the meeting. A vote was taken. All were in favor. The motion passed 6-0-0.***

The meeting was adjourned at 10:21 PM

Respectfully submitted,  
Beth Haggeli, Recording Secretary