

1-4-23: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, January 4, 2023**

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
Selectman Chuck Myette, Liaison
Andrew Hadik, Town Planner

Members Absent:

Mike Weider, Member
Dana Theokas, Alternate

Guests and Members of the Public Present:

Doug MacGuire, The Dubay Group
Attorney Anthony Bistany
Neil Lemieux, 177 Chester Street
Dennis Ford, 74 Deerwood Hollow
Mary Young, 281 Old Sandown Road
Lynn Boutin, 74 Emerson Road
Kevin Scott, 261 Chester Street
Shawna Davis, 7 Opossum Drive
Andrew Gallant, 272 Old Sandown Road
Chester PACT

Meeting Agenda

7:00 PM – General Business

1. Review & approve invoices, sign documents etc.
2. Review & approve the minutes for 12/14/22 PB meeting.
3. Review & approve GGB impact fee expenditure request for telephone upgrades.
4. Review proposed Zoning and Building Code amendments & move to take to a public hearing on January 25, 2023.

7:15 - Appointments

None scheduled.

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7:15 PM – Public Hearings

1. 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).
2. Adopt the updated Capital Improvements Program (CIP) for the Town of Chester.
3. Adopt proposed zoning amendments – Article 2, Zoning Amendment #1 – Minimum Lot Frontage and Article 3, Zoning Amendment #2 – Structure Setbacks.

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 12/14/22 PB meeting.**

Vice Chairman Sederquest moved to approve the minutes of the 12/14/22 Planning Board meeting as written. Mr. Snyder seconded the motion. A vote was taken. All were in favor except Selectman Myette, who abstained in his role as Selectman. The motion passed 4-0-1.

- 3. Review & approve GGB impact fee expenditure request for telephone upgrades.**

Mr. Hadik reported a request for the release of impact fees of \$2,950 from GGB under IT/Technology to replace telephones throughout the Town sites. The company responsible for the Town's phones has declared the phones to be at end of life and will no longer support them. The new phones are being provided at cost by Block 5 Technologies.

Ms. Richter moved to authorize the release of impact fees for GGB in the amount of \$2,950 for payment of replacement telephones throughout the Town sites in accordance with a letter from Town Administrative Debra Doda dated December 21, 2022. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor except Selectman Myette, who abstained in his role as Selectman. The motion passed 4-0-1.

- 4. Review proposed Zoning and Building Code amendments & move to take to a public hearing on January 25, 2023.**

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Mr. Hadik reviewed two additional proposed Zoning and Building Code amendments:

Article 4, Zoning Amendment #3 – Commercial Solar Facilities. This amendment is to allow commercial solar facilities by Special Exception in the General Residential and Agricultural District (Zone R1), and to add a definition Commercial Solar Facilities in Article 2 -Definitions. Specifically, by adding 5.3.3.13 – Commercial Solar Facilities – proposed installations generating greater than 25 kW AC in nameplate capacity, which shall be considered a commercial use, shall be subject to Planning Board site plan review. The definition is Commercial Solar Facilities – As used herein, means installations generating greater than 25 kW AC in nameplate capacity. The greater than “25 kW AC in nameplate capacity” is a very liberal limit, being at least three times larger than the average home installation. Installations less than 25 kW would be exempt from Site Plan Review.

Article 4, Building Code Amendment #1 – Fire Sprinkler Systems. This amendment is to Section 3.1.1.1 – Sprinkler Systems to remove the words “all” and “and mobile homes” and add the words “not situated in a manufactured housing park as defined in RSA 205-A:1”, to bring this section of the code into closer conformance with RSA 674:51, V.

Mr. Hadik noted all the amendments have been reviewed by Attorney Bennett.

Mr. Snyder moved to take the proposed amendments to Article 2 definitions and Article 5.3.3, Special Exception Uses for Commercial Solar Facilities, and Article 3 Building Code amendments to 3.1.1.1 to a Public Hearing on January 25, 2023 at 7:15 p.m. Vice Chairman Sederquest seconded the motion. A vote was taken, all were in favor. The motion passed unanimously.

7:15 PM – Appointments

None scheduled

7:15 PM – Public Hearings

- 1. 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).**

Mr. Snyder moved to reopen 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). Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor except Selectman Myette, who abstained. The vote passed 4-0-1.

Selectman Myette recused himself from this discussion as an abutter.

Mr. Hadik presented the draft conditions of approval (CoA) as amended per the discussion on December 14, 2022. He also presented information from applicant regarding the rock crusher’s decibel levels and the amended waiver requests as requested by the Board.

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Mr. Doug MacGuire from The Dubay Group, representing the applicant, answered questions from the Board regarding the information that was sent to Mr. Hadik. He explained the diagram of the measured decibel levels of the crushing equipment, and how this decreases rapidly with distance.

The Board verified that the language in the first waiver reflected the requested changes. There were no concerns regarding the second waiver, so the language was not changed.

Mr. MacGuire verified there were no changes made to the plans that were previously submitted to the Board, with the exception of the changes discussed at the last meeting.

The Board reviewed the draft CoA and discussed the specific conditions with outstanding issues. Condition #53 covers installation of groundwater monitoring wells surrounding the excavation area. Mr. Hadik recommended adding "and baseline data established" to clarify the need to do sampling for baseline data. Mr. Snyder recommended adding, "Said wells shall be sampled to establish a pre-commencement baseline."

Condition #39 addresses the number of trucks leaving the site daily. The notes currently state 50-70 trucks will leave the site daily. Mr. Hadik pointed out these are trips/loads out, so the actual number of truck trips on Fremont Road will be double that. Mr. MacGuire said they explained the number of truck trips at the last meeting and do not want to lock in a limit, in case there is a need for a higher trip count. He explained this is not a daily, year-round number, but sets the expectation that this many trips could be made in a day.

Chairman Sullivan opened the hearing for public comment or questions that have not already been brought up and discussed.

Mr. Neil Lemieux of 177 Chester Street had questions based on the notes on the December plans. He said a 4' chain link fence around the jobsite is not adequate to protect the public and recommended a 6' fence. Mr. MacGuire clarified the proposed fencing has been removed, as the slopes in the cut areas have been flattened out (*reduced from 1:1 to 2:1 slopes*), so no hazard exists. Mr. Lemieux asked if the operations would occur six days per week. Mr. Hadik explained the operations are proposed for 5 days per week. Mr. Lemieux asked for clarification regarding the projected 100,000 yards of material being removed per year and the estimated number of truck trips per day. Mr. Hadik said the total number of trucks trips per day have yet to be finalized. He noted the total volume of material proposed to be removed from the main excavation area has been reduced by ~100,000 cubic yards from the initially proposed total.

Mr. Dennis Ford of 74 Deerwood Hollow asked about the damage to the Town roads due to trucks traveling from the excavation site. Mr. Hadik clarified there will be a bond to cover grinding and repaving Fremont Road, and also Old Sandown Road if it is used. A reclamation bond for the site will also be posted. The bonds will be revisited on an annual basis and held as long as the road is being used by this business and the site is unreclaimed. Mr. Ford asked how long the property will be used as a gravel pit and Chairman Sullivan explained the property owner will return to the Board every two years to revisit the application. Mr. Hadik clarified this is a 158-acre parcel, and there are a number of phases involved in this specific excavation area, which is estimated to last seven years.

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Mr. Ford asked how much blasting would occur. Mr. MacGuire said there should only be five to ten blasts per year. Mr. Ford asked if this would be put in writing. Mr. MacGuire explained this is their best guess and their plan, but they would not agree to a limit. Blasting will not occur daily or year-round. Chairman Sullivan explained that the operator will follow matting requirements and that the noise of blasting is less than the sound that will come from the crushing and processing machinery. Mr. Hadik noted that “jake braking” by the trucks will be prohibited on Town roads. Mr. Ford asked what the benefit to Chester by allowing this project to occur. Mr. Hadik explained the New Hampshire Legislature, due to the importance of these materials to road building and construction projects, carved out special protections to allow this activity, which supersede local regulations. The Town will receive two cents per cubic yard, which has been the established rate for over 30 years.

Mr. Ford asked who will make the final decision on this application. Mr. Hadik explained that both NHDES and the Planning Board will decide if the operation can exist. Chairman Sullivan clarified this is a site plan review, not a permitting process.

Mary Young of 281 Old Sandown Road expressed her concern regarding the condition of Old Sandown Road. Mr. Hadik explained the applicant does not intend to use Old Sandown Road but if they do, they will have to bond the road. The applicant will have to come in front of the Board to get approval to use Old Sandown Road. She asked regarding the hours of operation and if children boarding school buses was considered when setting these hours. Mr. Hadik explained that it was considered.

Ms. Lynn Boutin of 74 Emerson Road referred to the issues Jason Colon brought up at the last meeting regarding whether the site was grandfathered or abandoned. Mr. Hadik explained that the information Mr. Colon submitted was given to the Planning Board land use counsel for review, who advised the Board on how to proceed. Mr. Snyder clarified that counsel discusses these issues with his peers, so the opinions are not solely his. He also said there is confusion regarding RSA 155(e) with regard to special exception uses and using the ZBA as an avenue to get in, and that they would still have to appear before the Planning Board. He clarified that RSA 155(e) discusses a residential area, not a residential zone. Chairman Sullivan noted both sides have put a lot of effort into discussing and reviewing this issue.

Kevin Scott of 261 Chester Street referred to his suggestion to make Stowe Road a one-way access for the proposed pit operation, and to have the loaded trucks leaving via Old Sandown Road instead of Fremont Road. He was told by Mr. Hadik that the Highway Safety Committee did not feel his idea was conducive to tri-axle trucks being able to make the right-hand turn onto Route 121A. He reviewed the minutes of the 2022 Highway Safety Committee meetings and found no mention of his plan. Mr. Hadik replied he was present at the meeting and the topic was discussed. Mr. Scott believes the increased traffic will impact Chester Academy bus traffic on Fremont Road. He referenced his plan not appearing in the CoA, but that Stowe Road is mentioned in numerous locations in the CoA.

Chairman Sullivan clarified that the applicant has no intention of utilizing Sandown Road, so it has not been part of the review process. Mr. MacGuire said the current plan is on the eastern side of the crossing and they have no interest in building a bridge, as they have access to a paved road with direct access to the highway. The applicant is not interested in exploring this option. Mr. Scott pointed out this will be an issue in future phases, so it should be discussed now. He mentioned his concerns regarding the volume of materials being excavated and the noise involved in this project. Chairman Sullivan pointed out these issues have been discussed in previous meetings and are covered by state regulations.

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Ms. Shawna Davis of 7 Opossum Drive asked why the Planning Board meeting was not being broadcast. The Board explained this was beyond their control and their understanding was that it was being broadcast. It was being recorded and would be made available online. She asked if Attorney Bennett would be present at a meeting, and was told he attended the December 14th meeting. She asked if Attorney Bennett answered questions from the public and Mr. Hadik said attorneys for Planning Boards do not answer questions from the public. Chairman Sullivan explained Mr. Bennett was present to listen to the comments of the public, which the Board refer to when requesting advice from him. She asked regarding monitoring wells, and Mr. Hadik explained this is a requirement in the CoA which has not been disputed by the applicant's representative. Wells will be installed and sampled to create a baseline of data before operations resume.

Ms. Davis said in response to a comment made by Mr. MacGuire at a previous meeting, Chester is not a "highway town". Mr. Hadik addressed comments circulating on local social media that the Board only cares about the State's and Chester's laws and regulations, and not the wishes of the residents. He pointed out that the Board members take an oath to uphold the laws of the State of New Hampshire as well as the local zoning ordinances and subdivision regulations, etc., of the Town of Chester. The local zoning ordinances are voted in by the residents of Chester. The Board members are volunteering because they want to help preserve the character and natural resources of the Town, but are still required to follow state and local laws.

Mr. Lemieux asked why there will not be fencing around the excavation site and is concerned about safety. Mr. MacGuire explained the entrance will be secured when the operation is not active. Mr. Lemieux asked if warning signals would occur before blasting and Mr. MacGuire said they would. Mr. Lemieux asked if scrubbers and filters will be used to cut down on emissions. Mr. MacGuire responded that the equipment is inspected by the state and is required to meet their standards. Mr. Lemieux recommended establishing a rule that limits the amount of idling done by trucks. He asked about road cleaning and was assured that is included in the plans. He asked where the water will be obtained for dust control and Mr. MacGuire said there will be temporary impoundment on the site and water can be trucked in, if necessary. Mr. Lemieux asked if New Hampshire Fish & Game had examined the site for endangered species and Mr. MacGuire said it was reviewed as part of the alteration of terrain permit. Mr. Lemieux asked if fuel would be stored onsite and Mr. MacGuire said they will be using mobile fueling. Mr. Lemieux asked regarding stockpiling the spoils coming out of the drilling operation and Mr. MacGuire said there is a market for all of the materials.

Mr. Andrew Gallant of Old Sandown Road asked if a limit will be enforced to prevent the number of trucks exceeding the estimation. Chairman Sullivan said the Board will discuss the number of trucks that will be in the best interest of both parties as part of their deliberation and will set a limit on any given day. Mr. Gallant debated the cost quoted to erect a bridge. Mr. Snyder clarified the Board has no estimates on the cost of building a bridge nor are they basing their decisions on the utilization of the road on the cost of building a bridge. Mr. Gallant asked about materials seeping into the creek, as the silt fence along Stowe Road is not being maintained. Chairman Sullivan said the operation is not active and when the conditions go into effect, the applicant will need to address the situations members of the public have brought up.

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Mr. Hadik said that Exit 4A is going to be built and places to obtain materials for such projects are getting fewer and fewer. For example, if there is a need for a lot of material, and the operator obtains the contract, then the length of time this operation will be active might be decreased.

Ms. Richter asked about the projected average number of truck trips per day. Mr. MacGuire clarified that 50-70 loads per day is an estimate from their contractor to move 100,000 cubic yards per year, assuming a typical construction season, and is an average over the construction season. Mr. Hadik noted that 70 loads per day was not limiting as this could allow for the removal of almost 200,000 cubic yards per 37-week construction season. Chairman Sullivan pointed out that if the number of trucks per day set by the Board is exceeded, Code Enforcement and neighbors will bring it to the Board's attention.

Mr. Snyder moved to close the Public Hearing and begin deliberation. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion was approved 4-0-0.

The Board discussed how to tie the waiver requests into the CoA and the impact they would have on the CoA, and made the appropriate wording changes.

Mr. Snyder moved to grant the waiver request denoted as number one, Chester Excavation and Reclamation Regulations, Section 5.1.7, as written in a memorandum from Doug MacGuire, PE, The Dubai Group, dated January 4, 2023. Ms. Richter seconded the motion. A vote was taken. All were in favor. The motion was approved 4-0-0.

Mr. Snyder moved to grant the waiver request indicated as item number two, Chester Excavation and Reclamation Regulations, Section 6.4, as written in a memorandum from Doug MacGuire, PE, The Dubai Group, dated January 4, 2023. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor. The motion was approved 4-0-0.

The Board discussed the maximum number of truck loads per day and what would be involved if the applicant wanted to increase this amount. The Board considered how setting a limit on the daily amount would impact the residents and the wear and tear on the road, as well as the length of the overall project. They determined that the number of truck loads leaving the site should not exceed 50 loads of materials per day and the maximum limit of materials to be removed shall be 100,000 cubic yards per year.

The Board reviewed concerns expressed by members of the public, including the impact on wells and monitoring of those wells (for water level and chemistry); the request to bond the entire disturbed reclamation area, not just five to seven acres at a time; and limiting the amount of time trucks can idle.

Ms. Richter moved to approve 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,) subject to the Planning Board's conditions of approval of the application to expand the excavation area of the Garabedian Gravel Pit dated January 4, 2023 and as amended tonight. Mr. Snyder seconded the motion. A vote was taken. All were in favor. The vote passed 4-0-0.

Selectman Myette rejoined the Board for the remainder of the meeting.

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2. Adopt the updated Capital Improvements Program (CIP) for the Town of Chester.

Mr. Hadik said the CIP is 98 percent complete. He is waiting for numbers from Southern New Hampshire Planning regarding regional growth and will then add that data. This will not change the projects or costs in the CIP; it is just for information. The Board briefly discussed the status of the Highway Department's project list, the potential for future edits by the new Supervisor of Roads to reduce costs, and the need to continue to research grants and additional funding sources.

Ms. Richter moved to adopt the updated Capital Improvements Program (CIP) for the Town of Chester. Vice Chairman Sederquest seconded the motion. A vote was taken. All were in favor except Selectman Myette, who abstained in his role as Selectman. The vote passed 4-0-1.

3. Adopt proposed zoning amendments.

Mr. Snyder moved to open the Public Hearing for the proposed zoning amendments Article 2, Zoning Amendment 1 and Article 3, Zoning Amendment 2. Ms. Richter seconded the motion. A vote was taken. All were in favor. The vote passed 5-0-0.

Article 2, Zoning Amendment 1 - To add Section 5.3.5.3 - Frontage, and amend Table 1 - Table of Dimensional and Area Requirements by adding "See Note 4" under the column heading "Minimum Frontage", and adding "(Note 4)." This amendment does not create a new requirement but is intended for clarification.

Article 3, Zoning Amendment 2 - To amend Section 5.7.5.4 - Building Setbacks to replace the word "building" with "structure" so that this section is consistent with the wording of Zoning Table 2 - Table of Setbacks and No Clearing Buffer Zones (which was amended back in 2019).

There were no members of the public present, and there was no deliberation on either of the proposed zoning amendments.

Mr. Snyder moved to close the Public Hearing. Ms. Richter seconded the motion. A vote was taken. All were in favor. The vote passed 5-0-0.

Mr. Snyder moved to approve the zoning amendments Article 2, Zoning Amendment 1 and Article 3, Zoning Amendment 2, and put them on the ballot for Town Elections. Ms. Richter seconded the motion. A vote was taken. All were in favor except Selectman Myette, who abstained in his role as Selectman. The vote passed 4-0-1.

Non-Public Sessions

None scheduled

Future Meeting Dates

- January 11 – No meeting
- January 25 - Zoning Amendments PH

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372 ***Ms. Richter moved to adjourn the meeting. Vice Chairman Sederquest seconded the motion. A vote***
373 ***was taken. All were in favor. The motion passed unanimously.***

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375 The meeting was adjourned at 10:06 p.m.

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377 Respectfully submitted,

378 Beth Hanggeli, Recording Secretary