

10-23-19: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, October 23, 2019
Municipal Complex
Approved Minutes**

Members Present:

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Aaron Hume, Alternate Member

Members Absent:

Michael Weider, Member
Dana Theokas, Alternate Member
Richard Snyder, Member

Selectman Chuck Myette, Liaison

Others Present at Various Times:

Andrew Hadik, Planning Coordinator
Lindsey White, GZA GeoEnvironmental, Inc.
Matt Flanders, Eversource
Jenny Menendez, Eversource
Kevin Scott, Vice-Chair ZBA
Ian MacLean
Tim Peloquin, Promised Land Survey
Victor Chouinard, Chairman, Conservation Commission
Rick Menard
Mr. and Mrs. Smith (32 Pulpit Rock Road)
Michelle Jean Scott

Chairman Sullivan opened the meeting at 7:27 PM.

Meeting Agenda

7:00 PM General Business

- 1) Review & Sign Invoices & Timesheet
- 2) Review & Approve minutes for the 9-25-19, 10-2-19 and 10-16-19 Meetings
- 3) Reminder of BOS meeting on 10-24-19 for review of the Planning Board's annual budget
- 4) Reminder of PB meeting on 10-30-19 to discuss CIP projects for Table 10
- 5) Buxton Estates completion retainage until spring

7:15 PM Appointments

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None Scheduled

Public Hearings

1. Conditional Use Permit - Eversource Energy (PSNH) for replacement of select 50-year old utility structures on transmission lines 391 & 373 in Chester. The structures require replacement for the transmission lines to continue to function safely and reliably. Requires temporary impact to wetlands.
2. Lot-Line Adjustment - Robert J. Cairns, Jr. (Owner) – 241 North Pond Road (Map 7, Lot 50-1) and Richard Menard (Owner) – 261 North Pond Road (Map 7, Lot 50-0).
3. Subdivision application - MacLean Family Revocable Trust of 2018 (Owner) – 82 Pulpit Rock Road (Map 2, Lot 82) for a two-lot subdivision off Pulpit Rock Road.

Future Meeting Dates

- October 30 – Discuss CIP Table 10 project list?
- November 6 – PH Eversource, PH LifeWay Church
- November 13
- November 20? PH to adopt CIP?

(Codes: PH – public hearing, PHC public hearing continuance, CD – conceptual discussion, HB – Home Business, LLA – Lot Line Adjustment, SPR – Site Plan Review, SUB – Subdivision)

Review & Approve minutes for the 9-25-19, 10-2-19 and 10-16-19 tabled)

Mr. Hadik reminded the Board they are scheduled to meet with the Board of Selectmen on Thursday, October 24, 2019 to review their proposed budget for FY2020.

Public Hearings

1. Conditional Use Permit - Eversource Energy (PSNH) for replacement of select 50-year old utility structures on transmission lines 391 & 373 in Chester. The structures require replacement for the transmission lines to continue to function safely and reliably. Requires temporary impact to wetlands.

Mr. Sederquest motioned to open the public hearing for Eversource Energy (PSNH) for the replacement of select utility structures on transmission lines 391 & 373 in Chester. Ms. Richter seconded the motion. Voting were all in favor, motioned approved 4-0-0.

Ms. White of GZA Environmental presented the request on behalf of Eversource (PSNH). Ms. White indicated there will be temporary impact to wetlands to cross to replace the utility structures identified on Eversource's annual inspection. The usual timber matting will be placed. There are 15 poles located SW of Chester Street North 2.5 miles SW of Lane Road with 7 for transmission line 391 and 8 for transmission line 383. GZA will be on site for environmental consultations. After the work is completed the work pads will be removed and disturbed areas will be seeded and mulched.

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Mr. Hadik read out loud the letter recommending conditional approval, from the Conservation Commission dated October 13, 2019. Mr. Hadik noted Conservation requested that signs to be placed on the areas owned by Eversource/PSNH and they will work with owners to place signs on areas that are held by easement.

Victor Chouinard, Chairman of the Conservation Commission stated that he had concerns with enabling unauthorized access by motorized vehicles, and ATVs by opening up access to make a highway through the wetlands again. The first step is posting. Mr. Flanders noted other towns have raised similar concerns but not required posting at every crossing and while he can't decide, he can look into it. Ms. Menendez noted she is not part of the community relations department but reached out to see if they will meet with Conservation in December but can't promise anything. Mr. Chouinard noted Fish & Game will be sending enforcement out to levy fines to unauthorized crossing by motorized vehicles.

Mr. Sullivan asked if the police department had authority for enforcement. Mr. Chouinard noted they could enforce it however the violators take off and the policy is not to pursue. Mr. Hadik noted the PD does not have the off-road vehicles to do that.

Mr. Chouinard noted in addition to the wetlands impact he has heard terrible stories from owners on adjacent private property. It has become a free for all.

Mr. Hadik agreed and noted signs are often torn down within 48 hours. Newly trespassed areas are being stripped of vegetation and start to erode. Some of Eversource's improvements have attracted more use. Mr. Sullivan included even more crossings off existing ones.

Mr. Flanders noted on lines 373/391 Eversource is the fee owner. B172 Haverhill Road is comprised of a series of easements on privately owned properties.

Mr. Hadik noted he could draft a condition that signage be posted on Class VI roads in six (?) locations.

Michelle Jean Scott noted she is an owner of land on both sides of 30 acres where there is an easement and it is used by horses, mountain bikes, machines. After the last project a big piece of steel rebar was stuck into the ground and someone could get hurt. Ms. Scott does not know why the rebar was placed there or by whom. Mr. Flanders noted he would look into it.

Ms. Richter motioned to close the public portion of the hearing at 7:47 PM for deliberations. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Ms. Richter noted the posting condition was a miniscule cost and while signs may be up only for a short-time it puts people on notice.

Ms. Richter motioned to approve the Conditional Use Permit as presented by Eversource (PSNH) for replacement of 50 select utility structures at transmission lines 371 & 393 in Chester. Mr. Sederquest seconded the motion. Voting were all in favor, motion approved 4-0-0.

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2. Lot-Line Adjustment - Robert J. Cairns, Jr. (Owner) – 241 North Pond Road (Map 7, Lot 50-1) and Richard Menard (Owner) – 261 North Pond Road (Map 7, Lot 50-0).

Mr. Sederquest motioned to accept the application and open the public hearing for the lot line adjustment between Mr. Cairns, Map 7, Lot 50-1 and Mr. Menard, Map 7, Lot 50-0. Ms. Richter seconded the motion. Voting were all in favor, motion approved 4-0-0.

Mr. Peloquin of Promised Land Survey, LLC. Indicated he represented the owners who requested the lot line adjustment on North Pond Road. Mr. Peloquin noted the plan went before the TRC who had no concerns. Each will have 3.15 acres. Mr. Menard was generous to sell the piece to Mr. Cairns so that he could use a barn for storage.

Mr. Hadik noted he reviewed the application for completeness. Sheet 1 will be recorded.

Mr. Sullivan reviewed access and turnaround for the Fire Department, with enough room for tractor trailers to turn around and no fire sprinkler conditions.

Chair Sullivan opened the hearing to the public at 7:55 PM.

Mr. Hadik noted he had an email from abutter Gene Charron who could not make the meeting and wanted it noted he had no problem with this lot-line adjustment.

Ms. Richter motioned to close the public portion of the hearing at 7:56 PM for deliberations. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Ms. Richter motioned to grant approval of the subdivision request of Mr. Cairns, Map 7, Lot 50-1, 247 North Pond road and Mr. Menard, Map 7, Lot 50-0, 261 North Pond Road as depicted on the plan dated June 26, 2009. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

3. Subdivision application - MacLean Family Revocable Trust of 2018 (Owner) – 82 Pulpit Rock Road (Map 2, Lot 82) for a two-lot subdivision off Pulpit Rock Road.

Mr. Peloquin of Promised Land Survey, LLC presented the subdivision plan for approval on behalf of owner, MacLean Family Revocable Trust of 2018.

Mr. Peloquin noted there is no clean review letter generated from DuBois & King. There will be a couple of waiver requests which include soils and topography of the entire parcel.

Mr. Hume motioned to accept the subdivision application and open the public hearing for the subdivision approval and waiver requests for two lots, Map 2-82, at 82 Pulpit Road. Ms. Richter seconded the motion. Voting were all in favor, motion approved 4-0-0.

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Mr. Peloquin indicated the parent lot is 120 acres with 330' of frontage on Pulpit Rock Road. A variance was obtained by the ZBA for one lot to have short frontage (40') with 118 acres which the existing dwelling is situated. The new lot will be two acres with 290' of frontage on Pulpit Rock Road. There is a power line easement on the property. The proposed well radius will be moved onto the 2-acre lot.

Mr. Peloquin is requesting not to have to survey the remaining acres which was previously surveyed by Pearson for Mr. Buelte with no monuments. A waiver is requested for the 118-acre lot for topography and wetlands which were done for the 2-acre parcel.

Mr. Hadik noted that comments #5 & #6 of the engineering review letter referencing an open-space subdivision are not applicable.

Chair Sullivan noted the Board never does a conditional approval without a clean letter.

Chair Sullivan opened the hearing to the public for comments and questions at 8:21 PM.

Kevin Scott, a resident of Chester, noted he is the Vice-Chair of the ZBA and spoke about his reasons for voting to approve the variance for short frontage last year. Mr. Scott stated when he was asked to serve on the ZBA years ago he has been diligent about not voting to approve variances for sub-standard lots without a compelling reason. Mr. Scott noted the plan before the Planning Board this evening is not the plan which the ZBA voted to approve a variance on. The ZBA worked with the applicant from March of 2018 until October of 2018 with extensions and continuances while an easement was negotiated with the Conservation Commission. While the ZBA did not condition approval of the variance on this easement, the ZBA was surprised to find the plan coming forward to the Planning Board did not include the conservation easement shown on the plan presented to them for approval.

In August the ZBA emailed the Conservation Commission to find out the easement negotiations were not going anywhere and were no longer being negotiated. On October 7th at the TRC Meeting it was indicated the conservation easement was still on. The Conservation easement at this point is unlikely.

Mr. Scott noted he took full responsibility. "The ZBA is a quasi-judicial board who could require its witnesses to swear in before giving testimony. We like to think people speak truthfully when we consider their testimony. After 8 months of discussing the easement with Conservation while the ZBA granted extensions and continuances for negotiations, if I had known there would be no easement, I never would have voted in favor of the variance. I got snookered and hopefully it won't happen again."

Mr. Sullivan asked if the plans were different now? – yes. Mr. Sullivan asked the Board to determine whether there was any impact considering the decision of the ZBA to approve the variance did not contain a condition that the easement be granted to Conservation and the representations made to the TRC. Mr. Peloquin stated he did not know the easement was not moving forward at that time or that it could not still move forward in the future and does not know why negotiations fell apart or recall making any statements at TRC about the easement.

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Mr. Sullivan noted the 40' access is not wide enough (for a road) to develop and be a concern the 118-acre lot will be further subdivided. Mr. Scott disagreed saying it would be accessed from the back side. Mr. Hadik noted that the land was self-protected as far as the wetlands, steep slopes and the Shoreland Protection Act would protect the area of the Exeter River that was considered in the proposed easement. Mr. Hadik noted he heard various reasons why the easement did not occur from 3-4 different individuals. Mr. Hadik advised it was a moot point, Conservation started negotiations and no easement resulted, "you can't force the property owner to grant an easement if the terms are not acceptable". Mr. Scott warned its difficult to say what an engineer will come up with to give access for further subdivision or even crossing the Exeter River.

Ms. Hoijer asked who paid for the survey and did that matter? Mr. Peloquin stated he had not been paid yet but Conservation were the ones who initiated the work. Mr. Sullivan noted it did not matter.

Chair Sullivan closed the hearing to the public for deliberations at 8:40 PM.

Mr. Hadik reviewed the engineering review letter dated 10/15/19. Almost all the comments listed could be easily addressed. Mr. Peloquin confirmed that most had already been addressed in their resubmitted plan.

Mr. Hadik noted that the first two proposed waivers for the remaining parent lot are typically granted by the Board because this work must be completed before the parent lot can be further subdivided. He also noted the sight distance comment did not apply in this case because the driveway was at the very end of the cul-de-sac.

Ms. Richter motioned to grant the waiver from Article 4.1.6 of the Chester Subdivision Regulations requiring surveying and or flagging of wetlands of the entire (118-acre) parent parcel. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Ms. Richter motioned to grant the waiver (from Article 4.1.22) of the Chester Subdivision Regulations requiring the topography be mapped for the entire (118-acre) parent parcel. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Ms. Richter motioned to grant the waiver from Section 9.1 of the Chester Driveway Regulations regarding the sight distances. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Ms. Richter noted that, as now discussed, the review letter was a substantially clean letter.

Mr. Hadik noted that he will add a new condition 3.a that all applicable comments referenced in Mr. Bourcier's letter dated 10/15/19 will be required to be shown on the final plan set prior to recording.

Ms. Richter moved to close the public hearing at 8:54 PM. Mr. Sederquest seconded the motion. Voting were all in favor, motion approved 4-0-0.

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Mr. Hadik read the conditions of approval out loud adding 3a: Everything discussed in Scott Bouchier's letter dated 8/15/19 shall be corrected and noted on the final plan set.

Mr. Hadik noted a pdf was posted of the subdivision's plans on the Town website under "Subdivisions Under Review", and once approved, will be moved to "Approved Subdivisions" so that realtors and potential buyers can view the plans as approved.

Ms. Richter motioned to grant conditional subdivision approval for Map 2-82, 82 Pulpit Rock Road for the two-lot subdivision as depicted on the plan presented this evening. Mr. Hume seconded the motion. Voting were all in favor, motion approved 4-0-0.

Future Meeting Dates

- October 30 – Discuss CIP Table 10 project list?
- November 6 – PH Eversource, PH LifeWay Church
- November 13
- November 20? PH to adopt CIP?

Adjournment

Chair Sullivan motioned to adjourn the meeting at 9:27 PM. Mr. Hume seconded the motion, with all in favor, so moved.

The meeting was adjourned at 9:01 pm.

Respectfully submitted,

Nancy Hoijer
Recording Secretary