

02-12-20: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, February 12, 2020
Municipal Complex
Approved Minutes**

Members Present:

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Richard Snyder, Member
Michael Weider, Member
Dana Theokas, Alternate Member
Aaron Hume, Alternate Member
Selectman Chuck Myette, Liaison

Members Absent:

Others Present at Various Times:

Andrew Hadik, Planning Coordinator
Attorney Stephen Bennett
Josh Naughton

7:00 PM – Non-Meeting for Advice of Counsel

7:30 PM – Appointments

1. Josh Naughton – re: Bonding requirement for the Pipit Estates Subdivision
2. Tim Peloquin – re: Questions regarding the level of detail required for the Mill Pine Village final as-built plans.

Public Hearings - None scheduled.

General Business

1. Review & sign invoices & time sheet.
2. Review & approve minutes for the 2/5/20 PB meeting.
3. Revisit & approve the revised bond estimates for Phases I, II & IV of the Southwoods subdivision

Future Meeting Dates

- February 26 -
- March 4 –
- March 11 –

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Chairman Sullivan opened the meeting at 7:00 PM.

7:00 PM – Non-Meeting for Advice of Counsel

The Board held a non-meeting to receive the advice of Counsel.

7:30 PM – Appointments

1. Josh Naughton – re: Bonding requirement for the Pipit Estates Subdivision.

Mr. Naughton stated he is looking for clarity and direction. He is in a situation where he can't obtain financing before the subdivision is recorded. He also feels there is an inconsistency between the conditions of approval and a sentence in the subdivision regulations. He said the difficulty in obtaining financing has left him dead in the water.

Chairman Sullivan disagreed with the characterization of an inconsistency. He noted that if the condition for bonding is satisfied, then the subdivision regulations are satisfied.

Attorney Bennett stated the statute requires posting of a surety, but the conditions of approval must be met before recording the subdivision. He said this is the first instance he has experienced of a lending institution denying a construction bond because the subdivision hasn't been recorded. He also disagreed with the interpretation of the referenced inconsistency, stating that if the conditions are complied with, the subdivision regulations are complied with.

Attorney Bennet referenced RSA 674:36,III.b) which reads "Shall provide that, in lieu of the completion of street work and utility installations prior to the final approval of a plat, the planning board shall accept a performance bond, irrevocable letter of credit, or other type or types of security as shall be specified in the subdivision regulations; provided that in no event shall the exclusive form of security required by the planning board be in the form of cash or a passbook."

Mr. Naughton said the issue is a matter of value. The value is not there (*for lending*) for an unrecorded subdivision plan.

Chair Sullivan questioned Mr. Naughton how Londonderry allows plans to be recorded. Chair Sullivan clarified that if the bank writes the bond, and the plan is recorded, according to you, that gives value? Mr. Snyder recommended working with the bank to resolve the issue.

Ms. Richter questioned where the subdivision plan originated from, and Mr. Naughton stated Eric Mitchell redrew the plan. Mr. Weider said that Mr. Mitchell has worked many times with the PB. Mr. Hadik noted the plan was a restart of a previous subdivision that had long since expired.

Mr. Naughton requested the Board reopen the case and amend the conditions. Mr. Snyder indicated it is not easy to remove that condition. Chair Sullivan agreed, noting the statute does not allow the Board to waive it.

Mr. Snyder asked if there were any other factors that could be dissuading the banks? Mr. Naughton indicated the bond value is so high.

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Mr. Snyder noted an investment was made in redesigning the subdivision plan.

Mr. Weider noted this is the first time he has heard such a request. Most developers can do site work to reduce the bond amount prior to the recording of the plan.

Mr. Hadik noted that usually the road would be built up through the asphalt binder layer, along with the drainage infrastructure, and then the bond estimate would be recalculated. He gave an example for the Southwoods subdivision where, at this construction milestone, the bond was reduced from over \$660,000 to only \$115,000.

Attorney Bennett asked if there were other collateral that could be put up temporarily for the bond to get the conditions recorded? Mr. Naughton responded that \$700,000 is a lot to come up with.

Chair Sullivan restated that the Board is not able to waive state statutes.

Mr. Weider noted that originally a community well was designed (*for this subdivision*), and now there will be more expensive, individually drilled wells. If the utilities were already there, then it would have given more value as collateral.

Mr. Naughton said he didn't think the Board would agree to his request to amend the conditions, however, he wanted try to anyway. He asked if the Board could recommend someone to speak to about his financing dilemma. The Board did not have a recommendation.

2. Tim Peloquin – re: Questions regarding the level of detail required for the Mill Pine Village final as-built plans.

This appointment was postponed.

Public Hearings:

None scheduled.

General Business:

1. Review & sign invoices & time sheet.

No invoices or time sheet were circulated for signing.

2. Review & approve minutes for the 2/5/20 PB meeting.

Mr. Weider motioned to approve the minutes for the February 5, 2020 meeting as amended. Ms. Richter seconded the motion. A vote was taken. Mr. Weider abstained. Approved 4-0-1.

3. Revisit & approve the revised bond estimates for Phases I, II & IV of the Southwoods subdivision.

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Mr. Hadik reviewed a construction bond letter dated 2/6/20 by Scott Bourcier of DuBois & King, Inc. He said the amounts for Phase I (\$240,000) and II (\$115,000) are not being reduced. Phase III has been completed, so that amount is \$0. Phase IV was reduced to \$116,000 (*originally \$661,000*), however, a recalculation by Mr. Bourcier dated 2/10/20 reduced this amount to \$97,400.

Mr. Snyder motioned to accept the bond amounts as shown in the letter of DuBois & King dated February 6, 2020, except the reduction for Phase IV was \$97,400, and that the wording of sureties shall conform with Section 3.9 A of the Subdivision regulations. Mr. Weider seconded the motion. A vote was taken, all were in favor, the motion passed 5-0-0.

Adjournment

Ms. Richter motioned to adjourn the meeting at 8:03 PM. Vice-Chair Sederquest seconded the motion, with all in favor, the motion passed unanimously.

Respectfully submitted,
Daniel Hoijer
Recording Secretary