

12-2-20: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, December 2, 2020
Virtual Meeting
Approved Minutes**

For the duration of the COVID19 pandemic, the Planning Board will be meeting electronically under the emergency provisions of RSA 91A. <https://zoom.us/j/92697843243>, or via telephone - dial (301) 715-8592; the meeting ID is 926 9784 3243.

Members & Staff Present (remotely):

Evan Sederquest, Vice Chairman
Mike Weider, Member
Elizabeth Richter, Member
Aaron Hume, Alternate Member
Selectman Chuck Myette, Liaison
Andrew Hadik, Town Planner

Members Absent:

Brian Sullivan, Chairman
Richard Snyder, Member

Others Present at Various Times (remotely):

Penny Williams
Chester PACT
Eric Mitchell
Kevin Hatch
Jason Gustin (by phone)

Meeting Agenda

7:00 PM – General Business

1. Review & approve minutes for the 11/18/20 PB meeting.
2. Review & approve SNHPC contract.
3. Review & discuss the draft of the CIP.
4. Discuss Home Business application.
5. Discuss billing rates by Counsel.
6. Discuss Newspaper noticing fee.
7. FYI, two AirBnBs SPRs pending.
8. FYI, other SPRs pending.
9. FYI, potential new subdivisions.

7:15 Public Hearings

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1. Subdivision extension/renewal application by DAR Builders, LL (Owner), 305 Massabesic Street, Manchester, NH 03014 for a 60-lot subdivision of Map 11, Lots 30 and 30-7 in Chester, NH accessed off Crowley Road, Candia, NH.

7:15 Appointments

1. Review field changes for development of lot on Raven Drive (Map/Lot 9-19-4).

Vice-Chair Sederquest opened the meeting at 7:00 PM and read the Covid19 preamble authorizing a virtual meeting. Roll Call of members present was taken which included: Evan Sederquest, Aaron Hume, Selectman Myette, Elizabeth Richter, and Michael Weider. Vice-Chair Sederquest stated Alternate Aaron Hume would be active for Richard Snyder.

7:00 - General Business

1. Review & approve minutes for the 11/18/20 PB meeting.

Ms. Richter motioned to approve the November 18, 2020 minutes. Mr. Hume seconded the motion. A roll call vote was taken Richter – aye, Myette – aye, Hume – aye, Weider – aye and Sederquest – aye. The motion passed unanimously 5-0-0.

2. Review & approve SNHPC contract.

Mr. Hadik noted SNHPC's annual contract for helping update the CIP was unchanged. The contract, scope of work, and fee amount are the same as for the last few years.

Ms. Richter moved to approve the contract submitted by SNHPC for the 2020 CIP. Selectman Myette seconded the motion. A roll call vote was taken Richter – aye, Hume – aye, Sederquest – aye, Myette – aye and Weider – aye. The motion passed 5-0-0.

3. Review & discuss the draft of the CIP.

The Board did not review the draft of the CIP nor discuss any last-minute changes.

4. Discuss Home Business application.

Mr. Hadik advised that Myrick Bunker, the Building Inspector, had contacted NH DES regarding a recent home business application.

A homeowner wishes to start a small, dog grooming home business within their home. They have a small 2-bedroom home, with a "pump-up" septic system. The grooming is proposed to be a single wash station, servicing 4-6 dogs per day. The residence also sits within the (*Exeter River*) 250' shoreland protection area. It is located about 100 feet from the edge of the river.

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Mr. Bunker inquired if there are any sizing or design requirements to add this operation to the septic system. Eric Thomas, of the NH DES Subsurface Bureau, responded that this proposal requires a new septic system design as they will need to address additional flows generated which are 50gpd per kennel (Env-wq 1008.03(e) Table 1008-1. He also informed that the applicant will also need to provide an Underground Injection Control or U.I.C. registration with the Wastewater Division. The contact person for this registration is Mitch Locker.

Mr. Hadik advised that Mr. Bunker is wondering if this qualifies as a commercial business instead of a home business. Mr. Hadik said he thought the proposed use is too small to be a commercial business. He reminded the Board that they have previously approved a similar dog grooming business as a home business on Arabian Way.

Ms. Richter questioned whether the business was all done within the home, with no employees and whether there was enough space in the driveway for pick-ups and drop offs. These questions will be reviewed at the public hearing.

7:15 - Public Hearing

1. Subdivision extension/renewal application by DAR Builders, LLC (Owner), 305 Massabesic Street, Manchester, NH 03104 for a 60-lot subdivision of Map 11, Lots 30 and 30-7 in Chester, NH accessed off Crowley Road, Candia, NH.

Mr. Hadik read out the Public Hearing Notice.

Mr. Weider motioned to open the public hearing for DAR Buildings, LLC for an extension of the approval of a 60-lot subdivision at Map 11, Lots 30 and 30-7 in Chester, NH accessed off Crowley Road, Candia, NH. Ms. Richter seconded the motion. A roll call vote was taken, Sederquest – aye, Richter – aye, Myette – aye and Weider – aye. The motion passed 4-0-0.

Mr. Hadik shared the proposed Conditions of Approval with the additions highlighted in yellow. The extension would be for an approval originally dated September 10th, 2018.

Mr. Hadik stated there were a lot of items requiring completion before these conditions could be recorded, including a bond estimate and a road improvement & paving plan for Crowley Road. He noted the applicant is still waiting for subdivision approval by the Town of Candia, as well as coming to an agreement with them about the proposed improvements to Crowley Road.

Mr. Hadik noted the impact fees would not change for another three years because the approval is only grandfathered for five years from the original date of approval. Mr. Weider stated that if the impact fees should change, then they could be adjusted after September 10th, 2023.

Mr. Weider motioned to close the public hearing for deliberations at 7:24 PM. Vice-Chair Sederquest seconded the motion. A roll call vote was taken Richter – aye, Weider – aye, Myette – aye and

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Sederquest – aye. The motion passed 4-0-0.

Mr. Weider motioned to approve the request for an extension/renewal of the approval of the 60-lot subdivision at Map 11, Lots 30 and 30-7 in Chester, NH off Crowley Road, Candia, NH with the amended conditions of approval as shown and explained by Town Planner Andrew Hadik. Ms. Richter seconded the motion. A roll call vote was taken Richter – aye, Myette – aye, Sederquest – aye and Weider – aye. The motion passed 4-0-0.

Appointments

1. Review field change for development of lot on Raven Drive (Map/Lot 9-19-4).

Mr. Hadik asked the Board to remember the Towle Subdivision at the end of Raven Drive where two additional single-family home lots and a conservation parcel were created. According to Mr. Bunker, an issue has arisen during the construction of a home on one of the lots (9-19-4). The issue is that approved detention pond was relocated and resized without the Planning Board's approval.

Mr. Hadik relayed that he had received a phone call from Surveyor Kevin Hatch justifying this "field change" based on the logic that the old location would have required the clearing an extra quarter acre of trees. He said he advised Mr. Hatch that he would not weigh in on this issue until Mr. Hatch provided some more information and plans. Subsequently, Mr. Hatch provided an exhibit which shows the proposed and actual location of the detention basin. He also provided a letter explaining this "field change".

Mr. Hadik stated the issue for the Board to decide is whether this field change still requires the Board's approval, and perhaps a review by D&K because the size of the basin has been altered, and because no infiltration testing was done at this new location. He remembered that during the approval process, the abutter spoke about runoff issues on his lot, and this was one reason the detention basin was required.

Mr. Hadik shared onscreen a plan showing the site with the locations of where the detention basin was originally approved and where it was constructed. The plan also shows topographic contour lines. He noted that, per the Building Inspector, the driveway is currently graveled and has not yet been paved.

Mr. Hatch noted the proposed driveway will sit higher and the basin, though smaller and deeper, will still have the same volume. He stated this type of (*unapproved*) field change occurs all the time without Planning Board review. Mr. Hadik objected to this statement, because this situation is not just a simple grading change, this is about a detention basin, and very few home sites have these detention basins.

Mr. Weider asked about the basin's maintenance, and Mr. Hatch stated it will be mowed grass and will be maintained by the homeowner.

Ms. Richter questioned how the Board would know the new detention pond would work, and Mr. Weider noted the purpose of the Town Engineers to confirm these types of things. Ms. Richter asked why the Board was not given the opportunity to review the field change before the fact. Mr. Weider agreed a simple phone call or notification should have been made.

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Mr. Hatch stated the new owners would not want to pay \$1,000 for a new drainage report and \$2,000 for and engineering review. Ms. Richter wondered if this was then a case of deciding to ask for forgiveness later instead of asking for permission first. Mr. Hatch stated the same field changes were made throughout Cedar View Estates subdivision. Mr. Hadik objected to the accuracy of this representation, noting that subdivision was approved circa 2006, way before there were retention basins for any individual home sites.

Selectman Myette asked if the driveway would drain to the new detention basin or downhill out to Raven Drive and the abutting lot. Mr. Hatch stated the parking area and everything inside the wood line for the house lot itself drains to the basin.

Mr. Weider asked about the well's location. Mr. Hadik opined it appears to be located as shown on the original plan.

Selectman Myette asked if the contour lines shown on the plan were pre-development or post-development contour lines. Vice-Chair Sederquest questioned the how contour elevations shown could result in a basin marked to be 4 feet deep. Mr. Hatch said the driveway and house elevations had been raised. He explained the driveway turnaround area slopes directly into the basin. Mr. Hatch noted the contours lines shown on the plan are pre-development contours and elevations.

Selectman Myette asked if the Board required post-construction as-built plans and Vice-Chair Sederquest said no. Mr. Hadik noted that for lots with very small building envelopes, such as in open-space subdivisions, that certified plot plans are required, which was not the case here. Mr. Hatch explained the original subdivision plan showed a generic box for the house. At the time no one knew what the future owners would build.

Mr. Hadik noted the originally approved plan showed locations of the well, the "4K" septic area, and detention basin. He said that based on the pre-development contours, the original detention basin location was properly sited to intercept the runoff.

Selectman Myette noted the issues are there are no post-development contours shown, nor are there revised drainage calculations. He said there is no way for the Board to know if the relocated and resized detention basin will function as required. Mr. hadik suggested a site visit by the Board to see if it was obvious that the detention basin was either properly or improperly located.

Selectman Myette questioned, if drainage issues arose, if the Board might be vulnerable by approving something they do not have calculations for. Mr. Hatch stated the detention basin does nothing to correct the drainage issues on Raven Drive.

Ms. Richter stated the detention basin was not built according to the plan. Without DuBois & King verifying the calculations, the Board is making guesses based on a site walk. Mr. Weider noted the Board relies on data and review by DuBois & King and their recommendations. The whole process is being taken away and he not comfortable with making an exception. Mr. Weider stated he was not in favor of approving. Before the engineer was responsible, and now it (*the responsibility*) will come back on the Town.

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Mr. Hatch stated he will let the homeowner and contractor know what was discussed.

General Business (continued)

Note: Mr. Hume lost connectivity to the meeting at ~7:16 PM and returned ~7:30 PM.

5. Discuss hourly billing rate by Counsel.

Mr. Hadik advised that Stephen Bennett, the Board's Land Use attorney, called to discuss his firm's billing rates. Attorney Bennett subsequently sent a letter confirming the rates have not been adjusted for 11 years.

Attorney Bennett's current rate as a Partner at the firm is \$175 per hour. He would like his rate increased to \$195 per hour, and to \$165 for Associates, and \$100 for Paralegals.

Mr. Hadik said the proposed rates are reasonable based on his research. He asked if the Board agreed to these rate increases, and if someone was willing to make a motion to so the Board can approve them. If approved, Mr. Hadik will provide a copy of the letter and the minutes to the Town Administrator.

Ms. Richter motioned to approve Attorney Steve Bennett's request to increase the hourly billing rates for Partners, Associates and Paralegals in his firm by the amount set forth in his proposal of December 1, 2020 to the Planning Board. Vice-Chair Sederquest seconded the motion. A roll call vote was taken Sederquest – aye, Richter – aye, Weider – aye, Myette – abstain. The motion passed 4-0-1.

Selectman Myette said he abstained, however, he stated he would vote in favor when this came before the BOS for approval.

6. Newspaper noticing fee.

Mr. Hadik advised that, as requested, he discussed this issue with Counsel in the context of noticing public hearings on the Town's website in accordance with HB 1129 instead of noticing in a newspaper. Attorney Bennett has advised that the Board should consider that the Planner's time working on these notices and posting them to the Town's website is already covered by a salary raised from taxation.

Mr. Weider demurred, saying other departments such as the Building Inspector's office charge fees to defray the cost of their employees' salaries. There was much discussion by the Board. Mr. Hadik noted there are costs associated with maintaining the Town's website.

Ms. Richter recommended calling the fee a "posting fee" when it came time to amend the fee schedule.

7. Two AirBnBs SPRs pending.

Mr. Hadik advised there may be two applications for SPRs for AirBnBs pending if approved by the ZBA. One of them would be in a private residence located within the C-1 Commercial District. The other would be in

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the R-1 District.

8. Other SPRs pending.

Mr. Hadik relayed there is a possibility for two more SPR applications.

The first is for the Ortins food truck at Spring Hill Farm, to be located where they are renting the High Tunnel greenhouse.

The second may be for another learning & tutoring organization (Hartman Learning Center) in the cafetorium and classroom (*aka Wadleigh*) building at Busche Academy.

9. Potential new subdivisions.

Mr. Hadik advised there is now the potential for two new subdivisions.

The first is the 36-acre one (*comprised of two lots*) already discussed by the Board. It is located on Haverhill Road aka Rte. 121, near the intersection of the graveled portion of Halls Village Road.

The second one is a 158-acre property formerly owned by Mr. Nalbandian. It is located off Pulpit Rock Road, and has just sold to a developer (Fair Wind) out of Bedford, NH. This is the parcel discussed a couple months ago with the ROW access coming in from a new subdivision in Sandown.

Mr. Hadik noted FYI, that the Assistant Assessor just reported twenty-three recorded, property deed transactions during the first twenty days of November, just over one deed per day.

Adjournment

Mr. Weider motioned to adjourn the meeting at 8:18 PM. Vice-Chair Sederquest seconded the motion. A roll call vote was taken: Sederquest – aye, Weider – aye, Richter – aye, Hume – aye and Myette - aye. The motion passed 5-0-0.

Future Meeting Dates

- *December 9 – Connelly SPR CPH, Latitude Learning PH, CIP PH*
- *January 6 – proposed zoning amendments?*
- *January 13 – proposed zoning amendments?*
- *January 27 – proposed zoning amendments?*

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

Respectfully submitted,
Daniel Hoijer
Recording Secretary