

1-27-21: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester  
Planning Board Meeting  
Wednesday, January 27, 2021  
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):**

Brian Sullivan, Chairman  
Evan Sederquest, Vice Chairman  
Richard Snyder, Member  
Selectman Chuck Myette, Liaison  
Aaron Hume, Alternate Member (for Mike Weider)  
Town Planner Andrew Hadik

**Members Absent:**

Mike Weider, Member  
Elizabeth Richter, Member

**Meeting Agenda**

**7:00 PM – General Business**

1. Review & approve the minutes for the 1/13/21 PB meeting.
2. Review & approve PD request for release of impact fees.
3. Discuss procedure for requests for waivers of Site Plan Review.
4. Discuss proposed zoning amendments:
  - Article 2 – Internal Lot definition.
  - Article 2 & 5.3.3.12 – add Bed & Breakfasts.
  - Article 4.14.3.1 – Fence location clarification.
  - Article 6 – Open Space Subdivision amend density bonuses.
  - Article 9.4.10 - ADU Code Requirements – delete a requirement.
  - Update Legal Terminology.
  - Article/Regulation? - Driveways crossing front setbacks.
5. Discuss & move to take zoning amendments to a public hearing on February 10<sup>th</sup>.
6. Discuss Eversource work impact to Clark Road (Class VI portion).
7. Source Water Protection Plan grant application status.

**7:15 PM – Appointments**

None scheduled.

**7:30 PM – Public Hearings**

None scheduled.

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Chair Sullivan called the meeting to order at 7:00 PM, and stated that Alternate Aaron Hume would be active for Mr. Weider. Chair Sullivan read the virtual meeting preamble and asked for a roll call of those present: Evan Sederquest, Aaron Hume, Richard Snyder, and Selectman Chuck Myette.

#### 7:00 PM – General Business

##### 1. Review & approve minutes for the 1/13/21 PB meeting

Chair Sullivan said line 132 should read public hearing portion of the meeting. Mr. Hadik said to strike everything after the word public and replace it with the word hearing.

***Mr. Sederquest moved to accept the minutes for the January 13, 2021 meeting as amended. Mr. Hume seconded the motion. Sullivan – aye, Sederquest – aye, Hume – aye, Myette – aye, and Snyder – abstained. The motion passed 4-1.***

##### 2. Review & approve PD request for release of impact fees

The Planning Board has received a request for a release of impact fees. Mr. Hadik said \$10,000 is put into the CIP every year, and into the CIP spending warrant article to pay for the police department's personal protection equipment (PPE). Last year, it was decided to cover this with impact fees instead of taxation for the current fiscal year. The Board has received a request from Police Chief Aaron Berube for \$125.00 for a set of winter boots and \$70.93 for equipment for department firearms. This is the first request for this fiscal year. Chair Sullivan asked why this was not combined with other items. Mr. Hadik said it is a \$10,000 project line that lumps together all PPE purchases.

***Mr. Snyder moved to approve the release of \$195.93 in impact fees. Mr. Hume seconded the motion. Sullivan – aye, Sederquest – aye, Snyder – aye, Myette – aye, and Hume – aye. The motion passed 5-0.***

##### 3. Discuss procedure for requests for waivers of Site Plan Review (SPR)

Mr. Hadik said there are two SPRs pending for the Gesel Commercial Complex at 15 Chester Street. The first is from Heather Peloquin for a nutritional herbal consultation practice in the former 603 Realty office space. She will be meeting with the Board next week for a conceptual discussion about requesting a waiver from SPR. The second is from Diane Cresko (?) to lease the former woodworking shop, which has been a hair salon. Mr. Hadik spoke with Mr. Bunker, who does not see the need to subject either of these to SPR.

Mr. Hadik asked how the Board would like to handle situations like this. He asked if the applicants should submit a letter to the Board and they could vote whether to grant the waiver, or if this discussion should occur at a fully noticed public hearing. The second option preserves the right of abutters to provide input. He believes that even if the Board grants waivers, there should be an approval document listing any conditions the Board wants to maintain, the most obvious of which is no offsite parking by the owners, employees, and patrons. This includes parking in the right of way on Route 121, aka Chester Street, and on the Post Office and Stevens Hall lots.

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Mr. Snyder said the most significant burden on the applicant for a SPR is the engineering work: surveying, drawing up plans, and such. If they can successfully argue in the public hearing that the impact is light or minimal and is consistent with what kind of business was there previously, the Board can grant that and relieve the applicants of the financial burden of the engineering work. However, he believes a public hearing is needed for that discussion. The Board agreed that they should notice a public hearing. Chair Sullivan said that way, they are not departing from how they have addressed applicants in the past.

#### **4. Discuss proposed zoning amendments:**

- **Article 2 – Internal Lot definition**

The Board has been asked to add a clarifying definition for the term "Internal Lot," as referenced in Table 1 and Sections 6.12.2 and 7.13.2, with respect to Article 6 Open Space Subdivision- and 7- Age-Friendly Subdivision. The Board has discussed and agreed that a definition was required. Mr. Hadik proposes the definition should be, " For the purposes of Table 1, Section 6.12.2 and Section 7.13.2, an Internal Lot is a lot situated within an Open Space or Age-Friendly subdivision which was approved as a lot on which a dwelling or other type of structure is or will be located." Mr. Hadik said the definition needs to be tied to Table 1, which lists and differentiates between the setbacks of a grid subdivision lot versus an open space subdivision lot. Building setbacks do not apply to common areas. Mr. Snyder said the language is clear, concise and does the job.

Mr. Hadik has forwarded all amendments except the last one to counsel for review. He will post them on the website tomorrow.

- **Article 2 & 5.3.3.12 – add Bed & Breakfasts**

Mr. Hadik read the amendment regarding Bed & Breakfasts. The exclusion has been removed, so a single-family home with an accessory dwelling unit (ADU) can apply for a special exception per the Board's decision at the last meeting. Adjacent towns allow four bedrooms. The aesthetics standards clause is the same as used in other special exceptions. The requirements for SPR and parking were reviewed by Mr. Bunker.

Originally, the applicant had to submit a new DES-approved septic system design to address the additional flow to be generated. Now, they have added an option that the applicant can submit a letter from a licensed septic system designer certifying that the current system can handle the additional flow, which greatly reduces the financial impact to the applicant.

Selectman Myette asked if the Board allows this in residential areas, does it open the door for any other business being considered a commercial business to also be allowed in a residential area? Mr. Hadik said this is not a precedent because there already is a list in zoning of special exceptions of commercial uses that are allowed. The Board added agritourism, and assisted living facilities and nursing homes two years ago. He does not see it creating a conflict. The commercial standard is being used because it

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provides a higher level of inspection and oversight. If not regulated, this could cause an impact to abutters.

Chair Sullivan asked if state law weighs in on the definition, and Mr. Hadik said he discussed it with Mr. Bunker and there is no regulatory law. The Board can set that as their regulation, regardless. Mr. Hadik expects the Board's SPR conditions of approval for this will include baseline inspections for life, health, and safety by the Building Inspector and the Fire Department.

- **Article 4.14.3.1 – Fence location clarification**

Mr. Hadik has been asked to insert clarification into the ordinance under fences. Mr. Bunker felt it was important to add this clarification. "Fences must be located on the fence owners' lots." The Board agreed it seemed obvious, but had no problem with the proposed amendment. Chair Sullivan asked for clarification regarding fences being put along a roadway right-of-way. Mr. Hadik said there are restrictions for fences that potentially could interfere with line-of-sight.

- **Article 9.4.10 - ADU Code Requirements – delete a requirement**

Counsel believes it is not defensible to require an Accessory Dwelling Unit (ADU) to be sprinklered if the dwelling is not already sprinklered. It is a notable cost burden to a homeowner above and beyond other improvements necessary to meet the requirements for an ADU. The easiest solution is to strike the link to Article 3.1.1.1. It is still appropriate and defensible for the Board to link to Articles 6 and 7.

Chair Sullivan asked when a house is being expanded, is there not a requirement to bring it up to code, which might require the installation of sprinklers? Mr. Hadik said if it is not in an open space subdivision, no sprinkler systems are required.

Selectman Myette asked if multifamily dwelling units require the installation of sprinkler systems. If so, should the word "including" be changed to "excluding"? Mr. Hadik said yes, it is required, so the wording does need to be changed. He said sprinkler systems shall be installed in all conversions, and asked if adding an ADU is equivalent to a conversion to multifamily. This is a legal question. Mr. Hadik will meet with Mr. Bunker and double-check. The Board may have to change the building code, and any changes to the building code need to go in front of the voters.

- **Update Legal Terminology**

The use of the word "shall" is highly litigated; it does not have the same strength of intent as the word "must." Starting 20 years ago, the Board has replaced the word "will" with "shall" because they were advised the word "shall" had more strength. Now, the recommendation is to replace "shall" with "must." This is Mr. Hadik's initiative as the result of his research, and he is waiting to hear from Counsel regarding the issue.

- **Article 6 – Open Space Subdivision amend density bonuses**

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Mr. Hadik said the document is unchanged from last year. The intent is to do away with the 25% density bonus for age-restricted housing and add it to the preexisting 25% density bonus for workforce housing. Mr. Hadik has discussed this with representatives of the Southern NH Planning Commission and Senate committee members, and they fully support it. Several towns in the area have voted out age-restricted density bonuses because there is no savings to the general taxpayer at large.

Mr. Hadik said the Board discussed fielding the document again this year, but doing a better PR job this time. He removed the discussion of the Annual Report from the agenda as he needs to improve the explanation from a simple purpose statement. The Board agrees they need a better explanation of workforce housing.

The State has recently created a State Board of Appeals, and Mr. Hadik believes their position in front of that Board would be stronger if they had a bigger incentive for workforce housing. He believes they would have a greater likelihood of prevailing if someone challenged the Town's zoning in front of this appeals board. It will bolster the Town's reputation and support (*for inclusionary zoning*) and ability to defend the Town's zoning.

- **Article/Regulation? - Driveways crossing front setbacks**

Mr. Hadik displayed onscreen some proposed verbiage and two examples of lots where the driveways had excessive impacts the wetland buffers. He noted the Board has already discussed the issue of making sure that driveways cross the front setbacks in the shortest possible distance, because they commonly include wetland crossings.

Mr. Hadik asked the Board where this verbiage should be inserted. If it is placed in zoning, they would have to add clarifying language to the definition of a setback front. He asked if it should be put into the driveway regulations or subdivision and site plan review regulations. The Board agreed it should be placed in the Driveway Regulations, so this decision removed one zoning amendment.

## **5. Discuss & move to take zoning amendments to a public hearing on February 10th**

Mr. Hadik said the public hearing date could be pushed out to the third or fourth week of February, but this date gets it noticed as early as possible. Mr. Snyder asked if the February 10<sup>th</sup> date would allow Counsel to review and respond to the Board's questions, and Mr. Hadik said it would. The Board should hear from Counsel by the February 3<sup>rd</sup> meeting.

***Mr. Snyder moved to take the zoning amendments as discussed tonight to public hearing on February 10<sup>th</sup>. Mr. Sederquest seconded the motion. Sullivan – aye, Sederquest – aye, Snyder – aye, Hume – aye, Myette – aye. The motion passed 5-0.***

## **6. Discuss Eversource work impact to Clark Road (Class VI portion)**

Mr. Hadik was notified of two issues with the Eversource power line project. First, landowners Mike and Shelly Scott contacted him regarding two work pads that has been built where Clark Road used to

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connect to the Chester Turnpike. There is currently a nine-foot and a six-foot slope blocking that portion of the road. The Scotts use the Class 6 portion of Clark Road to access their woodlot property. Mr. Hadik had a site visit with the project siting manager for Eversource and the construction crew for Blue Roc. They said as soon as the work is complete, they will bring the slope back to original and leave it so the Scotts can access their property again.

Mr. Hadik advised he received a call from Jeni Menendez, an environmental specialist for Eversource. The contractor placed wooden matting by accident in a wetland location that was not included in the application submitted for the Conditional Use Permit (CUP). They removed it as soon as they realized the error, but, due to the snow cover, they cannot tell if there was any damage to the wetland. They will be sending out an environmental specialist to see if there was any impact, who will report to the Board.

Selectman Myette asked if Eversource had “self-reported” the incursion, and Mr. Hadik confirmed they had.

## **7. Source Water Protection Plan Grant Application**

Mr. Hadik reported that DES approved their source water protection plan grant application, which is very good considering the amount of work that went into it. It still will require final approval from G&C; he is not sure who G&C is. Southern NH Planning should be receiving a follow-up email regarding required paperwork for submittal to the G&C for the approval process. Selectman Myette complimented Mr. Hadik on his work on the application. Mr. Hadik credited Southern NH Planning and an earlier application, as well as one submitted by Derry.

***Mr. Hume moved to adjourn the meeting. Mr. Sederquest seconded the motion. Sullivan – aye, Hume – aye, Sederquest – aye, Myette – aye, and Snyder – aye. The motion passed 5-0.***

## **Future Meeting Dates**

- February 3 – Wellness Office SPR & Chester Rod & Gun SPR discussions
- February 10 – PH for Zoning Amendments
- February 24 –

***Respectfully submitted,***

***Beth Haggeli, Recording Secretary***