

8-11-21: These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester  
Planning Board Meeting  
Wednesday, August 11, 2021**

**Approved Minutes**

(The meetings are broadcast live on Channel 20, and available on the Town's cable TV streaming service - go to <http://www.vod.chesterctv.com> and click "Watch Now". If you would like to participate via the Zoom teleconferencing utility, please go to <https://zoom.us/j/92697843243>, or you may participate via telephone - dial 301-715-8592; the meeting ID is 926 9784 3243.)

**Members & Staff Present:**

Evan Sederquest, Vice Chairman  
Mike Weider, Member  
Richard Snyder, Member  
Elizabeth Richter, Member (joined at 7:08)  
Aaron Hume, Alternate (joined at 7:02 for Brian Sullivan)  
Selectman Chuck Myette, Liaison  
Andrew Hadik, Town Planner

**Members Absent:**

Brian Sullivan, Chairman

**Guests and Members of the Public Present:**

Doug MacGuire, Engineer for The Dubai Group  
Paul Garabedian, Jr.  
Corey Garabedian  
Representatives from Groundhog Landscaping?  
Representative from Dorman Logging?  
Mike Oleson, Road Agent  
Robert (Bob) Swanson  
Karen Swanson  
Kenneth Walsh, consultant for Robert Swanson  
Patrick Connelly (Swanson abutter & Conservation Commission)  
Chester PACT

**Meeting Agenda**

**7:00 PM – General Business**

1. Review & approve invoices, sign documents etc.
2. Review & approve the minutes for the 8/4/21 PB meeting.
3. Discuss amending the driveway regulations to include the maintenance of culverts.
4. Carlin Road cul-de-sac Discontinuance.

**7:15 PM – Appointments**

1. Paul Garabedian, Jr. & Engineer Doug MacGuire, The Dubai Group for Garabedian Properties, re: excavation off Fremont & Stowe roads.

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2. Road Agent Michael Oleson, re: driveway culverts.

### **7:15 PM – Public Hearings**

1. Site Plan Review application of Robert Swanson (owner) for short-term rentals of a pre-existing, detached seasonal dwelling, at the property located at 504 Haverhill Road (Map 2 Lot 88).

### **Non-Public Meeting**

1. RSA 91 A:3, II (I) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.

### **Meeting Minutes**

Vice-Chairman Sederquest called the meeting to order at 7:00 PM.

### **7:00 PM – GENERAL BUSINESS**

#### **1. Review & approve invoices, sign documents, etc.**

There were no documents to sign.

#### **2. Review & approve the minutes for the 8/4/21 PB meeting.**

*Mr. Weider moved to accept the minutes for the August 4, 2021 meeting as written. Mr. Snyder seconded the motion. A roll call vote was taken. Sederquest – aye, Myette – aye, Snyder – aye, Weider – aye. The motion passed 4-0-0.*

#### **3. Mill Pine Village reclamation plan**

Mr. Hadik has received the amended reclamation plan for the Mill Pine subdivision. The mylar and hard copies are signed, and the mylar will be sent to the Registry for recording.

#### **4. Carkin Road cul-de-sac discontinuance**

Mr. Hadik reported he was contacted by one of the two of the residents affected by the Carkin Road cul-de-sac discontinuance. The individual stated that now neither of them agree with the proposed plan they agreed to last week. This is because the Road Agent requested the surveyor to lengthen the stub, being retained for future drainage infrastructure, to be extended another 20 feet because of the gradient. The residents object to this additional lengthening of the stub, believing it is taking their land. Mr. Hadik disagrees with this characterization because the land in dispute is part of the cul-de-sac that is being discontinued.

Mr. Hadik reminded the resident that they had agreed at the last meeting to having the Road Agent determine the final length of the stub required and marking it for the surveyor. Mr. Hadik offered to set up another meeting for all concerned parties to try and resolve the differences, however, the resident declined saying the matter will now be settled between their counsel and Town counsel.

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Mr. Hadik wondered about the wording of the warrant article regarding the discontinuance. Is the interpretation dependent on wording that states the cul-de-sac will be “discontinued” or “fully discontinued”. This wording currently matters regarding the discontinuance of Class V to VI roads.

The board discussed two options, coming to an agreed solution, or just releasing the cul-de-sac in its entirety, regardless of the zoning issues. Selectman Myette noted that Town counsel should communicate the legal fees incurred by the Town should be borne by those two residents.

#### **7:15 PM – Appointments**

##### **1. Paul Garabedian, Jr. & Engineer Doug MacGuire, The Dubay Group for Garabedian Properties, re: excavation off Fremont & Stowe roads.**

Mr. MacGuire appeared before the Board, representing Mr. Garabedian, Jr. He presented an updated copy of the site excavation plan that was reviewed and approved by the Town in the early '90s, when Mr. Garabedian was moving forward with his grandfathered gravel pit excavation permit. This plan has been requested by the Town to clarify what their intent is, the type of material quantity-wise estimate to be removed, and from which areas.

Mr. MacGuire said the Garabedians would like to begin removing material on a larger basis. In preparation, they contacted the Dubay Group, who conducted a survey of the area where they propose to begin the excavation. The yellow highlighted area is the anticipated first area of excavation. Access to the area is via Stowe Road (*off of Fremont Road*). The boundaries were surveyed in as well as the location of existing wetlands, as the 1991 plan lacked those details.

They voluntarily met the requirements that are currently held by the Town regarding new excavations, including a 500' buffer to an existing residential dwelling, as there is one such dwelling to the north of the property. They are holding a 100' buffer to abutting parcels. They are also holding a 25' no-cut buffer off the wetlands. They surveyed the limit of cut area, and Mr. Garabedian worked with a tree company to file an intent to log the property, but only within the limits that were laid out.

The goal is to clear the front end of the property (*along Stowe Road*) to provide room for excavation and the processing of materials prior to being brought offsite. The contractor, Groundhog Landscaping, ensured this was coordinated with Road Agent Mike Oleson as to access to Stowe Road. The road needed to be upgraded to support truck traffic, so they applied gravel material (*actually erosion stone*) to provide a more secure base.

As required by any excavation of over an acre, they prepared a stormwater management (*SWPPP*) plan that is monitored by the EPA. Reports are done biweekly or after ¼" of rainfall to ensure proper erosion protection. Groundhog Landscaping will be performing and monitoring their own work, which Mr. MacGuire said is fairly common for this permit. Mr. Hadik requested a copy of the permit. Selectman Myette asked if the monitoring had already begun and Mr. MacGuire said it has been.

Mr. MacGuire also presented the *SWPPP* active construction plan, which can evolve as activity progresses onsite and additional needs are discovered. It meets the requirements of the permit, which is the upgrading of Stowe Road. They need to have minimum construction access to help clean the

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vehicles' tires of mud, etc., to limit disturbance to the main road. Material (*erosion stone*) was applied all the way to the excavation site, which they believe is above and beyond the requirement. They also provided silt fence controls along both sides of the road and all the way up the embankments at the perimeter of the wetland setbacks on both sides of the excavation area to prevent erosion from affecting the Stowe Road access.

The required paperwork for the excavation has been filed, as well as the estimated quantities proposed to excavate this year. It was not filed until recently, as they wanted to get an estimate after the trees were cut of the material that would be removed in this calendar year. The state told them it could be a loose estimate and they would rather have the paperwork, so that was filed.

Mr. Hadik said the effort is appreciated to not track mud onto Fremont Road. However, the road is used by people, bicycles, and horses, and the riprap stone that has been applied makes that no longer possible. It needs to be dressed off with gravel from the site to mitigate this. The road is not usable right now for the previous public access. Stowe Road must remain passable for the uses occurring before the operation started.

From pictures obtained by Code Enforcement, it appears that a portion of Stowe Road is being used as a parking lot. There is now a 5-foot high, 1:1 slope there, and the road is blocked off with boulders, which must be rectified so that the public has a right-of-way to pass through there.

Mr. MacGuire said they would be happy to work with the Town to resolve this. However, they coordinated with Road Agent Oleson on this issue. Mr. Oleson said that he received a phone call from Groundhog Landscaping. He asked them not to allow any mud onto Fremont Road. He did not coordinate the road being filled in. He told Groundhog they could do whatever they wanted. He did not direct them to apply erosion stone on Stowe Road except at the entrance. He told them he had no jurisdiction over this road.

Mr. MacGuire said if Mr. Oleson said they could do whatever they want, what they wanted to do was apply stabilized stone to create a compacted, drivable surface for larger vehicles. Mr. Snyder reminded him it needed to be compatible with the current uses the road sees. Mr. MacGuire said that could be fixed.

Mr. Hadik said vehicles are parked in this parking lot in the Stowe Road right-of-way and need to be shifted. Residents should not have the false impression that they cannot continue to use Stowe Road. He has been contacted by residents and Selectmen regarding this. It is a public concern.

Mr. Weider asked regarding the permitted entrance to move material in and out. Mr. MacGuire said for this area, they are proposing to use Stowe Road as improved and exiting onto Fremont Road. He said there are additional areas of gravel onsite, in the dotted lines in yellow on the plans, that are available. They have no plans to access those areas until the current area is successfully worked, reclaimed, and stabilized. They would then move on to the next area, which will not happen this year. Mr. MacGuire said there is a fair amount of material in the area they are currently working that will be excavated, processed, and then stabilized in accordance with state RSA on excavation requirements.

Mr. Hadik asked for an explanation of the difference between the EPA permit and DES's alteration of terrain permit. Mr. MacGuire said the SWPPP permit is an EPA permit required for any disturbance of

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land over an acre. Depending on the grandfathered nature of this, that may or may not be applicable. They thought it would be a good practice, as it is an active site that will be evolving, to have mitigation and review of that mitigation.

The alteration of terrain permit is a permit that is required for land disturbances. There is a subset category for excavations only. Their understanding is that this is a grandfathered site that has an active gravel operation that supersedes the establishment of the alteration of terrain permit. Therefore, they are not required to obtain a new permit to start additional excavation on an existing gravel operation that has been maintained as active for decades. Mr. Hadik pointed out the excavation is in a different area that is not contiguous to the old excavation and Mr. MacGuire agreed.

Mr. Snyder asked how this is grandfathered. The plan was submitted and approved 30 years ago, and the old excavation site had not changed in 30 years. Mr. MacGuire explained that New Hampshire RSA Chapter 155-E governs old and new gravel operations and has specifics as to when a permit is required and what grandfathering of an existing pit is. This operation goes back well before 1991. Mr. Garabedian purchased this property as an active gravel pit and maintained it as such. There is no time limitation on how much material is removed. Mr. Garabedian has utilized it on a yearly basis, filing the paperwork, paying the fees, just not to a noticeable scale. Access to the existing area is through a gated access on Old Sandown Road. They are not continuing at that location because the area has pretty well been mined over the years. If a professional company is going to work the site, they wanted to ensure they were working a chunk of useable land. There are upfront costs to getting this area ready for a successful operation.

Mr. Snyder asked how this relates to the grandfathered issue. If changes have occurred in state and local regulations since 1991 that govern an operation such as this, grandfathering is an important issue. Mr. MacGuire said the operation has remained active. Mr. Snyder pointed out that filing paperwork is not a definition of active. Active involves using it as a gravel pit: removing, processing, and selling material. Mr. MacGuire said this had been done. Mr. Snyder asked why the area has not changed in appearance and Mr. MacGuire said it has. The area was higher, and material was removed. He pointed out that the regulations are clear.

Selectman Myette asked for records regarding material that has been removed and sold. The area under discussion has been used as a rifle range for years and there has been no excavation activity in that area for years. It is also a different area than where the current operation is occurring. He asked for a definition of active, as there has been no equipment in there. Mr. MacGuire said that did not matter as this is the gravel operation that was approved. There is a certain quantity of gravel that is allowed to be mined from the site. The owner has a right to remove the material that he has been paying taxes and filing paperwork on. Mr. MacGuire does not know if the owner has records as to exactly what has been taken out, but he can look into the RSA and get back to the Board with more specifics.

Selectman Myette asked for specifics, such as aerial photographs, factual evidence, records of materials being sold. This would help prove the operation is grandfathered. Ms. Richter clarified that the Board defines active as mining activity, not filing paperwork. Mr. MacGuire said he did not agree this was the definition. Mr. Snyder said it is a legal question and the burden is on Mr. MacGuire to demonstrate that it has been active and maintained to qualify as being grandfathered. If it is not grandfathered, they need to ensure that the plan from 1991 is consistent with current regulations. Mr. MacGuire said the

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1991 plan probably is not consistent with the current regulations. Mr. Snyder pointed out that that would be a problem for the Board.

Mr. MacGuire said their position is that this is a grandfathered gravel operation that has been maintained active since it was started. They have gone above and beyond the requirements, as they are not excavating to the property lines and the edge of wetlands as was originally approved. They have met the intent of the Town's new regulations, even though the state RSA is not as stringent. Mr. Snyder asked what else would be required to meet today's regulations. Mr. MacGuire said if this were a new operation, they would be required to get an excavation permit in the alteration of terrain category. He is willing to explore this.

Mr. MacGuire said they have spoken with the head of the state governing gravel operations, Steve Griffin. Mr. Snyder asked about the nature of this interaction. Mr. MacGuire said a concern was brought to Mr. Griffin regarding the paperwork not being filed for this operation. It had not been filed at the time, but it was submitted yesterday (Tuesday). Selectman Myette pointed out that excavation had begun before the paperwork was submitted. Mr. MacGuire said they brought in more material than they have excavated, which Selectman Myette said was irrelevant as it was to upgrade the road.

Mr. MacGuire said they have not started the gravel operation. The topsoil must be removed before gravel excavation can begin. He does not quantify topsoil removal and stockpiling of materials as being a gravel operation. His office recently surveyed the stumping limit, as they wanted to do a 5-acre chunk. He said Mr. Griffin said they did not need to stop removing the topsoil and organizing, they just could not begin the for-profit removal of material from the site until the paperwork was filed.

Selectman Myette said they could ask the individuals working the property if soils have been removed from the area. Mr. MacGuire said there has not been removal of material for profit. Selectman Myette said gravel has been seen being removed from the area. Mr. MacGuire said he does not believe that is the case. They did not submit the paperwork as they wanted to provide an accurate quantity. The permit breaks down the material, so they wanted to complete a test pit below the virgin soil to make those estimates. Mr. MacGuire explained this to Mr. Griffin, who said this is common. He told them to give best estimates, maybe over-estimate, and submit those numbers, which they did. Mr. MacGuire said they were within approximately 20,000 yards anticipated. Based on the 1991 plan, there was over 500,000 yards estimated.

Ms. Richter asked in addition to the alteration of terrain permit, what additional requirements would grandfathering exempt the operation from. Mr. MacGuire said it would exempt them from submitting an application with the Planning Board showing this plan. Mr. Snyder clarified this plan, but brought up to current standards, and Mr. MacGuire agreed. Mr. MacGuire said he believed they did try to meet the important points in the current gravel operation requirements. Mr. Snyder said if it not grandfathered, it has to be a submitted plan that is reviewed for compliance.

Mr. Hadik suggested setting aside the grandfathered issue and to focus on the 1991 plan. The extent of what has occurred on the site is surprising, considering no one has notified the Town. Five acres have been stripped of topsoil and topsoil piled, trommel screeners are operating, excavators are running, and material is being processed and screened. He pointed out that item 7 in the 1992 plan states that the excavator will file a reclamation bond or other security as prescribed by the regulator sufficient to secure the reclamation of the site prior to the removal of topsoil or other material from a new

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excavation area. This has not been done.

Another concern is that if 25,000 cubic yards a year is going to be removed, although it will not come out of one outlet, that is a lot of material in one area. There is a hill that will be taken down substantially. Fremont Road is the most used of all Town-maintained roads. A bond needs to be discussed regarding any damage done by the trucking. Selectman Myette said this is the biggest concern to the Board. Fremont Road was paved a couple of years ago with base coat. It does not have a final (*wearing*) layer coat, although that is scheduled to be applied. Trucks filled with stone is a lot of weight for the road to bear. The Board is concerned about the condition of Fremont Road, the passage of Stowe Road, and the blocking of Stowe Road. The operation should have approached the Town and discussed this issues before it occurred.

Mr. MacGuire said they are not trying to hide that they are doing a large-scale gravel operation on the site. They thought they were going through the proper channels with the Town. They did not approach the Planning Board as they felt it was not required or necessary, but they did speak with Mr. Oleson. Selectman Myette pointed out the discussion with Mr. Oleson concerned timbering, not excavation and Mr. Oleson agreed. Mr. Hadik asked who they spoke with regarding excavation and Mr. MacGuire did not know. Mr. Oleson clarified that in the conversation with the dirt contractor (*Groundhog Excavation*), only logging was specifically discussed. He told the contractor they had to contact the Town before mining was started. He spoke with the logger and told him to talk to the Selectmen or the Planning Board before he began hauling dirt.

Mr. MacGuire said this meeting is a couple of weeks earlier than they were expecting. They were going to submit the paperwork regarding the removal of 25,000 yards. Mr. Hadik said it has been received and is traveling through the Town departments. Mr. MacGuire said they believed they were following all regulations as they proceeded. Mr. Hadik clarified that the Board is not insinuating that anything is being hidden, but that they are finding out about it after the fact. Mr. Snyder said he assumes this is not grandfathered, based upon his knowledge of the site and its history. The current operation began under the assumption that it was grandfathered, which needs to be resolved. One way to bring this into compliance is to start the application process from scratch and Mr. MacGuire said they have the data to do so.

Mr. Hadik said the intent is not to infringe on the owner's right to excavate. Procedures need to be followed so the Board of Selectmen and the Planning Board can assure the residents of Chester that they are protecting the resources and that everything is current. Mr. MacGuire said they wanted to have all of the data available. Grandfathered pits always have this reaction. Selectman Myette asked why they did not approach the Board first if they knew it was always a problem. Mr. MacGuire said they were not at that place yet. There is an intent to cut, a stripping of loam, and an establishing of an access to property, which was done for the loggers.

Mr. Weider said his company does this type of work. This is a mining operation. He outlined the requirements for mining operations and pointed out that they are not being followed. Material has not been pulled out of the property in the last ten years, as none of the required information has been recorded. Mr. MacGuire said they are happy to meet any required level of compliance. He would like to research further to find out if this is grandfathered and follow up with Mr. Griffin. He is willing to provide an updated plan.

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Ms. Richter asked what they accomplish by having this deemed grandfathered. Mr. MacGuire said additional permitting will need to be done if it is not grandfathered, such as an excavation permit from alteration of terrain. It will take 60-90 days to get this permit. Mr. Weider asked if they had a customer that wants the material and Mr. MacGuire said yes. He believed they had all of the permits necessary to move loam. He said if additional permits are needed, they will work with their contractor to obtain those. He is concerned about the timing of the state permit. He said they can return to the Board in a reasonable amount of time and he can upgrade the plan to reflect the current requirements. Mr. Weider clarified that the alteration of terrain permit is state-issued and has nothing to do with the Board.

The Board would like Mr. MacGuire to submit an application stating the full intent of what will occur on the property. The Board's intent is to ensure that everything is in place, it is not to stop the operation. Selectman Myette clarified that the operation needs to cease at the moment, as the information the Board is asking for should have been submitted before any excavation began.

Mr. Hadik clarified that the Board is looking for an updated plan per the Board's regulations. It will need to be reviewed by the Planning Board's engineer. The requirements for bonding will also need to be met. Mr. MacGuire agreed this was a fair request and thanked the Board for working with them.

Selectman Myette asked for clarification as to whether the mining operation had started. It appears from the trucks leaving full that material is being removed from the site. He asked for verification that there will be no more trucks leaving the property until the permitting process and the bonds are in place, and Mr. MacGuire agreed.

Mr. Weider reminded Mr. MacGuire that they will need to meet mining regulations. Corey Garabedian clarified that there is an ID for the mining operation. However, the ID is for Groundhog Landscaping. Mr. Weider said each federal ID is specific to a mine site, not the contractor.

A member of the public asked why there was not a bond in place from 1991, if a bond was required. Mr. Hadik said that it had to meet an acreage threshold and the previously disturbed area did not meet that. The current regulations are a 2-acre threshold. Patrick Connelly asked if the Board considers it a mining operation, if the bond had to be in place before the mining operation continued.

Mr. MacGuire said the owners are not concerned about the removal or "sale" of the material, but there is processing that needs to happen onsite, which is what they are now doing. He said that what has been removed has been stumps and material that cannot be used for reclamation, not gravel. Mr. Weider asked if topsoil is being used onsite for the reclamation or removed from the site. Mr. MacGuire said he thinks they are trying to get the topsoil out of the way and storing it at their facility. It will eventually be sold. Mr. Weider said most overburden is used onsite for reclamation. Mr. MacGuire said they will make sure they have that, too, as they do not want to bring the topsoil back to the site. Mr. MacGuire said they will no longer remove material from the site, but they want to continue to process in the stabilized area protected under the SWPPP permitting to not lose time.

Selectman Myette said there are two bonds involved, one identified in the plan and one for the road. Mr. MacGuire said there will be no impact to Fremont Road from today until he returns to the Board with a completed application. Mr. Weider clarified that they are not processing overburden, they are mining on the 5-acre piece, separating, and stockpiling it. Mr. MacGuire said that was correct.



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Selectman Myette clarified that the Board of Selectmen will not sign the paperwork presented to them regarding this project, if the Planning Board has not signed off on it. The only item on the agenda for the next Board of Selectmen's meeting is the blockage of Stowe Road. Selectman Myette suggested that Mr. MacGuire examine the area to see why they are getting complaints and he said he would. Mr. MacGuire said they are willing to rectify this issue.

Mr. MacGuire said his first course of action will be to further understand the rights of the landowner on the grandfathering nature of the site and Selectman Myette asked that he show the Board that documentation. Mr. MacGuire said if the conclusion is that they are not grandfathered, he will follow the course suggested by the Board for approval.

Mr. Oleson will contact Scott to obtain a price for a bond on Fremont Road. He would also like the trucks to turn left on Fremont Road towards Route 102, as turning right will also damage Reed Road and others.

## **2. Road Agent Michael Oleson, re: driveway culverts.**

Mr. Hadik reported that a former selectman advised said there is an RSA that enables the Town to require homeowners to maintain the driveway culverts and the ditch lines in front of their houses so that the water tables are not higher than necessary under the road and/or are not flooding into the road. Attorney Bennett advised that the best way to enforce this would be for the Board to amend the driveway regulations to reflect this. There would also need to be a public education component to this.

Mr. Oleson said a driveway culvert may be in the Town right of way, but it is the responsibility of the homeowner to keep it clean. This is similar to a mailbox: if the Highway Department damages it, they would be responsible. There are occasions where culverts are plugged, and the Highway Department will clean them so that the water flows. He has not found homeowners to have issues with this. There is a problem on Orcutt Drive, as the residents blow their leaves into the ditch lines. Mr. Oleson periodically stops and asks them not to do this and explains that it will plug the culvert and wash out their driveways.

Mr. Snyder asked if changing the regulations will have much effect. Mr. Oleson said it is a good idea to have it in writing, but he does not believe it will change people's behavior. It is listed on Candia's website that homeowners are responsible for maintaining their culverts. He believes residents follow the regulation when they are aware of it. Mr. Oleson is willing to clean a culvert once if someone reports an issue, but he warns the homeowner that he will not do it again.

Mr. Hadik believes this situation will increase due to new residents not being familiar with country living. If it is included in the regulations, it can be addressed if and when it becomes a problem.

Mr. Oleson is willing to put this information on the Road Agent page of the Town's website. If the Highway Department has to repair a culvert due to the homeowner's neglect, the homeowner will receive a bill from the Town. RSAs do exist regarding driveways.

Mr. Weider believes this is a road issue and should be overseen by the Road Agent and Mr. Oleson has no problem with this.

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Mr. Hadik will work with Mr. Oleson and Mr. Bennett to bring draft language to the Board.

### **7:15 PM – Public Hearings**

#### **1. Site Plan Review application of Robert Swanson (owner) for short-term rentals of a pre-existing, detached seasonal dwelling, at the property located at 504 Haverhill Road (Map 2 Lot 88).**

Mr. Hadik has reviewed the application for completeness, and it is ready for acceptance.

*Mr. Snyder moved to accept the application and subsequent review for Robert Swanson for short-term rentals of a pre-existing, detached seasonal dwelling, at the property located at 504 Haverhill Road (Map 2 Lot 88) and to open the public hearing. Mr. Weider seconded the motion. A roll call vote was taken. Sederquest – aye, Myette – aye, Snyder – aye, Weider – aye, Richter – aye, Hume – aye. The motion passed 6-0-0.*

Kenneth Walsh, who is representing Mr. Swanson, reported that they were given a variance by the Zoning Board of Adjustment a month ago to operate the bed and breakfast, but the ZBA did not review the Special Exception criteria. Mr. Snyder clarified that the ZBA decided this situation deviates enough from the ordinance that asking for a variance was the appropriate path to take.

Mr. Walsh said the cottage is a studio, less than 300 square feet, with a 300-square foot screened porch. He said the parking area does not meet the ordinance because it is within 25' setback, however, it is pre-existing. There is also overflow parking area down below just below the cabin. There will usually only be one car parked there overnight.

Mr. Walsh said a little work needs to be done on Jack Road, as it is a little rough. Mr. Oleson said he had no jurisdiction over Class IV roads.

Mr. Walsh said he also reviewed the septic system and found that it can easily handle 200-300 gallons a day, which that limit will probably not be met. There is a seasonal water line from the house to the cottage. He believes he meets all of the criteria necessary.

Mr. Hadik presented a draft of the proposed conditions of approval. Maximum number of rental bedrooms is one “studio” bedroom. Maximum number of guests is four. Hours of operation will be seven days a week. Evening noise and music curfew is 8:00 pm Sundays thru Thursdays, 10:00 pm Fridays & Saturdays. Amplified music is prohibited. Maximum number of vehicles is three. No patron parking will be allowed on Jack Road. There shall be no increases or changes in the proposed activities and uses beyond those approved with this application without further approval.

A new condition of approval has been added that SPR approval is conditioned upon the Zoning Board of Adjustment's decision approving an owner's application for a variance. This condition will be included from now on.

Mr. Hadik noted a waiver request from Items D and E of the SPR plan checklist was submitted. It should be requesting a waiver from SPR Article 7 - Specific Plan Requirements. Mr. Walsh amended and initialed the waiver request.

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The standard “boiler plate” conditions for SPR were reviewed and agreed to.

Mr. Hadik asked for public input. Ms. Swanson said the Fire Department has inspected the dwelling and labeled the location as 504-B for emergency 911 calls.

***Mr. Snyder moved to close the public hearing and begin deliberation. Mr. Weider seconded the motion. A roll call vote was taken. Sederquest – aye, Richter – aye, Snyder – aye, Hume – aye, Myette – aye, Weider – aye. The motion passed 6-0-0.***

***Mr. Snyder moved to approve the SPR with the conditions agreed upon tonight. Ms. Richter seconded the motion. A roll call vote was taken. Sederquest – aye, Richter – aye, Snyder – aye, Hume – aye, Myette – aye, Weider – aye. The motion passed 6-0-0.***

Mr. Hadik said he would make the edits and have the conditions of approval signed, then have them recorded. He will provide Mr. Swanson and Mr. Walsh with a copy of the recorded document.

#### **Non-Public Meeting**

**1. RSA 91 A:3, II (I) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present.**

***Mr. Snyder moved to enter non-public under RSA 91-A:3, II (I) Consideration of legal advice provided by legal counsel, either in writing or orally, to one or more members of the public body, even where legal counsel is not present. Ms. Richter seconded the motion. A roll call vote was taken. Sederquest – aye, Richter – aye, Snyder – aye, Hume – aye, Myette – aye, Weider – aye. The motion passed 5-0-0.***

The Board went into non-public session at 8:57 PM.

***Mr. Sederquest moved to seal the minutes of the non-public session, under RSA 91 A:3, II (I) Consideration of legal advice, until such time as the Planning Board determines that release will not render the action ineffective. Mr. Weider seconded the motion. A roll call vote was taken. Sederquest – aye, Richter – aye, Snyder – aye, Weider – aye, Myette – aye. The motion passed 5-0-0.***

***Ms. Richter moved to adjourn the meeting at ~9:15 pm. Mr. Snyder seconded the motion. A roll call vote was taken. Sederquest – aye, Richter – aye, Snyder – aye, Weider – aye, Myette – aye. The motion passed 5-0-0.***

#### **Future Meeting Dates**

*August 25 –*

*Respectfully submitted,  
Beth Hanggeli  
Recording Secretary*