

These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

**Town of Chester
Planning Board Meeting
Wednesday, March 23, 2016
Municipal Complex
Approved Minutes**

Members Present

Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Cass Buckley, Member
Michael Weider, Member
Dick Trask, Ex-Officio Member
Richard Snyder, Alternate Member

Members Absent:

Brian Sullivan, Chairman

Staff Present:

Andrew Hadik, Planning Coordinator

Vice-Chairman Evan Sederquest called the meeting to order at 7:01 p.m. Alternate Member Richard Snyder was appointed to vote for Brian Sullivan (absent).

Agenda

- Review & Sign Invoices
- Review and approve minutes for 3/9/16
- Review correspondence
 - Review & Approve SNHPC contract for annual updates of CIP & impact fees
 - Review draft of Planning Board's Annual report
- FYI & Updates:
 - Babin Subdivision
- Public Hearings:
 - Application by Tarrell & Elaine Towle, 351 Fremont Road (Map 9, Lot 19-1) for a 2-Lot Subdivision.
 - Proposed zoning amendments to Article 9 – replace original article: Conversion of Existing Dwellings with new article: Accessory Dwelling Units, pursuant to the new requirements set by SB 146 (RSA 674:71 through 674:73).
 - Proposed zoning amendment to Article 5.3.3 – Special Exception Uses – reference edit required by the amendment of Article 9
 - Proposed zoning amendment to Article 11.4 – Zoning Board of Adjustment – clarifying amendment related to the amendment of Article 9.

These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

- Proposed zoning amendments to section 6.12.2 & 6.12.3 of Article 6 – Open Space Subdivision.
- Proposed zoning amendments to Article 4.4 – Signs pursuant to the 2015 U.S. Supreme Court Ruling on Reed v Town of Gilbert.
- Future Meeting Dates:
 - March 30, 2016 – CIP Workshop with Jack Munn of SNHPC
 - April 6, 2016 – Conceptual discussions with Eric Mitchell re SUB, SNHPC – Complete Streets, CIP Review
 - April 13, 2016 – PH Babin SUB, Frank Juarez re HB, CIP Review
 - April 20, 2016 – CIP Review?
 - April 27, 2016 – SPR Busch Academy, PH to Adopt CIP

Review Invoices

The Board reviewed invoices. There was no further discussion.

Review and approve minutes for 3/9/16

The following changes were made to the minutes dated 3/9/16: Line 110 should read “the road will be identical to the previous plans”. Lines 130-131 should read “all plans and materials must be submitted and a signed review contract and check for a retainer fee received before an engineering review is initiated”. Mr. Weider made a motion to accept the minutes dated 3/9/16 as amended; Mr. Trask seconded the motion. Motion approved 4-0-2; Mr. Weider and Mr. Snyder abstained.

Ms. Richter made a motion to accept the non-public minutes dated 3/9/16; Mr. Trask seconded the motion. Motion approved 4-0-2; Mr. Weider and Mr. Snyder abstained. The Board held a discussion regarding sealing these minutes and decided that they did not need to be sealed.

Review & approve SNHPC contract for annual updates of CIP & impact fees

Mr. Hadik provided information to the Board about how the SAU’s CIP intersects with the Town’s CIP. The SAU will have an independent scope of work and contract with SNHPC. The Town will collect the impact fees for the SAU and forward them to the Town Treasurer, who is also the Treasurer for the SAU. The Treasurer would then deposit the fees in the SAU’s CIP account, and the SAU will then draft and forward warrant articles for planned expenditures based on the items in the CIP the same way the Town would handle their expenditures.

Mr. Hadik also reported information regarding his follow-up conversation with Jack Munn, of SNHPC, regarding the Board’s concern that there were only 3 work tasks on the version of the scope of work reviewed at the 3/9/16 meeting. In that version, work tasks 3 and 4 had been combined; in the new

version, tasks 3 and 4 had been detailed separately for clarity. However, the total cost estimate remains the same.

Mr. Weider made a motion to accept the Scope of Work for updating annual impact fees by SNHPC written on 3/11/16 and authorize the Chair and Vice-Chair to sign the contract; Mr. Trask seconded the motion. Motion approved 6-0-0.

Planning Board Report

The Board reviewed the Planning Board Report that will be presented to the Town. Mr. Hadik noted that finalizing the report was a priority as the deadline for the Town Meeting is approaching. Mr. Hadik noted that the Town Report will not be mailed to all residents this year but will be placed at distribution sites around Town approximately one week before Town Meeting. Mr. Hadik informed the Board that he is waiting on updated numbers from the Treasurer regarding the balances of off-site improvement funds and impact fees.

The Board reviewed the language in the report. The suggestion was made to change 2015 to 2015-2016 in the Header to minimize confusion. In the first section, the suggestion was made to state that "SNHPC is finalizing updating the Town's Capital Improvements Plan (CIP) (expected to be completed by the end of April)" for clarity. In the second section, the suggestion was made to state that "The Planning Board is finalizing work". In the section regarding Amendment #1, it was suggested that it read "Note these revisions were suggested by the NH Office of Energy and Planning". In the section regarding Amendment #3, it was suggested that the purpose read "Simple reference edit to make this subsection conform to revised Article 9". In the section regarding Amendment #5, it was suggested that the purpose read "to mitigate issues with the design".

Mr. Hadik reported that many people have expressed interest in getting information about the CIP and suggested creating a PowerPoint on the CIP that could be broadcast via local cable TV. Mr. Trask suggested that they arrange to have Mr. Hadik and Mr. Trask interviewed about the CIP. Mr. Hadik reported that he had been asked to create a streamlined version of the CIP Table for the Town Report but did not expect to have the necessary data by that time. The Board was not in favor of Mr. Hadik creating a modified version of the Table and felt it would be the purview of the Finance Department to do so, if the Town desired.

Mr. Hadik noted to the Board that the Planning Board Report reports that there are a total of 150 lots currently active and recently approved, not including Crowley Woods, which has not yet come before the Board. Mr. Hadik further noted that there has been much interest in lots; he receives many inquiries about lots to see if they are able to be subdivided. The Board held some discussion about responding to such inquiries. Mr. Weider noted that it was important that the Planning Coordinator be careful not to provide any answer that might be taken as an answer prior to any formal approval by the Planning Board. Mr. Snyder suggested that if someone asked if a lot is open-space potential, the Planning

Coordinator answer “it may be”. Ms. Richter noted, however, that there is case law that holds that the Town is expected to provide some assistance in this area.

Babin Subdivision Update

Mr. Hadik provided an update to the Board regarding their instruction to Mr. Mitchell to resubmit for review plans that only show 2 lots, rather than plans that showed 5 lots as he submitted on 3/9/16. Mr. Mitchell resubmitted draft plans that still showed 5 lots, but that referenced that it was a 2-lot subdivision in two or three places on the plans; that only the first 2 lots will be recorded; and that in the area signed off on by the Chair, it clearly states approval for 2 –lots. The Board questioned the reason behind resubmitting the 5-lot plans; Mr. Hadik assumed that Mr. Mitchell needed to submit them to DOT for driveways and it was DOT’s preference to receive them all together. The Board discussed the potential for confusion, noting that if in the future those who had not taken part in the discussion reviewed the plans, they may not realize it is only for a 2-lot subdivision. Mr. Weider suggested that Mr. Mitchell contact the DOT to explain the situation. Mr. Snyder suggested stamping the other sheets as preliminary. The Board unanimously was not in favor of accepting the plans for a 5-lot subdivision, when only considering approval for a 2-lot subdivision.

Public Hearing: Application by Tarrell & Elaine Towle, 351 Fremont Road (Map 9, Lot 19-1) for a 2-Lot Subdivision

Mr. Buckley moved to accept the application and open the Public Hearing; Ms. Richter seconded the motion. Motion approved, 6-0-0. The Public Hearing opened at 7:55 pm.

Kevin Hatch, a licensed land surveyor speaking on behalf of Tarrell and Elaine Towle, discussed the application with the Board. Mr. Weider noted that the acreage total from adding the two lots was different from the total acreage listed on the plans. Mr. Hatch confirmed this and noted that #3 on the plans should be amended from 19.24 acres to 19.27 acres. Mr. Sederquest noted that because of this the variance obtained from the ZBA is now incorrect. Mr. Hadik spoke with Mr. Hatch about the current nomenclature used to name subdivided lots in open space subdivisions, and Mr. Hatch said he will make the adjustments and list the open-space lot as Map & Lot 9-19-002, and the two new building lots as 9-19-003 & 9-19-004.

Mr. Hatch provided additional detail regarding the application. He informed the Board that the application is for a two-step subdivision. The first step is a conventional subdivision (Sheets #1 and #2,) subdividing off the Towle’s existing home on a 5.76 acre lot to be accessed from Fremont Road, and leaving a 13.51 acre lot to be developed using Article 6 – Open Space. The second step (Sheets #3 and #4) is an open space subdivision, subdividing the 13.51 acre remainder of the lot into two building lots; a 3.01 acre lot and a 2.45 acre lot accessed off Raven Drive, and a non-buildable 8.05 acre conservation lot.

These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

The Board had several questions regarding the process. Mr. Hatch informed the Board that a two-step process was necessary because the Towle's house lot would otherwise have part ownership of the open space slot. He confirmed that the ZBA had approved the two-step process, and stated these were the plans he submitted to the ZBA to obtain the variance.

He also noted that the Towles were subdividing under Article 6 because although the two lots had enough acreage to be considered a conventional subdivision, they lacked sufficient road frontage and they did not believe that they would be able to obtain a variance. Mr. Snyder noted that in practice, the lots will still have the limited frontage. Mr. Buckley noted that the benefit to the Town, however, would be the open-space lot, and Ms. Richter noted that there is an access easement to get to the open-space.

Mr. Hadik noted that the Raven Drive cul-de-sac is a temporary road, and that it is not up to Town standards.

Mr. Hatch and the Board discussed the report from engineering review of the application. Mr. Hatch provided responses to the comments outlined by Jeff Adler of DuBois & King. Mr. Hatch stated that he has added driveways on Sheet #4 of the plans. He said that to minimize confusion regarding the area of Raven Drive where it appears that three lines intersect, he changed the line type and labelled the line of the property. Mr. Hadik suggested that the Towle's cede the small area ("the shark's tooth") to the town right-of-way. Mr. Hatch responded that this would require a change of plans and noted that the Town currently has right-of-way rights. To address the comment that the building setbacks were not correct for an open-space subdivision, Mr. Hatch reported that he made Sheets #3 and #4 have open-space setbacks; Sheets #1 and #2 have conventional setbacks.

In response to the comment that the plans state the requirements for fire sprinklers, Mr. Hatch questioned whether this regulation held for these proposed buildings as he reported that his understanding was that RSA 674:51 (V) states that sprinklers can't be required. The Board affirmed that it did hold and Mr. Hadik noted that 674:51 (V) applies only to manufactured housing, not all housing. Mr. Hatch stated that if it is a requirement, he will address the issue and add the note to the plans but asked if the Board could review this with the Board's attorney to see if anything has changed with respect to 674:51 (V).

Mr. Hatch noted that the final set of plans will be stamped by a wetlands scientist and that the drainage report will be stamped by a professional engineer. He reported that on the original plans there was a drainage certification note on the plans signed by the engineer of record and that it will be stamped on the final set of plans as well.

Mr. Hatch responded to the recommendation that the applicant reevaluate subcatchment 9S and subcatchment 12S and reduce stormwater flows to the abutting properties to pre-development rates. Mr. Hatch stated that while the increase in flow rate for a 10 year storm sounds like a lot, it is actually less than a gallon of water flow and felt that this would be a small amount. Mr. Hadik noted that he had

spoken with Mr. Adler about this and Mr. Adler brought up several issues. One issue was that an abutter had runoff issues when the cul-de-sac was built and that Mr. Adler stated that the bulk of the runoff would pass on to the property of abutters. Another issue is that the Board has required rain gardens in the past and should be consistent in this requirement. Mr. Hadik stated that post-development runoff should not exceed pre-development runoff. Mr. Snyder noted that if the amount of runoff was small, wouldn't the mitigation effort be small as well. Mr. Snyder further noted that while the Board tends to rely on Mr. Adler's Engineering review reports, the Board is able to make judgements on Mr. Adler's recommendations but that more information would be needed regarding the impact of any increased flow rate. Mr. Snyder stated that he would like to know what it would take to mitigate the runoff. Ms. Richter stated that she agreed with Mr. Snyder, that the Board doesn't want to be unreasonable but that more information would be needed around the impact of any increased flow rate. Mr. Trask inquired how Mr. Hatch would want to address this. Mr. Hatch stated that he would like to see it addressed through a note on the plans. The Board was in agreement to get more information from Mr. Adler regarding the impact of the increased flow rate.

Mr. Sederquest asked if there was any public comment. Mr. Richard Parisi, an abutter, expressed concern about the runoff, reporting that he already has water pooling in his yard now. Mr. Parisi inquired about how Mr. Adler will respond and was informed by the Board that he will respond by letter. Mr. Parisi informed the Board that if Mr. Adler says it is not an issue, he will accept that but said that he feels it could be a concern given the earlier discussion. Mr. Parisi also expressed concern about the Raven Drive cul-de-sac, reporting that it was not built to regulation and that he often has trucks pull on to his lawn to turn around. Mr. Parisi also stated that although the road is considered temporary, it has been that way for 18 years and asked how the cul-de-sac could be expanded. The Board informed Mr. Parisi that it had no control over the road, but encouraged him to go to Town Meeting and talk to the Road Agent about the situation. Mr. Marco Labonte, an abutter, expressed concerns about the runoff. He stated that the whole property slopes toward his driveway and that he has had to replace his driveway twice due to erosion from runoff.

Mr. Snyder made a motion to continue the Public Hearing to 4/13/16 when the Board has further information from Jeff Adler, Engineer, regarding the drainage and confirmation from Jennifer St. Hilaire, attorney, regarding 674:51 (V); Ms. Richter seconded the motion. Motion approved 6-0-0.

Public Hearing for proposed zoning amendments

Mr. Snyder made a motion to open the Public Hearing for proposed zoning amendments Article 9 – Accessory Dwelling Units, Article 5.3.3. – Special Exception Uses, Article 11.4 Zoning Board of Adjustment, Section 6.12.2 and 6.12.13 of Article 6 – Open Space Subdivision, and Article 4.4 – Signs; Ms. Richter seconded the motion. Motion approved 6-0-0. The Public Hearing was opened at 9:01 p.m.

The Board reviewed the articles that had been changed following discussion from the Public Hearing held on 3/9/16. The Board reviewed Article 9, section 9.4.4 which had been reworked following the

These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

Public Hearing on 3/9/16. The Board felt that the new wording did not capture the discussion and made changes so that 9.4.4 reads "the applicant(s) shall obtain NH DES approval pursuant to the requirements of NH RSA 485-A:38 to meet the anticipated increased demand created by the proposed accessory dwelling unit". The Board reviewed Article 5.3.3 language to ensure it was conforming to Article 9. The Board reviewed Article 11.4 to ensure it captured feedback provided at the Public Hearing. The Board reviewed Article 6, section 6.12.3.1 and affirmed the change from "public" to "community". The Board affirmed the change in that section from 1.25 to 1.0 acre lots, but changed the wording to "all open space subdivision lots of 1.0 acre and less".

Mr. Weider asked that Mr. Hadik be sure that a log is kept somewhere in the ordinances regarding the dates of changes made (if approved by the voters.)

The Board reviewed Article 4.4 – Signs. Mr. Hadik discussed that while the Town cannot prohibit signs, the Town has the ability to regulate for different zoning areas and to regulate standards for the signs themselves. Mr. Hadik discussed that common signs should not be regulated to be too small as to cause a traffic hazard as motorists try to read them. He also noted that the Town can prohibit flags, banners, etc. that are designed to draw attention to signs.

Ms. Richter inquired why home businesses would be permitted signs with a 6 foot height while homes are only permitted signs with a 4 foot height. Mr. Hadik answered that it was to try to accommodate home businesses in a practical way; that snowbanks may cover a sign 4 feet in height. Ms. Richter also suggested that the second sentence in the second paragraph in 4.4.2.1 read "each such sign" to clarify that it is an additional sign. Ms. Richter inquired where the common sign referenced in 4.4.4.2.2 was defined. Mr. Hadik reported that it is defined in the general definitions section.

Ms. Richter also posed the question of whether Article 4 was an amendment of the previous Article 4 or an entirely new Article. Mr. Hadik stated that it would be considered a new Article. Ms. Richter asked whether the Article grandfathered in previous signs, even if they were out of compliance initially. Mr. Hadik reported that he had taken language from the current version of Article 4 regarding nonconforming signs to ensure that signs not in compliance under the old regulations would not be grandfathered in with the new regulations.

There was no public comment.

Mr. Weider made a motion to move the proposed zoning amendments: Article 9 – Accessory Dwelling Units; Article 5.3.3 – Special Exception Uses; Article 11.4 – Zoning Board of Adjustment; Section 6.12.2 and 6.12.3 of Article 6 – Open Space Subdivision; and Article 4.4 – Signs as discussed and amended on the ballot as Zoning Amendments at the Town Election; Mr. Buckley seconded the motion. Motion approved 6-0-0.

These minutes are subject to possible revisions/corrections during their review at a subsequent Planning Board Meeting

286 Mr. Hadik noted at all the proposed zoning amendments will be in effect as of the Board vote on
287 3/23/16 pending voter approval.

288

289 **Upcoming Meetings**

290

291 Mr. Hadik reminded the Board that there will be a workshop on 3/30/16 with Jack Munn, from SNHPC,
292 to review the CIP process. Mr. Weider recommended that the meetings with the Departments be
293 scheduled and Mr. Trask suggested letting the Department Heads know the meetings will be happening
294 in the next few weeks. The Board held some discussion regarding the Recreation Department's Impact
295 Fees and the CIP Projects. Mr. Weider expressed concern that the projects were never vetted by
296 anyone, but carried over.

297

298 **Adjournment**

299 Mr. Buckley made a motion to adjourn the meeting; Ms. Richter seconded the motion. Motion
300 approved, 6-0-0. The Meeting was adjourned at 9:31 p.m.

301

302 Respectfully submitted,

303

304 Julie Christenson-Collins

305 Recording Secretary