

2-1-17 – These minutes are subject to possible revisions/corrections during review at a subsequent Planning Board Meeting.

**Town of Chester
Planning Board Meeting
Wednesday, February 1, 2017
Municipal Complex
Approved Minutes**

Members Present

Brian Sullivan, Chairman
Evan Sederquest, Vice Chairman
Elizabeth Richter, Member
Richard Snyder, Member
Aaron Hume, Alternate Member

Members Absent

Cass Buckley, Ex-Officio
Michael Weider, Member

Staff Present:

Andrew Hadik, Planning Coordinator

Others Present at Various Times

Michelle and Michael Stein, Bittersweet Blessings owners

Chairman Sullivan called the meeting to order at 7:00 pm.

Agenda

General Business

- Review & sign invoices & time sheet.
- Review & approve minutes for 1/25/17.
- Discuss Shattigee Road driveway issue re. engineering expense.

7:15 Appointment

James Marchese – Acceptance process & requirements for Ruth Ray Road (Buxton Estates).

7:45 Public Hearings

To consider whether the Planning Board shall revoke the Conditional Site Plan Approval of the Site Plan Review Application of Michael and Michelle Stein to operate a retail store and convert an existing barn into a single-family residence at 20 Chester Street (Map 16 Lot 20), Chester, New Hampshire. The

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reason for revocation of the Site Plan Approval is the failure of the property owners to obtain a variance from Zoning Article 5, Section 5.3.4 (Prohibiting Uses) and Section 5.5.5 (Dimensional Area Requirements) as required by #1 of the Site Plan Approval of November 30, 2016.

Future Meeting Dates:

- February 8, 2017 – CD Dana Redmond, Villages II 10-Unit expansion? Zoning Amendments?
- February 22, 2017 – Zoning Amendments?

Mr. Hume is the alternate at this meeting for Mr. Weider.

The Board discussed the process and order by which a motion will be made, discussion will be had and, a vote will be obtained.

Review and approve minutes for 1/25/17

The Board reviewed the minutes from 1/25/17. Several changes were made to the minutes. The date on the header was corrected from 1/11/17 to 1/25/17. The date on the title was corrected from 1/11/17 to 1/25/17. The sentence starting on line 126 was changed to read, "Mr. Hadik presented the Board with a list of proposed 2017 Zoning Amendments he had compiled from various Board reviews over the past year, along with input from the Town Building Inspector and the ZBA." Mr. Snyder made a motion to approve the minutes dated 1/25/17 as amended; Ms. Richter seconded the motion. Motion approved, 4-0-1, Chairman Sullivan abstained.

Mr. Hadik distributed to the Board the Town of Chester Road Requirements & Acceptance Policy. The Board reviewed the information in preparation for the 7:15 pm appointment with Mr. James Marchese.

7:15 Appointments

James Marchese – Acceptance process & requirements for Ruth Ray Road (Buxton Estates). No representatives for James Marchese, Ruth Ray Road (Buxton Estates), attended the meeting. The meeting did not take place.

Other Business

Mr. Snyder reviewed for the Planning Board the ZBA meeting he attended on Tuesday, January 31, 2017. He gave an overview of the history of the variance on Mr. Kevin Scott's land, lot 4-29. Mr. Snyder explained to the Board the circumstances of the 1998 variance granted to Mr. Scott for lot 4-29 for the purposes of erecting a cell phone tower. Mr. Snyder said that the 1998 variance included a condition on the lot that "no further subdivision as long as used as a telecommunications facility." He explained that

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the ZBA's public hearing was to discuss the request by Mr. Scott to have the condition preventing further sub-division lifted so that he could sell that property to a developer. Mr. Snyder and the Board discussed the ZBA meeting. Mr. Snyder noted that the ZBA voted to continue the hearing until the next meeting in order to seek legal advice.

Discuss Shattigee Road driveway issue re. engineering expense.

Mr. Hadik updated the Board on the engineering expense of the Shattigee Road driveway runoff issue. He noted that the Town Road Agent Mr. Mike Oleson had discussed the drainage issue again with him. Mr. Hadik said that Mr. Oleson stated that he might need engineering expense support to design a solution to mitigate the problem. Mr. Hadik explained he then contacted the Town engineer, Mr. Jeff Adler, who suggested a site visit with Mr. Oleson and Mr. Adler or Mr. Bourcier. Mr. Adler said if the engineering advice required was relatively simple, then there would be no cost. However, if sizing of the culvert/s required modeling flow rates etc., then there would be an expense. Mr. Adler said the need for this would be determined when they visited the site.

Mr. Hadik said that Mr. Oleson will come back to the Board with a detailed budget and explanation for what is needed for repairs to fix the issue. Mr. Hadik noted that Mr. Myrick Bunker, the Town Building Inspector will also be invited to attend that meeting to discuss what lead to the breakdown in the driveway permitting process that lead to the runoff problem.

Geographic Information System (GIS)

Mr. Hume led a discussion with the Board and Mr. Hadik about the Arc-View online GIS system.

7:45 Public Hearings

Mr. Snyder made a motion to open the Public Hearing to consider whether the Planning Board shall revoke the Conditional Site Plan Approval of the Site Plan Review Application of Michael and Michelle Stein to operate a retail store and convert an existing barn into a single-family residence at 20 Chester Street (Map 16 Lot 20), Chester, New Hampshire. The reason for revocation of the Site Plan Approval is the failure of the property owners to obtain a variance from Zoning Article 5, Section 5.3.4 (Prohibiting Uses) and Section 5.5.5 (Dimensional Area Requirements) as required by condition #1 of the Site Plan Approval of November 30, 2016; Vice Chairman Sederquest seconded the motion. Motion approved, 5-0-0.

The Public Hearing was opened at 7:47 pm.

Mr. Hadik gave a detailed overview of the events regarding the Site Plan Review Application of Michael and Michelle Stein leading up to this Public Hearing. He noted that it had been brought to the Board's attention that the application for the variance had been originally withdrawn by the applicants. Because

the application had been withdrawn during the ZBA's reconsideration process, the variance no longer existed. Also the site plan submitted by the applicants to the Planning Board was different than the site plan submitted to the ZBA for the original variance. Mr. Snyder presented a chronology of events regarding the application and variance supplied by the ZBA'S Administrative Assistant, Janet Boyden. Mr. Hadik read the summary of the events to the Board. This timeline references the events of the various ZBA meetings, public hearings and conditions of approval in 2015.

Michael and Michelle Stein, 169 Candia Road, came before the Board to join the discussion.

There was much discussion by the Board about the chronology of events and the actual events of the public hearings, a rehearing, issuance of variances, and site plans related to zoning and permits for Bittersweet Blessings.

Chairman Sullivan asked the Steins if they still planned to go to the ZBA to obtain the variance to renovate the barn into a residence. Ms. Stein explained the order of events and the process they had gone through to the Planning Board. She stated that they had initially gone to the ZBA in the past, because they had hoped to build a separate building on the property and needed a variance because the lot was a non-conforming lot because of short frontage. Ms. Stein said that they no longer are trying to build a separate structure or get a variance for that zoning change. She said she now doesn't understand why she would have to go back to the ZBA because the property is currently zoned residential with the addition of a variance to run a commercial. Ms. Richter asked her what the Planning Board had approved for them at the November 30, 2016 meeting. Ms. Stein said that the Planning Board approved the Steins' use of the barn as a residence. Ms. Richter asked why they had to come back in front of the Planning Board. Ms. Stein said that when they had started this current process to renovate the barn for a residence, she had gone to the ZBA who had directed her to the Building Inspector. Ms. Stein stated that the Building Inspector had told her that based on a condition in the original site plan, he cannot give them a permit to renovate the barn into a residence. She said the Building Inspector had told them that they didn't need a variance, he had told them they had to go to the Planning Board to have the one condition of "no residence" removed from the physical site plan.

Chairman Sullivan clarified the situation, noting that the Planning Board had already approved what needed to be approved, but, that the approval was predicated on the understanding of a granted zoning variance that had in fact been revoked; a variance that now may or may not be required for the Steins. He read the first item on the site plan approval from the Conditions of Approval granted by the Planning Board on November 30, 2016, "...should be limited to a commercial retail store and conversion of the barn into a single-family dwelling as depicted on the approval amended site plan...as allowed by variance obtained from the Zoning Board..." Chairman Sullivan said that at the very least, that part must be changed. The Planning Board and the Steins both agreed that determining which Board, the Planning or the Zoning, put the "no residence" on the site plan is one of the issues that needs to be cleared up.

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Discussion continued among the Board members and the Steins. Mr. Hadik read the Public Hearing portion of the Zoning Board meeting minutes from November 27, 2012 related to the original zoning variance granted for Bittersweet Blessings. Mr. Hadik read the Notice of Decision from November 28, 2012 to the Board. He noted that the notice stated, “refer to the Planning Board for possible site plan review.” Mr. Hadik said that it was obvious that it was not going to be a residence.

Chairman Sullivan and Ms. Richter agreed that what Mr. Hadik had read seemed to indicate that the ZBA may not have set the “no residence” as a condition. The Steins explained that they may have set the condition themselves to get financing on a non-residential property.

The Board continued to research and discuss the events and actions of various Boards and the Steins.

Ms. Qualters, the Planning Board recording secretary, read the portion of the November 30, 2016 minutes relating to the Stein Public Hearing: *“Mr. Buckley made a motion to accept the application by Michelle & Michael Stein, property owners at 20 Chester Street (Map 16 Lot 20,) to amend the Site Plan for the Bittersweet Blessings antiques/primitives shop, for conversion of the barn into a single-family dwelling as allowed by a ZBA variance granted September 21, 2015 and open the Public hearing; Ms. Richter seconded the motion. Motion approved, 4-0-0.*

The Public hearing was opened at 8:04 pm.

Mr. Hadik explained that when Bittersweet Blessings originally received its variance from the ZBA to become a commercial enterprise, one of the conditions set was for “no residences on the property.” He said that they went back to the ZBA to get that condition removed to allow for a single -family dwelling.”

Chairman Sullivan said that the November 30, 2016 minutes show that the Planning Board removed a condition that may not have even existed. He noted that they have a good amount of information now, but, there is more information they need to gather. Mr. Snyder said they have a great timeline that Ms. Boyden put together that begins in 2015, but, the process started in 2012. He explained that they need the minutes from the original meeting in 2012. Mr. Hadik agreed noting that the Planning Board needs to get the minutes from the original Public Hearing for the Conditions of Approval for Bittersweet Blessings in 2013. Mr. Snyder added that the Planning Board needs to be sure that it was the Planning Board that set the condition of “no residence,” not the ZBA.

The Board and Mr. Hadik agreed that they needed to do further research on documents and information from 2012 to 2015 to determine who put the condition on the site plan approval for Bittersweet Blessings of “no residence.”

Mr. Snyder made a motion to continue the Stein Public Hearing to 7:45 on February 22, 2017; Ms. Richter seconded the motion. Motion approved, 5-0-0.

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205 The Steins departed the meeting at 8:46 pm.

206

207 **Non-Public Session RSA 91 – A:3, II (c) Reputation**

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209 Ms. Richter made a motion to go into non-public session under RSA 91 – A:3, II (c) Reputation; Vice
210 Chairman Sederquest seconded the motion. Roll call for approval of motion: Brian Sullivan - aye,
211 Richard Snyder - aye, Evan Sederquest – aye, Elizabeth Richter – aye, and Aaron Hume – aye.

212

213 The Board went into non-public session at 8:46 pm.

214

215 Mr. Snyder made a motion to come out of non-public session and to seal the non-public minutes
216 indefinitely; Vice Chairman Sederquest seconded the motion.

217

218 The Board came out of the non-public session at 9:30 pm.

219

220 **Adjournment**

221

222 Ms. Richter made a motion to adjourn the meeting; Mr. Hume seconded the motion. Motion approved,
223 5-0-0. The Meeting was adjourned at 9:31 pm.

224

225 Respectfully submitted,

226 C. Molly Qualters

227 Recording Secretary