

**TOWN OF CHESTER  
PLANNING BOARD MINUTES  
October 6, 2021**

**Meeting called to order: 7:02 pm**

**Members present:** Chairman Serotta, Jackie Elfers, Justin Brigandi, Mark Roberson, Larry Dysinger, John Gifford, and Dot Wierzbicki

**Also present:** Melissa Foote- Secretary, Alexa Burchianti- Building Inspector and Al Fusco-Engineer, Dave Donovan-Attorney, and Ashley Torre - Attorney

**Absent:** 0

**Meeting minutes from September 1, 2021 were adopted**

**Motion made by:** Larry Dysinger

**Seconded by:** John Gifford

**All in favor:** 7 Ayes

**Chairman Serotta:** Good Evening everyone. First on the agenda is **NMC3, LLC.** Ashley Torrie is with us tonight. Ashley is our legal counsel on NMC3. Since our last meeting we received a 239 referral from the county and we also received the SHPO letter *\*Referring to SHPO Letter*

**Dave Donavan left the meeting.**

They gave us a local determination, endangered species. They talk about farmland in the vicinity, steep slopes (they're not building on a 15% slope). So the county recommendation was a local determination. Does any board member have any questions or comments?

**Dot Wierzbicki:** Yes, they advised that we put a note on the final plans right for the Artifacts?

**Chairman Serotta:** I don't think there's anything needed. Ashley you can comment if you'd like. Basically we've got a clean SHPO report and we already added notes. Ashley worked on notes which were agreed upon by SHPO that for anything above the ridgeline they would have to come back to the Planning Board and SHPO. Ashley would you like to make any comments on that?

**Ashley Torre:** Yes, so that's the note we added. The property is located in an archeological sensitive area and partially within the Town of Chester ridge preservation overlay district. Any future disturbance above the ridgeline that is an archaeological sensitive area would require the applicant to go back to the Planning Board and also to SHPO.

**Chairman Serotta:** So Dot those notes that Ashley just talked about are on the plans, for sure and then we cover the lower part where they're developing with a SHPO letter.

**Dot Wierzbicki:** So if they find any artifacts they have to come back?

**Ashley Torre:** So the County now is saying that they're suggesting a note be added about what to do if they find resources, so I don't know whether that's something SHPO

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has basically looked at already in their areas of disturbance and SHPO said there won't be any impacts, but if there is something that the Planning Board wanted to add in the event during their construction they find something, you can do that.

**Dot Wierzbicki:** Isn't Megan recommending just to note the procedure if any artifacts are found?

**Chairman Serotta:** First of all there was an Archaeologist hired that did a Phase 1A & 1B Study, maybe a 1,00 shovel tests into the ground and we had SHPO going through a long lengthy process of doing that, so I'm not sure what she's getting at there. We had an approval from SHPO after many go arounds. We have a letter from SHPO and map notes for anything above the ridge line. As a note, it also took them 6 months to come up with this answer.

**Larry Dysinger:** Don isn't it really anything beyond what's identified as being disturbed, isn't that what this really applies to?

**Chairman Serotta:** Correct. Going one step further, they can't do anything above the ridge line without coming to us. That's the major map notes.

**Chairman Serotta:** Dot you can make a motion to put those notes on there.

**Dot Wierzbicki:** No that's fine.

**Chairman Serotta:** Again, we've covered everything and SHPO has agreed to everything at this point and time. The county didn't hire the Archaeologist, NMC3 hired them. Is everyone ok with that or are there any questions, comments? Ashley I'm going to turn it over to you. I think we should probably be putting the Neg Dec up first.

**Ashley Torre:** Yes, this is the Negative Declaration. Mr. Fusco, the Engineer had prepared a Part 2 EAF, since the last time we've seen each other. Based on that, we're recommending a negative declaration. This goes through and explains when there are some areas that need further explanation as to why there won't be a significant adverse impact. Primarily the one here was the archaeological impacts and whether or not there would be any impacts to archaeological resources which took some time to get a response from SHPO. That's what we were waiting on to be able to complete the SEQR review. Based on the studies that the applicant has done both for the habitat and later for the archaeological there appears to be no significant adverse environmental impact to those resources so this negative declaration. I would propose the Board adopt the Negative Declaration to conclude the SEQR process.

**Chairman Serotta:** OK does anyone have any questions or comments on this?

**Chairman Serotta:** Does somebody want to make a motion to grant a Neg Dec for the NMC3 Project?

**Larry Dysinger:** I'll make a motion

**Justin Brigandi:** I'll second it

**Chairman Serotta:** Motion by Larry Dysinger, Seconded by Justin Brigandi

**All in favor:** 7 Ayes

**Chairman Serotta:** Ashley also drafted a subdivision approval resolution.

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**Ashley Torre:** This is a proposed resolution of a conditional approval for the subdivision.

**Ashley Torre:** There are specific conditions here that required some refining of the Map Note language primarily. The other item there that was highlighted was the Neg Dec and now that you've adopted it, it will be in there with the date you adopted it. The Standard Condition requiring engineering review, so the engineer will have to sign off on everything. There are some specific conditions regarding some of the language with the ridge over lay district, the Engineering letter, his comments are satisfied with town code and lighting specifications, OCDPW that previously had granted approval for the entrances. So all of those approvals have to be complied with. Then the condition for the fee in lieu of parkland.

**Chairman Serotta:** Correct, they're going to have to give us... I think it's a 7 lot subdivision so its \$2,000 per lot, minus the 1 existing lot. So it's 6, \$2,000. They're going to have to give a check for \$12,000. So we're ok to vote.

**Chairman Serotta:** Does someone want to make a motion to grant a conditional final approval for the NMC3 project?

**Larry Dysinger:** I'll make the motion to grant a conditional final approval for the NMC3 project.

**John Gifford:** I'll second that.

**Chairman Serotta:** Motion by Larry Dysinger, seconded by John Gifford.

**All in Favor:** 7 Ayes

**Chairman Serotta:** Any negatives or abstentions? No. We're all set. Ashley thank you.

*\*Al Fusco is calling into from his Mobile. , joins at 15:20.*

**Chairman Serotta:** The second item on our Agenda is **David Gossai, 22 Glenmere Road.**

*\*Counsel Donovan joined back in.*

**Chairman Serotta:** This is a site plan application for a Grading & Filling permit. They submitted a site plan application, a short EAF, and Al added a comment letter. David did you receive Al's letter?

**David Niemotko:** Yes, I did.

*Chairman Serotta bringing up Site Plan.*

17:02 **Chairman Serotta:** David if you could guide us through this.

**David Niemotko:** We'd like to grade the south side of the property. The owner would like to be just able to landscape it, fill the area and make it usable as part of his yard. Right now it's difficult to mow, it's difficult to maintain because it's all uneven ground and it's filled with rocks, and things of that nature. So the purpose of this is to fill it. We would grade it to the property line, on a 1 to 1 degree, and maintain the swale that's along Glenmere Road. Of course we would stay away from the absorption field, as

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indicated by the darker delineation and that area is 220ft x 100ft. We're looking to use about 4200 yards of fill. I did receive Al's comments and I do have some questions regarding some of them so I was hoping to talk about that further.

*\*Referring to Al Fusco's Comment Letter*

**Chairman Serotta:** Did the Board have time to review Al's Letter?

*\*Board agrees.*

**Al Fusco:** We need to see a certified Survey with existing and proposed grades and if there are any easements, so we know what we're looking at. We'll need an erosion and sedimentation control plan because obviously you're going to bringing in a lot of materials and it's going to be loose, and it will have the ability to erode and cause sediment. Then a detail of the swale, the ultimate direction of the swale, and where it's headed after it exits your property, to make sure there's no effect downstream. We'll need a note placed on the plan that the fill be tested for contaminants by a testing lab. We'll need a licensed professional such as you, to verify that all materials being used are free of contaminants. We'll also need landscaping notes to demonstrate how stabilization on site will be accomplished. Provide a stabilization construction entrance, and note to be placed on plan, stating that the roadway is to be swept daily. The trucks track a lot of stuff in and out. The highway department is requesting a bond. Need a note that no tracking equipment will be permitted on the roadway, Dozers, etc. We need a state historic preservation letter because it showed up on the Mapper. We'll need an endangered species report that showed up on the mapper and notification of any impact of wetlands. The area of disturbance we'll need calculated. It sounds to me you're about 20,000sq. ft, give or take. Then any board comments. That's what I have at this time. As additional information is supplied we may ask for more information.

**Chairman Serotta:** I met with the highway superintendent, and the foreman of the highway department we met about a week and a half ago. Looking at the site, it's all cat tails, and this is really substantially a wet area. So one is, how would you get the trucks in here, that's what Al was talking about a stabilized entrance. Not quite sure if a truck went in there, would it sink 10ft into muck.

**Chairman Serotta:** So the highway superintendent had some real concerns because, of a couple of things, road damage you're talking a minimum of 210 trucks to upwards of 300 trucks, with 15 – 20 yard fill on the trucks. Al or Larry we may have discussed before at some time how there could be 22:31 about 65,000 lbs for a truckload of dirt, somewhere in that range.

**Al Fusco:** You're right, yes.

**Larry Dysinger:** For a tri axle, it's about 68 – 72,000

**Chairman Serotta:** We're talking about a lot of trucks coming in here and there's a good chance the road could get damaged. So, they're going to require a hefty bond to make sure any road damage will be taken care of. The other concern that John had was

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was traffic control. How are we going to cue up these trucks coming in here? Hours of operation, when is this going to be done. We use a net zero additional water factor, so whatever you do, more water can't come off the property that's what we're looking for.

*\*Bringing up photos*

There is a constant flow of water coming off the property, its cueing up a lot of water so if we're going to put in 4,200 yards of dirt, is it going to force more water to come quicker and not cue up on that property? The highway foreman found the 12 inch culvert. Across the street and along green drive they've been complaining for years. The two neighbors are getting this water and we can't make this worse or create any additional flows. We need an engineering plan that will show we're getting a net zero effect there.

**Al Fusco:** There's another thing here, we haven't even determined if this area is or isn't a wetland, the mapper does indicate that there are wetlands immediately adjacent to that. This very well may be a wetland, so we need a wet land determination of the area that's going to be filled. If it is a wetland, you're not going to be able to fill it anyway. We need a lot of additional information on this before we actually can proceed.

**Larry Dysinger:** I have a few comments Don.

**Chairman Serotta:** Sure, I'll turn it over to the Board now.

**Larry Dysinger:** David, on the current Leach Field, it looks like the ground slopes downward an elevation to 98 to about 95, is that correct?

**David Niemotko:** Yes

**Larry Dysinger:** What you're showing is area being filled, bringing everything up to an elevation of 98, what you're doing is creating a hollow area there where water will collect and that would affect the Leach Field.

**David Niemotko:** The Leach Field is up around elevation of 195, so by the time we get to that point we're going to be sloping back. So by the road we're 6ft up and as you can see.

**Larry Dysinger:** I don't mean to interrupt but I'm looking at the Topo Map, and it shows on the uphill side the elevation of the Leach Field is 98 and the lower end towards the road is 95, but you're showing filling to elevation of 98 so that will create a hollow there where the Leach fields. You have a one on one slope to me that seems a little steep. The pictures that Don took there shows there's a Culvert Pipe from the driveway going left to the telephone pole but your drawings don't reflect that.

**Chairman Serotta:** Anyone else?

**Justin Brigandi:** Yes, so I drove by and all of the houses in the area, and especially across the street and everyone pretty much have flat lands. As much as I would love to see this happen for the homeowner, I don't see how it can happen. It looks like a muddy mess, and adding dirt isn't going to solve that. I don't see how the physics will allow it.

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**Jackie Elfers:** Also, where you show across the street if you go to the opposite side of their perpendicular street, there is a pond that is a wet area with Cattails as well. So how will it effect that side, because that's all brand new for what they're working on for that field location. Is that going to raise the level of that pondish area there as well?

**Chairman Serotta:** Dot?

**Dot Wierzbicki:** No

**Chairman Serotta:** John Gifford?

**John Gifford:** No statement or comments.

**Chairman Serotta:** Mark Roberson?

**Mark Roberson:** If you were to put some sort of containment pond what's the depth that we might be able to work this out that would cut into the total fill?

**Chairman Serotta:** David we need to be concerned with the neighbors, and the environment. 4,200 yards of fill is a lot. Is it a wetland, and how will it affect the two neighbors? We can't make this worse?

**David Niemotko:** I wanted to hear everyone's thoughts.

**Chairman Serotta:** Let's hear from our Building Inspector.

**Alexa Burchianti:** Actually Larry brought up what I wanted to bring up with the topography of the property and filling it in. He also has curtain drains around the Leach Fields that also looks like it's draining into that swale. My biggest issue is because of all the Cattails and how wet that property is, where is all of that water ultimately going to go, and it can't go across the street to that Pond. That's one of my biggest issues.

**Chairman Serotta:** Dave do you have any comments or questions?

**David Niemotko:** Yes, I can appreciate everyone's thoughts. So, we want to establish the intent of not increasing the water capacity to across that culvert that is underneath Glenmere Road, that's why in the plans we show the culvert along the road as undisturbed and we show the direction of the swale of continuing to the South. Now maybe that swale will have to be increased in width or depth we definitely establish and show in the plans that swale will be intact. We are not proposing filling over it. The fill that's proposed would be from that road Swale going north. That Swale has to continue along Glenmere road and then travel underneath in that culvert that goes underneath the road. That being said most of that water is coming from below surface, I don't know how much of that can be coming from above. Adding the fill is not going to impact it to that extent. We do continue the curtain drain around the absorption field. We continue it out to the drainage swale that's along the road. We can investigate further about how the grading would impact the absorption fields. My interpretation of this is that the top of the absorption field is at 198 and we're at 98, right below it, so it's flattening out the top of the absorption field. The plans are based on a survey that was done a while ago, with the subdivision of that lot into 2 lots, and the subsequent construction of both homes. It's based on a survey from 2008 by Jim Dillen. We show the existing grades as dash, we show the proposed grades as a solid line. That area probably remains

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consistent with the original survey. Since it was never impacted by construction or by development. How do I go about making an application for the highway department for the bond amount? That would probably be a consideration on this project. With the erosion control and sediment plan, and stabilized entrance that is something we would have to further design. The amount of trucks would have to be staged, without question. This would not be a one day operation this will have to go for some time because the road can't cue that amount of trucks so that's something we prefer to outline as a sequence of construction on the plans and try to estimate a time frame where the trucking could occur without impacting the surrounding neighbors, or traffic. Other items, EAF we'll submit to SHPO, we'll include that with our next submission to the planning board. I will bring the homeowner up to date, about the Boards thoughts and get his comments and see how we'll proceed.

**Chairman Serotta:** OK

**Alexa Burchianti** Dave, do they have plans for the other side of the property to do something else, other than having a lawn?

**David Niemotko:** No.

**Alexa Burchianti** So all of this is for them to strictly have a bigger side lawn?

**David Niemotko:** Yes, they want to extend it. It's not for future development. Its land they're paying for and they want to develop it so they can use for a playground set, etc.

**Al Fusco:** One of the first things you should do is to verify that it isn't a wetland, before you go through all of the other aspects. You'll want to get a Wetlands specialist in there, and determine that it is not a wetland.

**David Niemotko:** Absolutely.

**Chairman Serotta:** If you have questions for the Highway department, just call into the towns highway department and make an apt and I'm sure he'll come and talk to you. You can discuss the bond, which is a highway department determination.

**Chairman Serotta:** We're here if you have any other comments or questions.

**Chairman Serotta:** Last thing on our Agenda is the site plan application they've been in front of us before in a work session, and now they want to move forward **iCan Storage**, over off of Kings Highway above Frozen Ropes, Kirk Rother is representing them.

*\*Bringing up the plan*

**Kirk Rother:** We were before the board in August for an informal discussion. This is a property across from Town Hall adjacent to Frozen Ropes. The applicants are proposing a yard for storage. iCan storage containers, is a form of self-storage containers like pods. The clients were at the meeting and the Planning Board checked out their website to see what it is that they do, it's a use and it's permitted. Since then, the clients have purchased the property. The layout of the lot and the access road on the property is virtually identical with what we presented to the board in August.

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We are showing the grading plan, and some erosion control measures, and a chain link fence around the yard. We have the typical driveway entrance notes and profile on the plan.

**Chairman Serotta:** Ok, so let me turn it over to Al.

**Al Fusco:** The lighting, you need to show some isometrics and make sure it's all in accordance with the new lighting code that the Town has recently adopted. Please provide some landscaping. We need a SHPO letter. I looked up the mapper and we had a couple of issues so we'll need that findings letter from SHPPO and a report on impacts on Wetlands. If any are permits are required, an endangered species report should be required. Hours of Operation should be shown on the plan. OCDPW driveway permit is required. Site distance is adequate, I suggest a 239 and declare lead agency if you wish to move forward.

**Chairman Serotta:** Kirk, are there any wetlands there?

**Kirk Rother:** No, there's not. So I presume that Al got the SHPPO, and the Wetlands, and the Endangered Species from the EAF Mapper. They did get positive hits for those three. Endangered Species, they're saying there are potential Bog Turtles, Timber Rattle Snakes, and Northern Long Eared Bats. Definitely no Bog Turtle. No Wetlands, the property is High and dry. I suspect the reason it got a positive hit was because there are wetlands across the street on the other side of Pond Road. Northern Long Eared Bat, that's an endangered species we typically address that by eliminating clearing of trees from November – March. Then it did get a positive sensitivity for Archaeology. So we will take a look at that as well. Landscaping – I'm aware of it. We have the 75ft Front Yard setback and that's all currently wooded, you can see on Google Maps that it's densely vegetated. We are about a month away from the leaves falling off of the trees, and once that happens we can see whether or not you can see up into this sight and if you can we can certainly propose some buffer landscaping. We'd have to cut trees to plant trees, which seems counter intuitive.

**Judy Klein:** The only thing that might be visible, are the ones that are up on top.

**Larry Dysinger:** It would be helpful if the site plan showed where vegetation is.

**Kirk Rother:** Right now the entire site is wooded

**Larry Dysinger:** The map doesn't reflect that. Show where the trees are. The fence why isn't it across the hill, why is there a gap.

**Kirk Rother:** There is a row of Silt Fence to wrap around.

**Larry Dysinger:** I see it.

**Chairman Serotta:** We have enough now to submit to OCP/239 and DPW and they'll give their opinion because it's a County Road and you'll have to get a County Permit because of the entrance, is the board comfortable with submitting it?

**Larry Dysinger:** Yes

**Chairman Serotta:** Please submit this to OCP & DPW. The County has 30 days, not DPW. They'll come back to us with their comments.

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You can't cut a tree because of the time frame and the Northern Long Nose Bat. Boards can take rides over there. Please explain to us about the Lighting?

**Judy Klein:** I really want it to be minimal. I don't want to call attention to it. I want to keep it dim and unobtrusive. I just need enough lighting for the security cameras.

**Chairman Serotta:** Are these lights that come on an off as needed?

**Judy Klein:** Yes, motion sensors.

**Kirk Rother:** There are 6 lights right now, one in each corner of the lot and 2 in the middle they are 10/15ft high, pole mounted, shoe box, downward facing light. Isolumin lines aren't on the map as Al mentioned. I will do more research and address that at the next meeting.

**Chairman Serotta:** So Judy, you're proposing a chain link fence?

**Judy Klein:** Yes.

**Chairman Serotta:** So in the past I think we preferred black chain link fence. Jackie, do you agree with that?

**Jackie Elfers:** Yes, that's what blends best into the landscape.

**Judy Klein:** Yes

**Chairman Serotta:** Any other comments.

**Kirk Rother:** Since we made the submittal we've done other survey work and we'd like to submit that new survey to submit to the county. The new plans we'll wait to send to the OC DPW.

**Chairman Serotta:** Alexa any comments or questions?

**Alexa Burchianti:** No

**Chairman Serotta:** I'm assuming you want to come back in front of the board for the November meeting. We'll have a slot for you.

The county for the 239 may or not get back to us in time, but that doesn't mean that we can't move forward with a Public Hearing. We can make a motion to at the next meeting to set the public hearing.

**Meeting adjourned at 8:11pm**

Respectfully submitted,

Melissa Foote  
Planning Board Secretary