



TOWN OF CHESHIRE

191 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225

PHONE (413) 743-1690

WWW.CHESHIRE-MA.GOV

PLANNING BOARD

FOR ADMINISTRATIVE USE ONLY

PETITION #: PB002

Notice of Decision

#PB002

PETITIONER & PROPERTY OWNER:

Theodore F Jayko
1053 Wells Road
Cheshire MA 01225

REPRESENTATIVE

Stephen N. Pagnotta, Esq.
Donovan O'Conner & Dodig LLP
1330 Mass MoCA Way
North Adams, MA 01247

PROPERTY LOCATION:

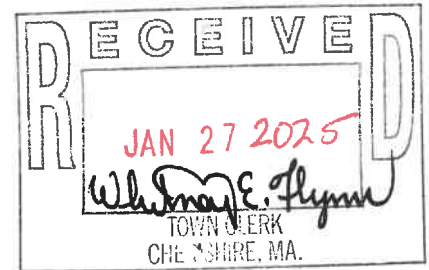
Harbor Road
Cheshire MA 01225

PARCEL NUMBER: 228-009

BOOK/PAGE: 00862/0453

HEARING DATE:

January 22, 2025
6:00PM



On January 22, 2025, pursuant to Massachusetts General Laws, Chapter 40A, Section 9 and the Zoning Bylaws for the Town of Cheshire, Theodore F Jayko applied for a special permit and/or extension and modification of conditions listed in a 1995 Notice of Decision, for the removal of sand, gravel, and other earth materials at Parcel ID No. 228-009 off Harbor Road.

A Public Hearing was conducted on January 22, 2025, at 6:00 PM to hear the petition of Theodore F Jayko for the special permit and/or extension and modification of conditions listed in a 1995 Notice of Decision.

Planning Board Notice of Decision #PB002

January 22, 2025, Page 1 | 5



TOWN OF CHESHIRE

191 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225

PHONE (413) 743-1690

WWW.CHESHIRE-MA.GOV

PLANNING BOARD

FOR ADMINISTRATIVE USE ONLY

PETITION #: PB0002

After reviewing the documentation and upon due deliberation, the Planning Board grants Theodore F Jayko a Special Permit and/or extension of a special permit granted in 1995 for the removal of sand, gravel, and other earth materials, encompassing the modifications to the 1995 (Original) conditions made in both 1999 and 2003, with the following modifications to those conditions:

- 1995 (Original) Granting Condition #1 shall be removed. (See attachment #1, Notice of Decision dated May 1, 1995)
- 1995 (Original) Granting Condition #6 and 2003 Granting/Modification Condition #2 shall be modified to read; "Hours of hauling material from the permitted site shall be 8:00 a.m. to 4:00 p.m., Monday through Friday. Site work at the permitted site is allowed from 7:00 a.m. to 4:00 p.m., Monday through Friday." (See attachment #1, Notice of Decision dated May 1, 1995 and attachment #3, Notice of Decision dated May 12, 2003)
- 1995 (Original) Granting Condition #7 shall be modified to read; "Up to seventeen (17) truckloads of earth materials may be removed during each day of operation, subject to the conditions of condition #6." (See attachment #1, Notice of Decision dated May 1, 1995)
- 1999 Granting/Modification Condition #3 shall be removed. (See attachment #2, Notice of Decision dated August 3, 1999)
- 1999 Granting/Modification Condition #4 shall be modified to read; "Any citations of violation issued by the Town of Cheshire Zoning Enforcement Officer, the Commonwealth of Massachusetts, or any other authorized agency will revoke this special permit until proof is shown that the violation has been corrected." (See attachment #2, Notice of Decision dated August 3, 1999)
- 1999 Granting/Modification Condition #5 shall be removed. (See attachment #2, Notice of Decision dated August 3, 1999)

The conditions for this special permit and/or extension and modification of conditions listed in a 1995 Notice of Decision shall read as follows:

1. The removal area is the approximately 6.5-7-acre area designated by the attached topographic map dated April 14, 2003, noted to run from "A" to "A1" and "B" to "B1", off Harbor Road,

Planning Board Notice of Decision #PB002

January 22, 2025, Page 2 | 5



TOWN OF CHESHIRE

191 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225

PHONE (413) 743-1690

WWW.CHESHIRE-MA.GOV

PLANNING BOARD

FOR ADMINISTRATIVE USE ONLY

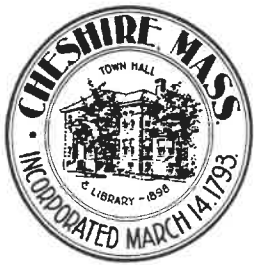
PETITION #: PB002

Cheshire, MA. (Please see the map attached to attachment #3, Notice of Decision dated May 12, 2003)

2. Excavation shall conform to the cross-sectional plans attached, (Cross section A-A1 and Cross section B-B1). (Please see the map attached to attachment #3, Notice of Decision dated May 12, 2003)
3. Excavation in no case shall be conducted below the 944-foot elevation, to ensure sufficient vertical buffer between the excavation and the historic high water elevation.
4. If any discrepancy between conditions "2" and "3" arises, then condition "3" shall have precedence over condition "2".
5. Hours of hauling material from the permitted site shall be 8:00 a.m. to 4:00 p.m., Monday through Friday. Site work at the permitted site is allowed from 7:00 a.m. to 4:00 p.m., Monday through Friday.
6. Up to seventeen (17) truckloads of earth materials may be removed during the day of operation, subject to the conditions of condition #5.
7. No full or empty trucks associated with earth removal under this Special Permit shall use East Harbor Road, north of the intersection of Harbor and East Harbor Roads.
8. An initial one (1) acre of land may be opened up for excavation in the designated area of allowed removal. Upon completion of excavation in the one (1) acre area, another one (1) acre area may be excavated as long as substantial reclaiming is being accomplished in the previous excavated area. At no time will the area under excavation exceed one (1) acre, and at no time will already excavated areas being reclaimed exceed one (1) acre.
9. Upon completion of excavation in an area, reclamation shall commence as soon as possible, allowing for weather and climate considerations. Reclaimed areas shall be covered with sufficient topsoil and seed to stabilize and allow a proper vegetative cover to establish itself.
10. No completed reclamation slope shall exceed a slope of one (1) foot vertical rise to two (2) feet of horizontal distance.
11. Under no circumstances will excavation be allowed within four hundred (400) feet from any well of the Adams Fire District.
12. Dry screening of material will be allowed on site; however, no wet screening, washing, or other processing of earth materials will be allowed in the designated area.
13. No sludge will be utilized for reclaiming excavated areas.

Planning Board Notice of Decision #PB002

January 22, 2025, Page 3 | 5



TOWN OF CHESHIRE

191 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225

PHONE (413) 743-1690

WWW.CHESHIRE-MA.GOV

PLANNING BOARD

FOR ADMINISTRATIVE USE ONLY

PETITION #: PB002

14. No excavation equipment will be left unattended except during the allowed operation times. No overnight storage of excavation equipment will be allowed. Excavation equipment shall include trucks, and all equipment used for reclaiming, excavating, or stripping. No refueling or lubrication of equipment associated with excavation will be allowed.
15. Final grade elevation after excavation and reclamation will not be below 950 feet.
16. Any citations of violation issued by the Town of Cheshire Zoning Enforcement Officer, the Commonwealth of Massachusetts, or any other authorized agency will revoke this special permit until proof is shown that the violation has been corrected.

A vote was taken by the Board with Aaron Singer (Chair), Amy McCarthy, Peter Traub, Francis Griswold, and Dan Skorcz all voting in the affirmative.

All statutory requirements mandated by law were satisfied as documented in the detailed record of proceedings which are on file with the Cheshire Town Clerk and the Planning Board. Copies of this Decision and all plans referred to in this Decision have also been filed with the Planning Board and Cheshire Town Clerk.

Any appeal of this Decision of the Planning Board must be filed within twenty (20) days of the filing of this notice with the Cheshire Town Clerk. After the twenty (20) day appeal process, it is the responsibility of the Petitioner to register the Special Permit with the Northern Berkshire Registry of Deeds located in Adams, MA.

DOCUMENT LIST:

1. Notice of Decision dated May 1, 1995
2. Notice of Decision dated August 3, 1999
3. Notice of Decision dated May 12, 2003

Planning Board Notice of Decision #PB002

January 22, 2025, Page 4 | 5



TOWN OF CHESHIRE

191 CHURCH STREET | CHESHIRE, MASSACHUSETTS 01225

PHONE (413) 743-1690

WWW.CHESHIRE-MA.GOV

PLANNING BOARD

FOR ADMINISTRATIVE USE ONLY

PETITION #: PB002

Aaron Singer, Chair of the Planning Board

DATE: JAN 22 2025

I hereby certify that twenty (20) days have passed since the filing of this decision by the Planning Board with the Town Clerk and no appeal has been filed with this office.

Signed and certified this 18TH day of February, 2025 WEF

Whitney E. Flynn, Town Clerk



Planning Board Notice of Decision #PB002

January 22, 2025, Page 5 | 5



The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts 01225

PLANNING BOARD

NOTICE OF DECISION

May 1, 1995

PETITIONER: Theodore Jayko
918 Jenks Road
Cheshire, MA 01225

PREMISES: 1051 Wells Road
Cheshire, MA 01225
Map 228, Lot 9
Book 862 Page 453

A Special Permit was sought under Section 3.9, A-22 of the Zoning Bylaw for the Town of Cheshire 1978 for the removal of sand, gravel, and other earth materials.

Public hearings were held on:

- 1) December 12, 1994, at 12:00 noon at the proposed site
- 2) December 19, 1994, at 7:30 p.m. at the Cheshire Town Hall Annex
- 3) January 30, 1995, at 8:00 p.m. at the Cheshire Town Hall Annex
- 4) April 24, 1995, at 7:30 p.m. at the Cheshire Town Hall Annex

The Board voted with four affirmative votes to grant the Special Permit on April 24, 1995, subject to the following conditions:

- 1) The Special Permit is granted for six months and will be reviewed every six months. The first review will take place at 7:30 p.m. at the Cheshire Town Hall Annex on November 26, 1995.
- 2) The removal area is the approximate 5 acres area designated by outline on the attached topographic map, noted to run from "A" to "A1" and "B" to "B1", off of Harbor Road, Cheshire.
- 3) Excavation shall conform to the cross sectional plans attached (Cross section A-A1 and Cross section B-B1).
- 4) Excavation in no case shall be conducted below the 956-foot elevation, to ensure sufficient vertical buffer between the excavation and the historic high water elevation.
- 5) If any discrepancy between conditions "3" and "4" arises, then condition "4" shall have precedence over condition "3".
- 6) Hours of operation shall be 8:00 a.m. to 2:30 p.m. Monday through Friday.

HAULING FROM PERMITTED SITE
(6A) SITE WORK 7:00 AM TO 4 PM (PIT)
AT PERMITTED SITE

*Posted 5-8-95
Christine R. Emerson*



The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts 01225

PLANNING BOARD
NOTICE OF DECISION

May 1, 1995

PETITIONER: Theodore Jayko
918 Jenks Road
Cheshire, MA 01225

PREMISES: 1051 Wells Road
Cheshire, MA 01225
Map 228, Lot 9
Book 862 Page 453

Page 2 :

- 7) Up to fifteen (15) truckloads of earth materials may be removed during each day of operation, subject to the conditions of condition #6 on page one.
- 8) No full or empty trucks associated with earth removal under this Special Permit shall use East Harbor Road, north of the intersection of Harbor and East Harbor Roads.
- 9) An initial one (1) acre of land may be opened up for excavation in the designated area of allowed removal. Upon completion of excavation in the one (1) acre area, another one (1) acre area may be excavated as long as substantial reclaiming is being accomplished in the previous excavated area. At no time will the area under excavation exceed one (1) acre, and at no time will already excavated areas being reclaimed exceed one (1) acre.
- 10) Upon completion of excavation in an area, reclamation shall commence as soon as possible, allowing for weather and climate considerations. Reclaimed areas shall be covered with sufficient topsoil and seed to stabilize and allow a proper vegetative cover to establish itself.
- 11) No completed reclamation slope shall exceed a slope of one (1) foot vertical rise to two (2) feet of horizontal distance.
- 12) Under no circumstances will excavation be allowed within four hundred (400) feet from any well of the Adams Fire District.
- 13) Dry screening of material will be allowed on site; however, no wet screening, washing, or other processing of earth materials will be allowed in the designated area.
- 14) No sludge will be utilized for reclaiming excavated areas.



The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts 01225

PLANNING BOARD

NOTICE OF DECISION

May 1, 1995

PETITIONER: Theodore Jayko
918 Jenks Road
Cheshire, MA 01225

PREMISES: 1051 Wells Road
Cheshire, MA 01225
Map 228, Lot 9
Book 862 Page 453

Page 3

- 15) No excavation equipment will be left unattended except during the allowed operation times. No overnight storage of excavation equipment will be allowed. Excavation equipment shall include trucks and all equipment used for reclaiming, excavating, or stripping. No refueling or lubrication of any equipment associated with excavation will be allowed.

All statutory requirements mandated by law were satisfied as documented in the detailed record of the hearing proceedings which are on file with the Cheshire Town Clerk and the Planning Board clerk.

Any appeal from the decision of the Cheshire Planning Board must be made pursuant to Section 6.2 of the 1978 Zoning Bylaws within 20 days of the posting of this notice by the Cheshire Town Clerk.

Robert S. Ciskowski

ROBERT S. CISKOWSKI
Acting Chairman

I hereby certify that 20 days have elapsed from the date this certification was issued from the Town Clerk and that no appeal has been filed with this office.

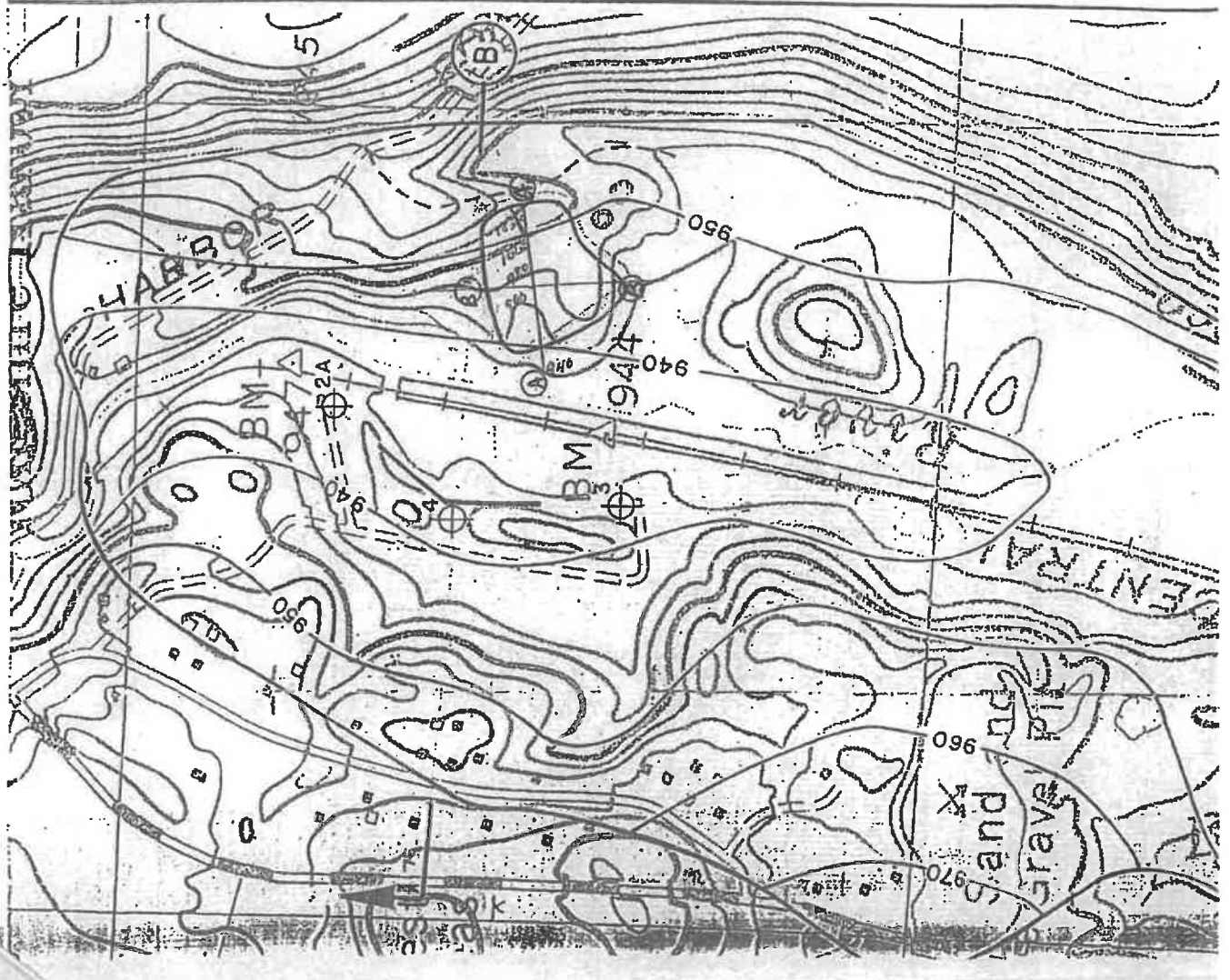
Signed and certified this 30th day of May 1995.

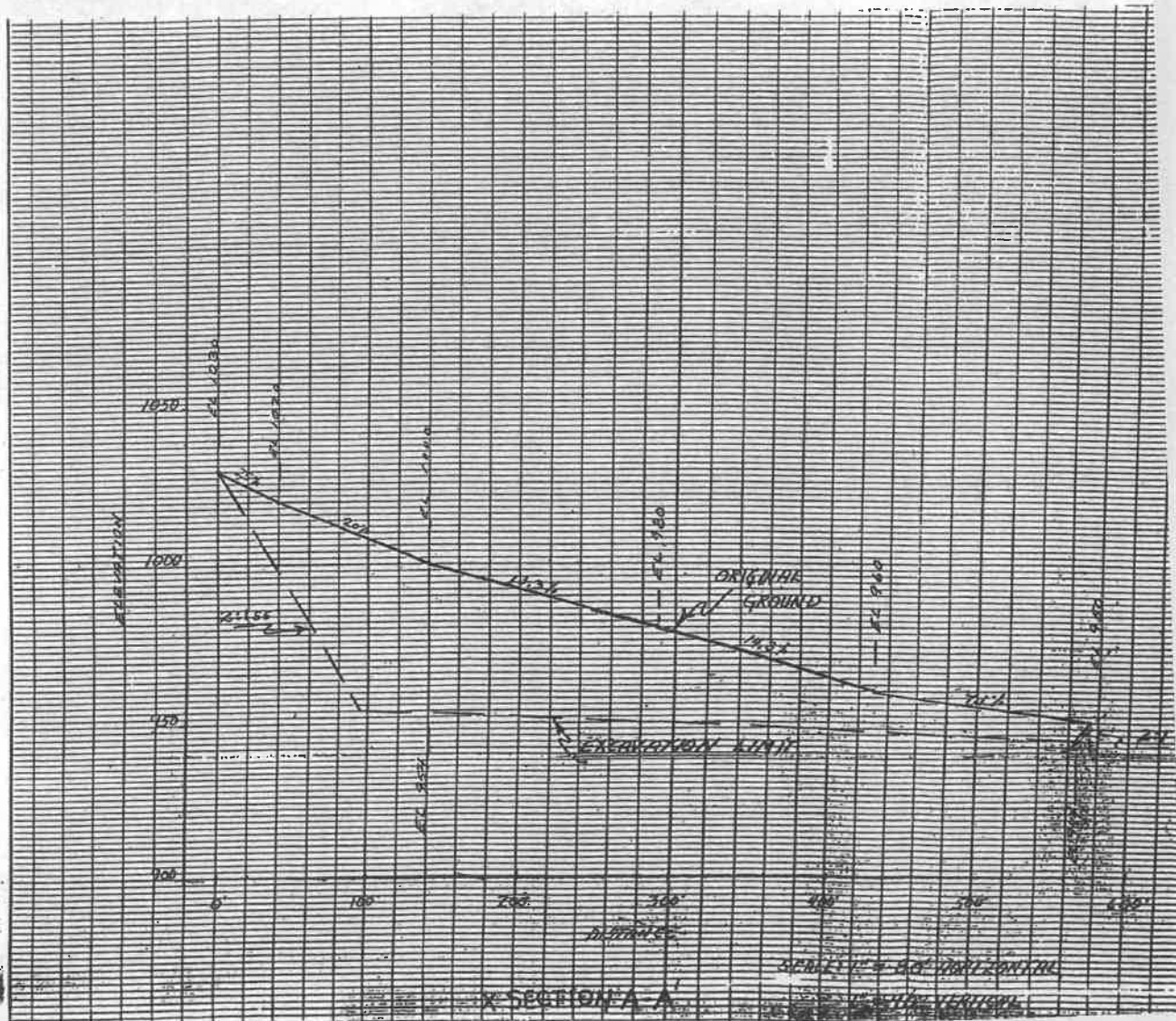
Christine B. Emerson
CHESHIRE TOWN CLERK

U.S. GEOLOGICAL SURVEY

1" = 500'

4/24/95





1020

980

940

900

940

950

960

980

980

980

ORIGINAL
GROUND

EXCAVATION - 11 1/2' -
ELEVATION 994

0

100

150

200

250

300

400

500

600

510

SCALE: 1" = 80' HORIZONTAL

1" = 40' VERTICAL

X-SECTION B-B'



The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts 01225

PLANNING BOARD

NOTICE OF DECISION

Date: August 3, 1999

Petitioner(s): Theodore F. Jayko, 1053 Wells Road, Cheshire, MA, 01225

Premises: 1051 Wells Road, Cheshire, MA, 01225 (Map 228 - Lot 9)

Public hearings of Planning Board were held at the Cheshire Town Hall Annex on July 26, 1999 and the Cheshire Town Hall on August 2, 1999. The petition from Mr. Theodore Jayko to be granted modifications of conditions set forth in the May 1, 1995 special permit granted on these premises were reviewed.

Following discussion periods the Planning board voted 4-1 (James Griffin absent) to issue the following modifications to the May 1, 1995 special permit:

1. Original Granting Condition #4 is modified to read; Excavation in no case shall be conducted below the 944 foot elevation, to ensure sufficient vertical buffer between the excavation and the historic high water elevation..
2. Final grade elevation after excavation and reclamation will not be below 950 feet.
3. The two existing monitoring wells will be maintained through out the excavation and reclamation phases and monitored for any possible changes in the high water elevation. These wells will be monitored on a monthly basis.
4. Any citations of violation issued by the Cheshire Enforcement Officer, the Commonwealth of Massachusetts or any other Authorized agency will revoke this modification until proof is shown that the violation has been corrected. Revocation of this modification will have no affect on the existing special permit issued on May 1, 1995.
5. The Planning Board reserves the right to review this modification every six months for compliance.

This Notice of Decision is on file with the Cheshire Town Clerk and with the Planning Board. Any appeal of the decision of the Planning Board must be made pursuant to Section 6.2 of the Protective and Planning Zoning By-Law of the Town of Cheshire within 20 days of the posting of this notice by the Town Clerk.

Joseph F. Greenbush Jr., Chairman
Roger Goodreau
James Griffin
Gary Herzog
Charles Howard

I hereby certify that 20 days have elapsed from the date this certification was issued from the office of the Town Clerk and no appeal has been filed with this office.

Signed and certified on : _____

(Cheshire Town Clerk)



The Commonwealth of Massachusetts
Town of Cheshire
Massachusetts 01225
—
PLANNING BOARD

May 12, 2003
11:00 a.m.
Christine B. Emmons

NOTICE OF DECISION

Date: May 12, 2003

Petitioner(s): Theodore F. Jayko, 1053 Wells Road, Cheshire, MA 01225.

Premises: 1051 Wells Rd., Cheshire, MA 01225 (N. Berkshire Registry of Deeds, Book 882 – Page 453)

Public hearings by the Planning Board were held at the Cheshire Town Hall Annex on April 28, 2003 and May 7, 2003. The petition of Mr. Theodore Jayko seeking modifications of conditions set forth in the May 1, 1996 special permit granted on these premises were reviewed.

Following discussion periods the Planning Board voted unanimously to issue the following modifications to the May 1, 1996 special permit:

1. The original granting condition #2 is modified to read; The removal area is the approximately 6.5 to 7 acre area designated by the attached topographic map dated April 14, 2003, noted to run from "A" to "A1" and "B" to "B1", off of Harbor Road, Cheshire, MA.
2. The original granting condition #6 is modified to read; Hours of hauling material from the permitted site shall be 8 a.m. to 2:30 p.m., Monday through Friday. Site work at the permitted site is allowed from 7 a.m. to 4 p.m., Monday through Friday.

This Notice of Decision is on file with the Cheshire Town Clerk and with the Planning Board. Any appeal of this decision must be made pursuant to Section 6.2 of the Protective and Planning Zoning By-Law of the Town of Cheshire, within 20 days of the posting of this notice by the Town Clerk.

Joseph F. Greenbush Jr., Chairman
Roger Goodreau
James Griffin
Gary Herzog
Charles Howard

I hereby certify that 20 days have elapsed from the date this certification was issued from the office of the Town Clerk and no appeal has been filed with this office.

Signed and certified on:

May 2, 2003

(Cheshire Town Clerk)

TopoZone.com

Target is UTM 18 652780E 4716109N - **CHESHIRE** quad [Quad Info]



The TopoZone is produced by Maps a la carte, Inc. - © 2000 Maps a la carte, Inc. - All rights reserved. Use of this site is governed by our [Terms of Use](#). We care about your privacy - please consult our [Privacy Statement](#) for details.

APR 14, 2003