



MADBURY PLANNING BOARD

13 Town Hall Road, Madbury NH 03823
Tel: 603 742-5131 • Fax: 603 742-2502

Approved

OFFICIAL BUSINESS

Minutes of: December 4, 2019

Meeting Convened: 7:05 p.m.

Members in Attendance:

Mark Avery - Chair
Tom Burbank
Mike Card
Wally Dunham
Doug Hoff
Fritz Green - Ex Officio
Marcia Goodnow - Vice Chair
Casey Jordan

Support Staff:

Laurie Plantamuro - Recording Secretary
Elizabeth Durfee - Contract Planner

Agenda

1. Seating of Alternates:

None

2. Approval of Minutes:

The minutes from November 20th, 2019 were reviewed. **Motion** made by Member Green to accept the minutes. **Seconded** by Member Jordan. Members Burbank, Goodnow, and Hoff abstained. All others aye. **Motion Approved.**

3. Correspondence:

None

4. Public Hearing: Powder Major Farm Agritourism Conditional Use Permit (CUP) Amendment

Beth and Chuck Goss

Chair Avery informed the Board that the changes the Gosses are requesting are printed in red on an amended version of their original (CUP) application. He also provided the Board with a draft amended CUP that incorporated these requested changes (deletions in red, additions in blue) into the existing CUP. He explained that this would allow Board members to see exactly what the requested changes were in relation to the original CUP.



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Chair Avery went over the checklist for the applicant's requirements with the Board.

7:06 pm: **Motion** by Member Green to accept the application for consideration. **Seconded** by Member Goodnow. All Aye. **Motion Approved.**

7:07 pm: Chair Avery read the rules for the application for a CUP. He noted that, since public notices were sent/posted, the Gosses' had changed a few details on the application, but that the application remained the substantially the same as noticed.

7:09 pm: Chair Avery read the notice of public hearing.

7:11 pm: Beth Goss introduced herself and read her application for a CUP. The Gosses are requesting to modify their original CUP too add a more flexibility regarding the frequency of events, the guest count, the definition of the season, and other minor changes. She also noted that there had been no complaints logged with the police or Town authorities regarding their operation to date.

7:18 pm: Chair Avery opened the meeting for Board member questions regarding the Gosses' application.

Member Green asked the Gosses if their parking was sized to the Town's requirements? Mr. Goss said, yes they believed so. Consultant Durfee stated that the parking space size met Madbury's Site Plan Regulations. Chair Avery asked the applicants if they had more guests would they have enough parking. Ms. Goss said, yes and most guests use other forms of transportation to get to the site such as trolleys or bus and that Mr. Goss had checked the sizes of the parking spots. Chair Avery commented that although the sizes of the parking have already been approved, the Board could question the applicant.

Member Green asked the Gosses if they planned on adding to the septic. Chair Avery commented that the only changes or request the Gosses were asking were the items in red not black on their amended application. Member Hoff asked Chair Avery if that meant the Board did or didn't have a right to ask the Gosses anything about the items on their application in black. Chair Avery reiterated that the Board could ask, but that the items in black on the amended application have already been approved. Ms. Goss commented there were items that had to be completed in order to get approved to open and such items have all been completed.

Member Card asked how long this request would be valid before they would need to return to open a new CUP. Ms. Goss said their intent with changes should be indefinitely.



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Member Burbank commented to the Gosses that they were here tonight to discuss changes to their current CUP. He explained in doing so they should know any changes to this all together should really be discussed now so they wouldn't have to return again. Ms. Goss said by asking for an additional number of events it would cover the amount per year they were hoping to do.

Member Jordan commented in the approved CUP there was no allowance for weekday events and asked if they were hoping to do weekday events. Ms. Goss stated they had the ability to do weekday events and had thought about it, however; they weren't sure with the current application if they could. Member Jordan recommended they request a confirmation about that since the CUP was open.

Member Goodnow asked what would be the impact of removing the requested limit of 35 total "High/Moderate Impact" events. Ms. Goss stated doing so would be helpful to them, but they weren't sure if that would be approved by the Board. Member Goodnow commented that she felt this was good for the community.

Member Jordan said he noticed the addition of amplified sound outside and wondered why it was changed from only in the barn. Ms. Goss said they chose that due to possibly having smaller bands outside on a beautiful night. They want to be able to allow smaller bands to play outside and the sound proof isn't there like in the big barn.

Member Goodnow asked if the low impact events under 100 people would preclude amplified music. Ms. Goss said it could she guessed.

Member Hoff commented on differences between the Gosses application and the CUP including stop times for music, alcohol service, and closing. He also asked what the "Gates Close at 10:00" meant. Ms. Goss said that was part of the original application and that meant that everyone should be gone at 10:00 pm. Member Hoff stated this was why he felt they should work on the wording of the original application and went thru a few reasons why. Chair Avery said that, per the CUP, when there are differences between the application and the actual CUP, the CUP applies. Chair Avery read "Primary Conditions" from the existing CUP to verify this.

Consultant Durfee commented there were discrepancies throughout the document that should be corrected. Ms. Goss said when they wanted to propose changes they used the original application and they put the changes on the already approved application.

Consultant Durfee asked what is the desired "Gates Close" time? Ms. Goss said it is 10:00 pm and that the original application had 10:30 pm on it and that was where there was confusion. Ms. Goss said they had been getting some push back during weddings about stopping the music in the barn at 9:00 pm and thought they should ask to extend the time



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to 9:30 pm. Mr. Goss stated that they had customers that were affected by the abrupt 9:00 pm stop time and wanted to see if the Board could accommodate the 9:30 pm instead.

Member Green stated he was not really clear about what they decided for how many events a week they needed. Mr. Goss said he would like to hold some smaller events during the week so can the Board change the language to allow flexibility to have mid-week and weekend events.

Chair Avery asked the Gosses if they were fully booked with weekend events, how many weekday High Impact events they would envision. Mr. Goss said one a week or 5 a year. Ms. Goss asked how they should word the application to allow us to be more flexible with the number of smaller events and weekly high impact events. Member Hoff stated he felt putting a number in there and taking out "per week" would give the Goss' such flexibility.

Member Hoff recommended the Board not redefine the existing definitions of High Impact Events and would be more inclined to change the number of events.

Chair Avery asked the Gosses if that would work and if that was what they were requesting. Mr. Goss said yes, and that they figured if they could have a high impact event not on a weekend then they could be more flexible with the events.

Member Card commented that he agreed with Member Goodnow about keeping the low impact events under 100 guests with no amplified sound, but that the Gosses should think about the limit of 35 larger events. He felt they would be in for an adjustment to those numbers sooner than they thought.

Member Goodnow said she was confused about the request for amplified sound with low impact events in the application. Member Jordan stated they should just change some of the numbers versus changing the wording of the kind of events. Ms. Goss said she thought they should include low impact amplified sound to have that issue covered should they need it.

Member Green asked what the word "somewhat" meant on the first page of the amended application. Ms. Goss said it was trying to omit the existing hard season requirement because there have been times a customer wanted to have an event in April so they had turned them down.

Consultant Durfee commented that the primary concerns for the Board were traffic volume and event noise and that there really isn't a difference in seasons between traffic and noise. She stated the Board should focus on the impacts and how they are managed. She felt summer or winter, an event was happening, so the word seasonal should be removed to



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provide more flexibility. It was also noted light hasn't caused issues and sound hasn't been a problem to any of the abutters.

Chair Avery asked if the total number of people included the employees working during events. Ms. Goss said, yes. Chair Avery said if the barn is allowed 214 people would they ever run into an issue with 200 guests and requirements of employees. Ms. Goss said it usually runs below the number of people, but they needed that higher number in case. She said either way the occupancy was for that building and some of the employees are in other occupancy areas when there is an event was such as the kitchen.

7:49 pm: Chair Avery opened the meeting for public comments. Chair Avery asked if there were any public comments. None offered.

7:50 pm: Chair Avery closed the meeting to public comments.

Chair Avery asked before deliberations began, if the Gosses would like to rewrite the amended application with updated guest numbers and hours before the Board deliberated. Accordingly, he also asked if they would like a continuance. The Gosses stated that they had customers waiting and would really like the Board to try to work through and vote.

Member Jordan asked if the board could try to work on it and if they couldn't get through it then postpone.

Member Card said he wanted to reiterate that the Gosses really should take another look at the numbers they were asking for so they would not have to return to the Planning Board within a year or two with another request to change the numbers.

Member Goodnow stated the Gosses were up against deadlines and customers.

Consultant Durfee reminded the Board to look at the request in front of them and suggested they use the old application with the changes.

Chair Avery commented the Board was going forward with the deliberations and should discuss the first request on changing the event definitions.

Member Jordan commented he would like to see the existing definition of High Impact Stay and to just change the numbers or add an exception category.

Member Card commented about the amplified sound for a low impact event. He felt Member Hoff had a great point about the amount of times they have listed for when they close for the evening and that should really be clear.



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Member Card also agreed with Member Green's comment that the words "somewhat seasonal" should be taken out. Chair Avery commented he felt seasonal could be taken out.

Member Hoff brought attention to the Fire Chief's email regarding a parking lot incident of an elderly lady slipping. He felt that might be a lighting issue and if the Fire Chief is commenting on it, then he believes that is truly an issue. The Board reviewed the email from the fire chief.

Chair Avery asked the Board if they wanted to move forward with their definitions or come back. The Board agreed to rewrite the definitions tonight.

Chair Avery said they should start with the requested exception to the existing maximum of 150 guests.

Member Jordan stated the Board should write separate categories with an exception of five (5) events not to exceed 200 guests. Member Hoff said the Board should go with the existing definition of high impact and low impact events and then create an exception to high impact events.

The Board agreed to add an exception of up to 200 guests for five (5) high impact events.

Chair Avery moved on to deliberating the number of events.

Member Hoff asked for clarification regarding if the CUP goes with the property and not the applicant. He wanted to know if what the Board was discussing tonight would be in effect should the Gosses ever sell the property. Consultant Durfee said that is what the ordinance says, yes. Member Hoff said that he felt the Board should consider what might happen years down the road if someone else purchases this property and that the Board should leave the numbers at what is listed in the existing CUP for that purpose.

A discussion was held about the instructions on the current CUP. Chair Avery asked the Board in light of that if they wanted to allow the 35 events, or 40 events with 5 events being up to 200 guest exceptions to the existing 150 guest limit?

Member Card asked for clarification that there was no impact on the number of events under 100 people. Chair Avery said that the CUP only limits low impact events during the week based on average vehicle visits per day.

Member Hoff commented there are too many issues and felt the Board would be rushing through the definitions and wouldn't be able to deliberate properly. Chair Avery felt the applicant may wish to continue and re-write a draft for the Board to deliberate on. Ms. Goss asked if there would be a middle ground and would they be able to read what the



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Board chose for wording before it was voted on. Chair Avery said no. Chair Avery then corrected himself and said that they Gosses could see what the Board wrote up if they continued the hearing, but they wouldn't be able to edit it.

Chair Avery stopped the discussion to check with Consultant Durfee. Consultant Durfee said she felt the Board should continue to deliberate. Since the Board didn't need additional information from the applicant they should continue with what they had in front of them. She asked the Board what they felt they didn't have that stopped them from continuing. Member Hoff commented the applicant needed to actually tell the Board what they wanted. He felt there were questions back and forth, wording, etc. that the Board needed more directly than they were getting.

Consultant Durfee said she felt the same issues were coming up all night and the request should be deliberated as follows:

- 5 extra events over 150 people up to 200 people.
- 35 events per year, to have between 100 and 150 guests.
- To let the applicants manage when High Impact events might be held not limit such events to weekends.
- Unlimited number of low impact events as long as they meet the vehicle visits per day requirements.
- No distinction between seasonal or off season events
- Amend music to off at 9:30 pm and gates close at 10:00 pm
- Amplified sound is not permitted at low impact events

The Board then continued its discussion. The Board agreed not to change the existing CUP's definitions of High and Low Impact events. The Board also agreed on a new limit of 40 total High Impact Events with up to five (5) of those 40 events allowing up to a total of 200 guests and to not limit High Impact events to weekends.

The Board then agreed that the Fire Chief's input regarding verification of the occupancy limit and path lighting should be conditions of approval.

The Board agreed to delete "seasonal" in the amended application's operation hours.

The Board noted that the requested changes included using Pole/Ridge Tents for events and adding "meetings" to the approved list of activities in the original application. The Board had no opposition to these changes.

The Board then discussed the requested change in closing time and the definition of "Closed Gates" and agreed to change the wording to "all guests depart by 10:00 pm."



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The Board then discussed the request for amplified music to be allowed until 9:30 pm and to be allowed outside of the barn, such as in the patio area. A general discussion was held about complying with noise ordinances. The Board agreed with the proposed changes to allow amplified music until 9:30 and to require that sustained amplified sound be limited to the inside of the barn only after 8:00 pm.

Chair Avery asked if there were any other questions and Member Hoff stated he was still unsure about different times in the application. Chair Avery stated that times listed in the actual CUP took precedence over the requested times in the application.

Chair Avery asked the Board if they were ready to vote to amend the existing CUP to:

- Change the number of High Impact Events from 15 to 40 per year and allow up to five (5) of these events to have up to 200 guests
- Delete the requirement that a maximum of one High Impact Event may be held per weekend.
- Change the stop time for amplified sound from 9:00 pm to 9:30 pm.
- Change "gates close by 10:00 pm" to "all guests must depart by 10:00 pm."
- Change "Sustained amplified sound events may only be held in the barn" to "Sustained amplified sound events after 8:00 pm must be held in only the barn."
- Add that Pole and Ridge tents be used.
- Add that events may include meetings.
- Require that applicants' to resolve Life Safety Code pathway lighting requirements per the Madbury Fire Chief's e-mail dated 19 November 2019.
- Require that applicants' to verify occupancy limits given the increased guest totals per the Madbury Fire Chief e-mail dated 19 November 2019.

Consultant Durfee commented that pole and ridge tent use changes should be placed under the Physical Conditions on the CUP and that the "Meetings" addition should be placed under General Operating Conditions on the CUP. She also recommended putting the Fire Chief approvals under Safety Conditions on the CUP.

Motion made by Member Jordan to accept the conditions of the CUP as amended during the course of this meeting for the physical conditions, noise control, event frequency and definitional changes as well as the two additional safety conditions around occupancy and pathway lighting. **Seconded** by Member Goodnow. All Ayes. **Motion Approved.**

Motion made by Member Goodnow for Chair Avery to certify that all requirements of the amended CUP have been met. Chair Avery will forward the final draft to the rest of the board for proofreading before signing the amended CUP. **Seconded** by Member Green. All Ayes. **Motion Approved.**

5. Discussion Continued: Zoning Article IX-A (Aquifer and Wellhead Protection)



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Amendment

Chair Avery gave the Board a new copy of the report and informed the board about the time lines for the Water Board's review. He recommended waiting until the January meeting for a Public Hearing.

6. Other New Business:

- Durham Subdivision Affecting Madbury – Lot - 91 Baghdad Road (Durham Map 10, Lots 8-6 off Gerrish Drive). Chair Avery discussed a cluster subdivision that is about to come to Durham with perhaps some road and other development in Madbury.

- ZBA Rehearing Update. Chair Avery informed the board the ZBA had denied the applicants request.

-Substation Application Update. Chair Avery informed the board that next board meeting would include a public hearing for a CUP dealing with a wetland crossing.

Meeting Adjourned 8:51 pm

Meeting Attendees:

Beth & Chuck Goss - 6 Cherry Lane Madbury, NH

Lorraine Morong - Madbury Beach

Margaret Wolcott - 98 Old Stage Madbury, NH

Respectfully submitted by Laurie Plantamuro