



# MADBURY PLANNING BOARD

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## Approved

### OFFICIAL BUSINESS

**Minutes of:** December 16th, 2020

**Meeting Convened:** 7:00 p.m.

**Members in Attendance:**

Mark Avery – Chair  
Tom Burbank  
Michael Card  
Marcia Goodnow – Vice Chair (Zoom)  
Bruce Hodsdon – Ex Officio  
Doug Hoff (Zoom)  
Casey Jordan (Zoom)

**Support Staff in Attendance:**

Eric Figenbaum – Town Administrator

### Agenda

**1. Seating of Alternates**

None seated.

**2. COVID-19 Note**

Before beginning the discussion, Chair Avery announced that the Board will be using Zoom as allowed under COVID-19 Executive Orders to help conduct this meeting and that all votes will be taken one member at a time by roll call.

**3. Approval of Minutes**

The minutes from November 18<sup>th</sup> 2020 were reviewed. **Motion** made by member Burbank to accept the minutes. **Seconded** by member Card. Member **Vote:** Jordan Y, Hoff Y, Goodnow Y, Burbank Y, Hodsdon Y, Card Y, Avery Y. **Motion Approved.**

**4. Correspondence**

None

## **5. Subdivision Preliminary Consultation - 1 Hayes Rd**

Owner Lucy Tillman of 1 Hayes Rd. presented to the board her desire to subdivide a new lot from her land so that Ben James can build a house there. She has hired a survey company to help make the lot conform to Town rules and is planning on subdividing approximately 2 acres. Chair Avery confirmed with the owner that this will be an entirely different lot, and test pits and soil surveys will be performed. Member Hodsdon asked about previous lot lines and the locations of wetlands. Ms. Tillman replied she will have the soils tested and wetlands located.

## **6. Site Plan Preliminary Consultation - 10 Lee Rd Apartments**

John Chagon of Ambit Engineering presented the plan to expand the building size and number of occupants at the apartments at 10 Lee Rd. Mr. Chagon presented to the board a survey of the land which totals 36.5 acres. He then reviewed the development and topography site plan. The plan is to remove the back building and replace it with a 12 unit 2 story building. Along with this building they plan to expand the parking from 30 parking spaces to 58. They are seeking a Special Exemption for a non-conforming use and understand that they will need to speak to the Zoning Board. Mr. Chagon then finished reviewing the plans for the grading, stormwater runoff, utility, and septic plans. They plan on using the existing well and a new septic system for the new building

Member Burbank asked if the current septic system will remain. Mr. Chagon noted they are planning to keep the old one as of right now but they have not gotten that far in planning.

The board asked about the section of the site plan marked for possible future expansion. Mr. Chagon explained that this was on the plan just for information and isn't being pursued now. Chair Avery asked why not do the plan now and build later? Owner James Petrovitsis replied that he had looked into that and they are currently delaying further expansion plans for now.

Member Card asked if the parking spaces on the map are currently on town property and is there an access to Madbury road when the property boundary does not abut Madbury Rd.? Chair Avery asked is there an agreement for the land that is owned by the town and currently used to access the apartments? Mr. Petrovitsis was unaware of any agreements and notes some parking spaces are indeed on town property. Chair Avery noted that based on a 1970 plan of the old intersection the town has the right of way against the buildings, and would like the potential applicant to come up with a plan to formalize the parking spaces and driveway / road access.

Member Hodsdon asked what will be the height of the new building? Mr. Chagon noted they will keep it within the 38' height regulation. Member Hodsdon then asked what type of fire protection will be proposed and have they talked with the Fire Chief? Mr. Petrovitsis noted

they will conform to the required standards and will speak with the Fire Chief.

Member Hodson then asked if the renters were mostly students, and what will be the total number of bedrooms? Mr. Petrovitsis noted that it will be a mix of renters, and the plan is for 36 bedrooms. Chair Avery asked if most renters are singles or couples that will be renting these units as that would change the total occupancy. Member Hodsdon added this will also impact the size of the septic needs. Mr. Petrovitsis replied it is typically a mix.

Member Hodsdon noted in the past students have used the abutting town owned property in front for recreation and that parking spaces are on town land. He indicated that there should be a plan to remove the non-agreed upon parking and better management for recreation to keep it off town property. Chair Avery added this would be an example of maneuvering for parking on a public way which is not acceptable according to our Site Plan Regulations. Mr. Chagon noted that he did not believe this was a public way. Member Hodsdon noted the town needs to maintain the land and memorials and uses this public way to access the property.

Member Jordan noted the Route 155/Town Hall Rd./Madbury Rd. intersection is already a difficult intersection with traffic accidents and he notes the concern that adding more residents means adding more traffic to this already tricky intersection. Chair Avery noted the DOT and police would both agree with Member Jordan's concern and Eric Fiegenbaum noted they may need a DOT access permit or a new application for a driveway onto Madbury Rd.

Member Goodnow asked about the vision of character for this plan. Mr. Petrovitsis replied he would like to keep the aesthetics similar to the other buildings and keeping with the general look of the town.

Member Jordan asked if the apartment's well has a radius outside the property line and notes that right now a 400 foot protection area is required. Mr. Chagon asked why 400 feet and not 150 feet? Chair Avery noted that we will discuss the well in just a moment, but first a list of things to note for inclusion on the plan application going forward. These items included:

- Identify where the postal boxes are going and check with the post office before plan approval
- Identify the height of the parking lot retaining wall. (Mr. Chagon noted this varies but around 6 feet)
- Directly coordinate with the Fire/Police and note any issues and requirements
- Have a plan for the outdoor lighting
- Address visual shielding that there will be for abutters
- Note where the test pits are
- Have a plan for the maintenance of the stormwater management basin.
- Provide an elevation plan of proposed buildings

Chair Avery then asked the board if this proposal would require a site walk. Member Hodsdon noted he would like to do a site walk.

Chair Avery then asked Mr. Chagon for more details about the public well. Mr. Chagon said that this well would not be considered a public water supply. Chair Avery replied that he had pulled the state permit and that the permit indicates that it is a public water supply. Mr. Chagon asked to see a map of this. Chair Avery replied it is not on the town's current map, but it is in the state database. Chair Avery then explained that at this time Zoning Ordinance IX-A, Section 6 requires that there is to be no development within 400 feet of a public water supply. Mr. Chagon offered that Section 5 of the ordinance dictates what can and cannot be done not Section 6.

Chair Avery encouraged the applicant's to offer their suggesting for applying these rules. He noted that there are a few issues to consider when interpreting the ordinance including:

- The town map update hasn't been formally ratified (although it may not need to be)
- That Section 6 is an absolute
- That a variance would be needed

Mr. Chagon asked if we knew that the town hall and library are part of a public water supply. Member Hodsdon noted when adding our library, the same process had to be gone through, and they had to communicate with the State about protecting the well radius. Member Hodsdon noted the most restrictive interpretation should be met, and a variance would be a work around.

Member Hodsdon then asked how many gallons does the well produce? Mr. Chagon replied that he was unsure of the figure. Member Hodson also noted with 36 acres they may need to use another location for the well.

Mr. Chagon asked which comes first, the variance or the formal proposal? Chair Avery suggested talking to Matt Bacon the Zoning Board Chair, but that the Planning Board would likely have to formally hear this before the Zoning Board would act.

Mr. Chagon also asked with whom he should discuss the situation with access through town property. The bboard indicated that he should meet with the Select Board regarding this.

Chair Avery suggested that another preliminary consultation would be appropriate before a formal application.

**7. Update of Gerrish Road Subdivision (Durham).**

Chair Avery notified the board that the plan has changed to include a walking trail in the Madbury portion of the development and additional stormwater runoff and drainage details that could affect Madbury. The Madbury portion of this subdivision is expected to come before the Madbury Planning Board in late January or February.

**8. Discussion - Well Head and Aquifer Overlay District Legal Update**

Chair Avery noted that the lawyer says that the current language could lead to “Regulatory Taking” of land and risks lawsuits. He also recommended small changes before this goes before a public hearing.

Chair Avery introduced a change to Section 5 updating the draft ordinance based on the lawyer’s advice to state that Section 6 must be complied with. **Motion** made by Member Burbank that we send the updated draft to a public hearing on January 6th 2021. **Seconded** by member Card. **Member Vote:** Jordan Y, Hoff Y, Goodnow Y, Burbank Y, Hodsdon Y, Card Y, Avery Y. **Motion Approved.**

**9. Other Old Business**

None

**10. Other New Business**

None

**Meeting Adjourned:** 8:35 pm

**Meeting Attendees:**

Lucy Tillman, 1 Hayes Rd  
Ben James, future resident 1 Hayes Rd subdivided lot  
John Chagnon, Ambit Engineering  
James Petrovitsis, Co-Owner 10 Lee Rd  
Jim Davis, Madbury Deputy Fire Chief (Zoom)  
Sean Peters, Co-Owner 10 Lee Rd (Zoom)

Respectfully Submitted by Michael Card