



# MADBURY PLANNING BOARD

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## APPROVED

### OFFICIAL BUSINESS

**Minutes of:** May 5, 2021

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

**Members in Attendance:**

Mark Avery – Chair  
Tom Burbank (Zoom, joined at 7:30)  
Michael Card  
Fritz Green – Ex Officio  
Maria Goodnow

**Support Staff:**

Laurie Plantamuro – Recording Secretary (Zoom)  
Elizabeth Durfee – Contract Planner (Zoom)  
Eric Fiegenbaum – Town Administrator

**1. COVID-19 Note:**

Before beginning the discussions, 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.

**2. Procedure Update:**

Chair Avery informed the Board that per the executive order allowing Zoom meetings, members joining the meeting via Zoom need to let the Board know if there is someone else in the room with them. He also mentioned that, should the Board ever take a recess during a meeting, members should not discuss the meeting with the public or other members during the recess.

**3. Seating of Alternates:**

None

**4. Approval of Minutes:**

The minutes from April 21, 2021 were reviewed **Motion** by Member Green to accept the meeting notes as written. **Seconded** by Member Goodnow. **Member Vote:** Burbank - Y, Goodnow - Y, Green - Y, Card - Y, Avery - Y. **Motion Approved.**

**5. Correspondence:**

Chair Avery informed the Board *Great Bay Matters* will be kept in the box during the week for review.

**6. Preliminary Subdivision Consultation: Proposed two (2) lot subdivision of 326 Knox Marsh Road (Map 8, Lot 1G) to accommodate Atlantic Broadband structure.**

*Robert DiBerto, Owner*

Mr. DiBerto introduced himself to the Board and went on to discuss the Subdivision. He said he wanted to cut approximately 2 acres off of the back of the property to create a new lot to accommodate a building for Atlantic Broadband. He said the building would be about 1200 to 1500

sq ft. He said it would look like a small house but with no bathrooms or kitchen-just the structure. It would likely be fenced in for security reasons.

Mr. DiBerto said access for the building would be by Eliot Rose Lane, a private road. Member Green asked if the access road was paved and Mr. DiBerto said it was.

Mr. DiBerto explained that this parcel had been previously mapped for wetlands in 2001. He said there have been no changes to the parcel since that time. He said they intend on using the original engineer, Trittech, the same drawings etc.

Mr. DiBerto went on to ask if he should go to the Planning Board or the Zoning Board (ZBA) first if a variance for the use by Atlantic Broadband is needed. Chair Avery told him, he couldn't give him an exact answer but that he should start with the Planning Board. He told Mr. DiBerto the ZBA is likely going to want to see a developed plan anyway. Chair Avery said in his own view it would make sense to be sure the Broadband can happen before the lot is subdivided.

Mr. DiBerto asked if test pits would be required since they would not be installing a septic system for the Atlantic Broadband use. Chair Avery said the Board would have to decide that, but without test pits showing that the lot could support a septic system, the lot would be non-conforming and the Board does not normally approve non-conforming lots. Member Green mentioned the applicant not wanting test pits could cause an issue later down the road.

Member Green asked if the applicant intended on installing a water supply. Mr. DiBerto answered; he didn't think they would be installing a well. He felt they would only install power.

Member Green asked if electrical and cable utilities would be underground. Mr. DiBerto said they would be installed underground along the road from the proposed structure to Route 155, so there would not be any more poles.

Member Goodnow asked if there was already a house on the property and if it was a separate owner. Mr. DiBerto said yes there was a house and that he was the current owner. He informed the Board that he would remain the sole owner of the house on the front lot and the back lot would be for Atlantic Broadband.

Member Card asked Mr. DiBerto if he would gain anything from this project. He asked if Atlantic Broadband would be purchasing the land to build this project. Mr. DiBerto answered yes they would be purchasing the parcel to build on.

Consultant Durfee asked if there was road frontage and if the deed provided access to the proposed new lot. Mr. DiBerto responded yes to both questions. Chair Avery asked the Board if a private road counted for frontage. Since the ordinances do not specify, the consensus was that private roads would most likely count.

Consultant Durfee also asked if Atlantic Broadband was a private or public utility. Mr. DiBerto responded it was private.

Regarding using wetland mapping form 2001, Chair Avery asked Consultant Durfee how long wetland mapping is good for. She responded that she believed it to be five years per a DES reference to state regulations. Chair Avery informed the applicant that he would probably need the parcel remapped due to that time limit.

Member Green asked how close to the railroad the building would be. Mr. DiBerto responded by showing him on the map and stated it wasn't that close.

Member Green asked what the time line would be for this project. Mr. DiBerto answered they wanted to move as soon as possible. He said that he was here tonight to give the engineers answers on what they would need to speed the process up.

Member Green informed the applicant they should get an opinion from the fire chief regarding the width of the road for the access of emergency apparatus and equipment. Chair Avery added that the applicant could contact the Fire Department directly.

Chair Avery mentioned the question regarding whether Atlantic Broadband is a public utility or commercial operation would need to be decided. Consultant Durfee answered that she didn't believe there was a particular ordinance deciding this. She said her own opinion is that it is a commercial use not public utility. The Board discussed this question and offered that this is most likely a commercial activity and would therefore require a variance from the ZBA.

The Board also informed the applicant that the property lies in the Wellhead and Aquifer Overlay District and that the district's requirements would need to be considered in the application.

Chair Avery asked if Mr. DiBerto or Atlantic Broadband would submit the Site Plan for the Atlantic Broadband building that would be required after subdivision. Mr. DiBerto indicated that he would.

Mr. DiBerto inquired about a joint Planning Board – ZBA hearing. Consultant Durfee commented that if the applicant wanted a joint hearing he should request it as that's not something the Board would initially request.

#### **7. Public Hearing: Updates to Madbury Subdivision and Site Plan Regulations**

Chair Avery read the instructions for a public hearing to the Board. He then read the public notice to the Board and explained that the changes update Subdivision and Site Plan submission requirements to include identifying all overlay districts and required variance/permits. He said that the goal is to not have these as memory items for the Board when reviewing applications and also to remind applicants to consider these when applying. He then read the language to be added to the regulations.

Member Green said that he felt applicants may not understand what the changes mean by themselves, but that they ought to know. Chair Avery answered that the changes are not stand alone but will be added to the existing submission sections of the regulations.

7:42 pm Chair Avery asked the Board, Contract Consultant, and public if there were any other questions comments. There were none.

7:42 pm Chair Avery closed the discussion and called for a vote.

**Motion** to approve the changes as presented by Member Green. **Seconded** by Member Goodnow. **Member Vote:** Burbank - Y, Goodnow - Y, Green - Y, Card - Y, Avery – Y. **Motion Approved.**

**8. RSA 675:6 Certification: Updates to Madbury Subdivision and Site Plan Regulations**

In accordance with the RSA 675:6, all members of the Board physically present at the meeting signed a certification of the just passed Sub Division and Site Plan updates. Chair Avery indicated that the signed certifications will go to the Town Clerk.

**9. Other New Business:**

Chair Avery suggested that, for legal reasons, it might be advisable for each member to get an email account (e.g., a Gmail account) reserved for their Board activities and to try to not use a private email account. Member Burbank asked if members' personal emails are posted to the Board's website. Chair Avery said they are not and that only the Chair's "MadPlanBoard" account is posted.

**10. Other Old Business:**

Chair Avery informed the Board that LandCare has a meeting scheduled with DES next week. He also informed the Board that the proposed apartment complex expansion across from Town Hall Road had requested a preliminary for the next meeting.

Chair Avery announced that OSI's online Spring Planning and Zoning Conference was scheduled for next Saturday and that it is a good opportunity for free planning board training.

Member Green asked Chair Avery the status of printing the updated land use book and when it would be out for review. Chair Avery said that with the updates completed at this meeting, the book could now be readied for publication.

Meeting Adjourned 7:50 pm

**Meeting Attendees:**

Peggy Wolcott – Old Stage Rd

Robert DiBerto

Scott Bartholomew – Headend Engineering, Atlantic Broadband

Respectfully submitted by Laurie Plantamuro