



# MADBURY PLANNING BOARD

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## Approved

### OFFICIAL BUSINESS

**Minutes of:** July 21, 2021

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

**Members in Attendance:**

Mark Avery - Chair  
Tom Burbank  
Michael Card  
Fritz Green - Ex Officio  
Doug Hoff  
Bevie Ketel - Alternate

**Support Staff:**

Laurie Plantamuro - Recording Secretary  
Elizabeth Durfee - Contract Planner

**1. Seating of Alternates:**

Member Ketel was seated for Member Goodnow.

**2. Approval of Minutes:**

The minutes from July 7, 2021 were reviewed. **Motion** by Member Green to accept the meeting notes with changes discussed. **Seconded** by Member Hoff. All Aye. **Motion Approved.**

**3. Correspondence:**

None

**4. Preliminary Consultation:** 326 Knox Marsh Road (Map 8, Lot 1G).

The consultation included consideration of: **(a) subdivision** of the existing lot into two lots, **(b) site plan** for the resulting new lot to accommodate a building to house Atlantic Broadband telecommunications equipment, and **(c) Conditional Use Permit** for a temporary wetland crossing during the buildings construction.

- *Robert DiBerto, Owner*

- *Chris Berry, Berry Engineering, Engineer*

Mr. Chris Berry of Berry Engineering introduced himself and informed the Board of the project.

The proposal is to subdivide the existing lot into two lots and install a telecommunications equipment building of about 925 square feet on the new back lot. It will be an unmanned building with only occasional visits for maintenance. The building will have no windows or water supply. Mr. Berry also told the Board that they had conducted test pits on both lots, though there is no sewage disposal as part of this proposal

He also said that one issue with the subdivision is that new lot does not have frontage on a public road as required by the zoning ordinance. He said that there is frontage on a private road off of Route 155 and that the current lot has a 50 foot wide right of along that private road. He stated that this right of way would be extended along the entire new lot, to provide road frontage and guaranteed access to the new lot. He went on to say that they are requesting a variance

from the Zoning Board to grant relief to the definition of frontage and allow a private road to count.

Mr. Berry stated that the second portion of the application is the site review for the equipment building and that this would be a commercial use. He offered that this use would require a variance from the Zoning Board since the property is in the Residential Agricultural District.

He also mentioned that a conditional use permit for temporary crossing of a wetland buffer may be needed for the installation of underground utilities from Route 155 to the proposed building.

Member Green asked Mr. Berry who would plow the private road. Mr. DiBerto responded by saying everyone on the street pretty much takes turns and plows the road when they can.

Member Green asked Mr. Berry if he had spoken to the Fire or Police Chief. Mr. Berry responded that he hadn't as of yet.

Member Burbank asked Mr. Berry if there were any additional structures going on to the property. Mr. Berry answered no; it would just be the 925 square foot structure. However, a 6 foot tall vinyl fence was proposed to go around the building. He noted that it would be screened by plantings.

Member Green asked for confirmation that there were no windows, no inhabitants, no septic, etc. on the building and Mr. Berry agreed. Mr. Berry also mentioned that Atlantic Broadband would probably only send a technician about once a month to check the relays.

Chair Avery asked if there would be outdoor lighting. Mr. Berry said they didn't intend on lighting the outside of the building. Chair Avery advised that the emergency services may want to have lighting, even if only a motion light.

Member Ketel asked if they were not concerned about hazards, then why they are recommending a fence. Mr. Berry responded just to keep people away as there are mechanical pads and they just wanted to make sure no one could have access.

Member Green asked who would be using the private road besides Atlantic Broadband. Mr. Berry answered that the DiBertos as owners of the adjoining lot (8:1) and a third user on the western side of the property at the Old Railroad Depot would use the road. Mr. DiBerto offered that the road is currently gated as it heads toward the old greenhouses location. He said that gate could be kept in place to limit access to the Atlantic Broadband facility.

Member Green asked if, other than that, is it in every other aspect considered a town road. Mr. Berry responded it wasn't as wide as a town road.

Chair Avery informed the Board for the record that when the Route 155 Bridge over the train tracks went in, NH DOT replaced the existing access to the old depot and the Elliot Rose property with the current private road under discussion.

Chair Avery also asked Mr. Berry if there was a water line that runs through the property. Mr. Berry responded yes there is; however, the water line was capped over time. Chair Avery recommended that they contact the water board as the Town may have an easement on the line.

Member Green asked Mr. DiBerto if he remembered the water line that ran from the Bellamy River to the old Eliot Rose facility. Mr. DiBerto said that line was discontinued and cut off. He said that was done by the town almost 20 years ago. Member Green asked if he started digging and they hit that line, would they have any issues. Mr. DiBerto responded that it wouldn't make any difference. Chair Avery urged Mr. Berry to speak to Mr. Fiegenbaum of the Water Board regarding that line and possible easements.

Mr. DiBerto asked if the Zoning Board and Planning Board could meet the same evening in a joint session to discuss these requests. The Planning Board did not disagree with this request. Chair Avery said he would ask the Zoning Board if they would like to join.

Member Burbank asked what the stockpile area was on sheet 9 of the plan. Mr. Berry responded that it would be a dedicated area where the contractor would store materials and that it would all be removed when construction is complete.

Finally, the Board reemphasized the need to speak to the Fire Chief and ask about access and turnarounds in case of an emergency.

Chair Avery closed the 326 Knox Marsh Road discussion and asked Mr. Berry, since he was there, if he would like to comment on the latest LandCare Site Plan info. See below for Mr. Berry's update.

**5. Discussion:** Zoning Ordinance Interpretation

***What constitutes mixed use (i.e. commercial and residential on the same lot)?  
Does Infrastructure (i.e., septic, well, etc.) serving a commercial activity count as commercial use?***

The board discussed what constitutes commercial use and its presence on residential lots. The goal was to determine when a mixed use might be present. The Board considered if basic infrastructure (septic, well, etc.) for a commercial use alone could be considered commercial use. The board used the Dell Isola proposal as an example but made no final decisions regarding that proposal or on the general question.

**6. Other New Business:**

None

**7. Other New Business:**

***Gerrish Lane (Durham) Subdivision:*** Chair Avery informed the Board that the applicants have progressed in Durham and are ready to return to the Madbury Board for consideration of the Madbury portion of the project. Chair Avery said that there do not appear to be any significant changes in the Madbury portion since the last update. Date of the meeting is TBD but likely in September.

Member Burbank asked the Board if he should consider recusing himself from that meeting as he is familiar with the applicants through his work. Chair Avery asked Member Burbank if he had a vested interest in the project and/or worked for the applicant. Member Burbank responded no, that he works with the applicant. Chair Avery told Member Burbank that it doesn't seem to be a problem but it would be up to Member Burbank to make that choice.

***LandCare Site Plan:***

Mr. Berry started the discussion representing Land Care regarding some plans on how they could develop their site so that it would flow better with the shorelands of the Bellemy River. They brought it to DES and after review; they decided not to pursue this site for this plan use. He was asked to develop a new site plan and Land Care would look further for a new site for their proposal to expand the business. Mr. Berry said they were going to submit a new site plan that would be more effective for this property.

Meeting Adjourned 7:57 pm

**Meeting Attendees:**

Eric Fiegenbaum  
Mr. DiBerto  
Mr. Berry

Respectfully submitted by Laurie Plantamuro