



# MADBURY PLANNING BOARD

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Approved

## OFFICIAL BUSINESS

Minutes of: September 1<sup>st</sup>, 2021

Meeting Convened: 7:00 p.m.

### Members in Attendance:

Mark Avery – Chair  
Tom Burbank  
Michael Card  
Fritz Green – Ex Officio  
Marcia Goodnow – Vice Chair  
Doug Hoff  
Casey Jordan  
Bevie Ketel – Alternate

### Support Staff in Attendance:

Elizabeth Durfee – Contract Planner  
Eric Fiegenbaum – Town Administrator

## Agenda

### 1. Seating of Alternates:

None.

### 2. Approval of Minutes:

The minutes from August 18<sup>th</sup> 2021 were reviewed. **Motion** made by member Green to accept the minutes as amended. **Seconded** by member Burbank. All Aye. **Motion approved**

### 3. Correspondence

No Correspondence.

### 4. Public Hearings (Continued From August 18<sup>th</sup>) - 356 Knox Marsh Rd. (Map 8, Lot 1G)

- Robert DiBerto, Owner
- Chris Berry, (Berry Engineering), Engineer

The applicant requested that the public hearing be continued to the next meeting. **Motion** made by Member Green to continue the hearing on September 15<sup>th</sup> at 7:00 pm. **Seconded** by Member Jordan. All Aye. **Motion Approved.**

### 5. Public Hearing - Madbury portion of The Crossings Subdivision, 91 Baghdad Rd., Durham NH (Madbury Tax Map 9 Lot 32)

- Michael and Martha Mulhern, Owners
- Mike Sievert, (Horizons Engineering) Engineer

Before opening the public hearing, Chair Avery explained that based on state RSAs, our ordinances may not have jurisdiction over this application. He asked the board to view and interpret RSA 356-B as the town of Madbury does not currently have ordinances explicitly concerning condominiums. Planner Durfee was uncertain if the board would be able to approve anything without proper language

in our ordinances.

Member Goodnow asked if the owners of the condominiums have land rights. Mr. Sievert answered that each owner would have land rights immediately around their houses and would share 1/18th ownership of the overall land area.

Member Green asked if there is anything in the RSA saying that a town that has no such ordinances cannot regulate condominiums. Planner Durfee was not clear on the interpretation and suggested reaching out to the town lawyer; however, she noted that the intent of the RSA was not to prevent permitting and regulation of condominiums.

Chair Avery offered that the last sentence of Madbury's definition of subdivision may cover condominiums. Member Hoff noted that in the past that language was developed for cluster site development. He also noted the need to keep language clear and clean so that this issue does not end up in court.

Member Jordan said that based on the documents reviewed and prior law the regulation has to condominium in it. Further, he noted that it is unclear what we have authority to discuss since there are no homes being built on Madbury land. Chair Avery recognized Member Jordan's concerns and noted that we only have input on the Madbury portion of land and issues concerning Madbury.

Martha Mulhern asked if we have regulation of cluster housing and if those ordinances could be used for this situation. Member Hoff noted the differences between the cluster housing and a condominium development and how those rules are unique for a cluster development.

Based on the Board's discussion, Chair Avery found that the consensus of the Board was to not open the public hearing at this time and that further review from the town attorney would be appropriate. He also noted that a rescheduled public hearing would be to be renoticed.

The board then offered the applicants the opportunity to present their proposal as a preliminary consultation and Member Green asked Mike Sievert for a review of the progress.

Mr. Sievert presented the conservation subdivision of 16 acres, 2 of which are in Madbury. The land in Madbury is needed to meet density requirements but will be conserved in perpetuity. There will be 18 units. He indicated that there has been extensive work in minimizing impacts including stormwater design, impervious surfaces, and super elevating the road. The road is private and the condominium association will care for the maintenance of the road and land. There will be municipal water, no wells, and a hybrid septic system in which a low pressure system will feed effluent into the Durham sewer system. The applicant indicated that they are about 75% through the Durham permitting process and are awaiting state permits.

Member Green asked if the road will be built to state standards. Mr. Sievert explained that the roads will meet Durham construction standards but will be narrower in order to minimize impacts.

Member Green asked about the location of the brook in Madbury that is fed by the wetlands in the Durham portion of the project and Member Ketel asked for clarification of the flow of water and its filtration. Mr. Sievert showed the location of the brook and the flow of water. He also noted that

Mark West, a wetland scientist, reviewed and analyzed the wetlands, as this was necessary for wetland permitting and showed how runoff would be treated before entering the wetlands.

Member Burbank asked about the grade difference and how much is natural vs. changed for the road. Mr. Sievert noted that very little grade is from the road, most of it is natural.

Member Goodnow asked about the scale of the homes. Mr. Sievert said that the homes would be about 1600-2200 sq ft.

Member Jordan noted that the first review of this development had an aggressive road grade and asked if this is still the case. Mr. Sievert showed that the road is now located less in Madbury and the grade is more typical but will be tilted to direct water runoff into the developed area and away from Madbury.

Consultant Durfee asked if they will be dumping snow in Madbury and noted the need for a 75' shoreline buffer on the map. Mr. Sievert noted that they had put a 50' buffer, but will look into the 75' buffer, and that there is no plan to dump the snow into Madbury.

Chair Avery noted that we will be sending our questions regarding jurisdiction to the town attorney and that going forward, we would like to see paperwork showing there will be no development in Madbury, no Madbury responsibility for road maintenance or services, and a detailed plan for maintaining the stormwater management system.

**6. Other New Business**

None.

**7. Other Old Business**

Chair Avery noted the passing of Wally Dunham, long time member and former Chair of the Planning Board

**Meeting Adjourned: 8:10**

**Attendees:**

Bill Berndtson,  
Pattie Dellisola  
Michael Mulhern  
Marti Mulhern  
Janet Wall  
Mike Sievert

Respectfully Submitted by Michael Card