



MADBURY PLANNING BOARD

13 Town Hall Road, Madbury NH 03823

Tel: 603 742-5131 • Fax: 603 742-2502

Approved

OFFICIAL BUSINESS

Minutes of: April 6th, 2022

Meeting Convened: 7:00 pm

Members in Attendance:

Mark Avery – ex officio
Tom Burbank
Michael Card
Doug Hoff - Vice Chair
Casey Jordan
Bevie Ketel

Support Staff:

Elizabeth Durfee - Contract Planner
Eric Fiegenbaum - Administrator

1. Seating of Alternatives

None Seated. Bevie Ketel announced as a regular member.

2. Approval of Minutes

The minutes from 02/16/2022 were reviewed. **Motion** made by Member Avery to accept the minutes as amended. **Seconded** by Member Jordan. All Aye. **Motion approved.**

3. Correspondance

None

4. Subdivision Preliminary Consultation - 14 Huckins Rd. (Lot 1-16)

- Zeland Schwartz (Owner)

- Kevin McEneary McEneaney Survey Associates (Engineer / Representative)

Vice Chair Hoff presented Kevin McEneary to discuss the possible subdivision of 14 Huckins Rd.

Mr. McEneary noted that there are 21 acres that would be divided into 4 lots. Test pits were conducted and they all passed. He will be asking for relief for wetland impacts for 3 driveways.

Planner Durfee recommended the applicant look over Zoning Article IV, Section 7 for stipulations for minimum qualifying area for each lot. She added that wetland and shoreland overlay district's setbacks should be noted on the plan. The land in the flood plain should be the 10yr floodplain reference and noted on the plan and subdivision wetland regulations should be reviewed. She also noted that in the past

the board has wanted proposed house and driveway locations and that driveways should show 200 feet of sight distance. Finally Planner Durfee noted it would be helpful to see more of the abutting lots to make sure those abutters are notified of the public hearing.

Member Avery notified the applicant that they would need to apply for Conditional Use Permits (CUP) for the wetland crossings.

Vice Chair Hoff noted the receipt of test pit data and letter from Mitchel Como.

5. Lot Line Adjustment and Conditional Use Permit Public Hearing - 8 Jenkins Rd. (Lot 1:14C)
- Parker Eastman (Owner)

Vice Chair Hoff read the rules for the public hearing and then the public hearing notice. He then looked at the application for completeness by reading through the lot line application checklist with board members checking off the items.

Motion made by Member Avery to accept the application for consideration. **Seconded** by Member Burbank. All Aye. **Motion passed.**

Applicant Parker Eastman noted that he is requesting a CUP for a driveway crossing of wetlands. He noted there is a 16" culvert planned for water drainage. He also stated that the plan is the minimal impact for a wetland driveway crossing and has already received a State permit.

Mr. Eastman also presented a Lot Line Adjustment application in order to also request a waiver to the requirement for underground utilities for 700 feet of power lines. He indicated that the application makes no other changes to the last Lot Line Adjustment made in 2017. Mr. Eastman explained that he needs the relief for economic reasons. He added that the lines are not visible from neighbors and would not alter the look of the neighborhood.

At 7:15 Vice Chair Hoff opened the hearing to public comment. Justin Corrow noted that in the past buried conduits can fill with water when buried in wetlands and above ground will look acceptable with this property.

At 7:16, seeing no other commenters, Vice Chair Hoff closed the public comment period.

Member Jordan noted that there was no opposition and the waiver makes sense. Member Avery noted that the waiver requirements of Subdivision Regulations, Article III, Section 2 should be met. At that time Vice Chair Hoff read through Section 2' waiver requirements.

Motion made by Member Jordan to approve the LotLine Adjustment as presented with a waiver of underground utility lines. **Seconded** by Member Card. All Aye (6-0). **Motion passed.**

Motion made by Member Jordan to approve the conditional use permit as presented. **Seconded** by Member Burbank. All Aye. **Motion Passed.**

6. Site Plan Public Hearing Continuation - 10 Lee Road Apartments LLC, 10 Lee Rd. (Map8, Lot 9)

- *John Chagnon, Ambit Engineering (Owner's Agent)*
- *Derek Durbin, Durbin Law (Owner's Agent)*
- *Sean Peters and James Petrovitsis (Owners)*

Vice Chair Hoff noted that this is a pre-existing non-conforming site plan public hearing continued from March 2nd 2022.

John Chagnon noted that he read through the Planner Durfee's latest memorandum and has revised the plans accordingly. He presented the changes since the last meeting. These changes include deleting the special exemption language from the plan until approved, changes to the emergency access entrance to the site, adding a location for a standard 30,000 gallon cistern, providing turning templates for Durham Fire Department's Ladder 3, reaching out to the police chief, addressing removal of waste during construction, requiring landscaping completion within 1 year of receiving a Certificate of Occupancy, adding a storm water inspection form, and acceptance of 3rd party storm water review.

Member Avery noted the Board's receipt of a police chief approval memo.

Planner Durfee asked about the location of the cistern as it seems the utilities are in the same place as the cistern. Mr. Chagnon noted that they rerouted the underground utilities affected by the cistern.

Mr. Chagnon noted the emergency gate will have a knox box as well as a clicker. He also noted minor grading updates required for DOT's approval of the new main entrance. He also provided fire truck turning radius plans and ids now just waiting on Fire Chief approval for the truck turning radius plan.

Mr. Chagnon then noted the aspects that could be conditions for approval.

The applicants and the Board then discussed the access easement over Town owned land. Planner Durfee confirmed that the applicant would be responsible for paving, maintenance and snow plowing of the easement area. She also highlighted the need to discuss liability with the Selectmen. Member Avery noted the need for the town attorney the look through the agreement.

Derek Durbin noted that they will not be seeking zoning board special exception approval until they get planning board approval.

Vice Chair Hoff asked Planner Durfee about the need for a letter of approval from the Fire Chief. Planner Durfee noted that per Site Plan Regulations an approval letter is needed before even a Conditional Approval can be issued. She suggested that a waiver would be the only avenue in order to proceed. Vice Chair Hoff noted the last email from the Fire Chief indicated that he was looking for a fire inspection review.

Vice Chair Hoff then asked Building Inspector Justin Corrow about his familiarity with a project of this

size and his comfort in overseeing the project. Inspector Corrow noted that he is comfortable with this size project; he would just need to make more visits to the site. Member Avery asked Inspector Corrow if it is correct that Shanti Wolph, Portsmouth Chief Building Inspector, sometimes helps in Madbury and that he may be available to help with this project. Inspector Corrow indicated that that is correct.

The board began making a list of possible conditions for approval and discussed issues that need to be resolved. Member Jordan confirmed that a Knox box would be used along with the clicker for emergency access to the site. He also asked the board whether we would rather wait for the 3d party review instead of making it a condition for approval.

The board discussed if the needed address change should be a condition. Administrator Feigenbaum noted the process of an address change.

The board discussed how to word a condition of approval in order to be able to utilize the 3d party storm water review after site plan approval. Vice Chair Hoff suggested the board would review the 3d party review within 30 days to report recommend changes.

Vice Chair Hoff asked about the access easement language and the progress of the selectmen signing off. Administrator Feigenbaum noted that the applicants are just adding the snowplowing and maintenance language updates and that the easement would be on the next Select Board agenda.

The board then began the process of figuring out its comfort level of not having a letter of approval from the Fire Chief. After discussion, James Petrovitsis explained that, based on his conversation with the Chief, the Chief had not been aware of the applicant's intention to have the building sprinkled and the addition of a cistern and that they just sent the Chief the truck turning radius schematic. They believe with these additions the Chief would content.

Vice Chair Hoff suggested that the Board could either waive the requirement to have a letter before approval and make its subsequent receipt a condition of approval or the Board could continue the hearing to the next meeting. Member Jordan noted that we would likely have both the 3d party review and the Fire Chief letter of approval in 2 weeks. Planner Durfee helped the board with language to waive the letter of approval while still making the letter a condition of approval. Member Avery read Article VII, Section 11 and Article XII, Section 3 after receiving a handwritten waiver request from Mr. Chagnon.

Motion made by Member Avery to wave Article VII, Section 11 requiring that we have the Fire Chiefs approval prior to site plan conditional approval. **Seconded** by Member Burbank. All Aye. **Motion Passed.**

Motion made by Member Jordan to approve the site plan as proposed with conditions that:

- A Special Exception for the expansion of non-conforming use be approved by the Zoning Board.
- Copies of all required State permits be submitted.
- The third party review conducted by Tom Ballestero be received and reviewed by the Board at a Compliance Hearing with the applicant within 30 days of it being submitted.

- A signed copy approving the easement from the Town for the new entrance on Madbury Road be received from the Select Board.
- Landscaping as detailed on the site plan be completed within 1 (one) year of receipt of a Certificate of Occupancy and pictures confirming the completion be submitted to the Board.
- A note be added to the site plan stating that a written waiver from the requirement of Article VII, Section 11 of the site plan regulations was approved by the Board.
- Letter be received from the Town Fire Chief confirming his approval of the site plan.

Seconded by Member Ketel. All Aye. **Motion Passed.**

7. New Business

Vice Chair Hoff noted that Portsmouth water supply may be meeting with us. The board will also be reviewing the town's solar plan for municipal buildings.

Member Jordan pointed out that progress does not seem to be being made with bringing LandCare into compliance with Zoning and Site Plan requirements and suggested that enforcement actions may be needed. Member Avery noted that there have been issues with the Select Board's enforcement in the past but that the selectmen have the ability to help with compliance. The Board agreed that there has been a lack of compliance by LandCare.

Motion made by Member Jordan to request the Select Board consider enforcement against LandCare since it is not in compliance with its approved site plan. **Seconded** by Member Card. All Aye. **Motion Passed.**

Vice Chair Hoff will provide a note to the Select Board regarding this.

8. Old Business

Planner Durfee noted that she submitted the application for Floodplain ordinance review assistance.

Meeting Adjourned at 9:40

Meeting Attendees:

Mike Lawrence
 Leah Eastman
 Parker Eastman
 Bill Janelle
 Kevin McEneary
 Andrew Losee
 James Petevitis
 Sean Peters
 John Chagnon
 Justin Corrow
 Derek Durbin

Respectfully submitted by Michael Card