



MADBURY PLANNING BOARD

13 Town Hall Road, Madbury, NH 03823

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Approved

OFFICIAL BUSINESS

Minutes of: September 7th, 2022

Meeting Convened: 7:00 pm

Members in Attendance:

Marcia Goodnow - Chair
Douglas Hoff - Vice Chair
Mark Avery-Ex Officio
Michael Card - Secretary
Thomas Burbank
Casey Jordan
Beverly Ketel

Support Staff:

Elizabeth Durfee - Contract Planner
Daphne Chevalier - Recording Secretary

Meeting Attendees:

Andrew Losee - 16 Huckins Rd
Bill Taylor - 242 Littleworth Rd
Steve Haight - CivilWorks
Jase Gregoire - CivilWorks

1. Seating of Alternates

None

2. Approval of Minutes

Motion made by Member Hoff to accept the minutes as amended for August 17th, 2022.

Seconded by Member Jordan. **Motion passed unanimously.**

3. Correspondence

Chairwoman Goodnow shared the following correspondences received by the board: the requested homeowner's manual, new map, sample deed, and updated Fraggie Rock report.

4. Subdivision and Conditional Use Permit Public Hearing, continued from August 3rd, 2022: 14 Huckins Road (Tax Map 1, Lot 16)

Chairwoman Goodnow resumes the public hearing at 7:14 p.m. and reviews the procedures for a public hearing.

Mr. Gregoire updated the board, stating he received yesterday the memo from Ms. Durfee and today submitted the wetlands application to the state, including mappers, NHB data check application, and plans. The only major changes were those requested by the board.

Ms. Durfee reports the most significant change is from four to three lots. She reviewed the plans and highlighted remaining concerns: 1) the language in the educational packet implies the best

practice items are optional recommendations yet the plans indicate they are requirements, and 2) there exists conflicting information about salt usage. Ms. Durfee indicated that the updates address major concerns about the impact on wetlands and the reservoir, as well as the no cut zone issue. She recommends coordinating with the selectmen on potential violations, perhaps with the location of the shed.

A discussion was held about the use of salt on the property. Mr. Gregoire states the educational packet was worded this way because those items are codified on the plans to provide options in case recommended ones are not available. Member Jordan references the memo from Portsmouth as support for not offering salt usage as an option.

Chairwoman Goodnow requests moving forward that ten copies of documents be provided to the board a week before meetings, including 11x17 copies of maps.

Member Jordan expresses concerns about a conflict with the details around endangered species.

Chairwoman Goodnow addresses the concerns about the no-cut zone have been addressed in the packet, which states twenty-five no-cut placards will be staked before construction commences. Mr. Haight states these signs will be posted either on a tree or on a placard staked in the ground. Member Avery asks about the verbiage on the signs. Mr. Haight says they signs will say something similar to the language used in neighboring towns: "Conservation area no cut buffer."

Member Avery has concerns about the shed (3-season porch) and is in consultation with a lawyer about potentially moving forward with some type of enforcement.

Member Hoff asks for a review of the process so far. Mr. Haight reviews the steps the Zeland Schwartz Trust have taken so far. Member Hoff asks a clarifying question about the final plans. Mr. Haight confirms these are not the final plans.

Member Hoff asks about the drip edge addition Ms. Durfee asked about. Mr. Gregoire said information about maintaining the drip edge can be added to the packet.

Member Avery requests the 15' setback line also be listed in addition to the most restrictive 50' setback line. Mr. Haight said it should not be an issue to add that line.

Chairwoman Goodnow addresses concerns about the driveways and wants to make sure homeowners know they cannot move driveways. Mr. Haight states he will add on the subdivision plans that any changes would require planning board approval.

Ms. Durfee suggests the planning board have a conversation with the road agent, as it is the road agent's responsibility to ensure that what is approved by the planning board is what occurs.

Chairwoman Goodnow opens for public comment, including abutters, to speak in opposition. No public members come forward. She calls on those who wish to speak in support. No public members come forward. She calls on any who wish to speak to this issue. Mr. Losee, 16 Huckins

Road, comes forward to express concerns about issues with the ice and dynamic water flows in the area, sharing photos of the area. He is concerned the wetlands beyond the plans are not plotted on the map. He questions if enough has been done to make sure the culvert design is satisfactory. Mr. Losee states he is not opposed to the plan, but wants to be sure the impact on the wetlands is minimized. He further expresses concerns about the underground utility through the driveway and asks if the grades are calculated such that the codes will be met for the required depth of the utilities. He requests that the planning board thoroughly review the standards memo wetlands application section on avoidance and minimization checklist. Mr. Losee also addresses the character of the neighborhood and the shared driveways that already exist in an attempt to avoid the wetland flow and points to the July 17th, 2020 water board's comments to consider using shared driveways to minimize wetlands impact. Mr. Losee expresses concern that CivilWorks has not adequately addressed the concerns about the culvert issue. He further expresses concern that the shared driveway will be used for construction, which leads to wear and tear on the abutters' driveway. He asks if the subdivision is not allowed to use salt, does this mean the shared driveway would not be allowed to use salt? Member Jordan said if it is being enforced for the subdivision, it would apply to the shared driveway. Ms. Durfee states the board can't change an existing agreement.

Mr. Haight asked the record to show Abutter Losee is opposed to the project. Chairwoman Goodnow points out that the abutter did not stand to speak in opposition or support but as "other."

Chairwoman Goodnow closes the public hearing at 8:05 p.m.

Chairwoman Goodnow asks if the Fraggie Rock letter addresses Zoning Ordinance Article 9. Ms. Durfee suggests walking through the conditional use permit (CUP) criteria. Member Jordan would like more details in the letter describing the wetland that would be impacted with more support for the assertions made in the letter. He would like to know specifically what's being impacted, how it is impacted, and the level of low wetland function and values based on the other wetlands in the area. Mr. Haight asks if it would be helpful to have Fraggie Rock here to be able to speak to the board's concerns. He will ask Fraggie Rock to come to the next meeting.

Chairwoman Goodnow says she was looking for something simpler, something along the lines of "minimal adverse effect." She asks if the board can postpone discussion of this issue until the next meeting.

Member Avery asks the abutters present if they get ponding on the road. Mr. Haight said he was talking about the shared driveway. Member Avery is looking for more clarification about that issue, especially as it may relate to road maintenance. Mr. Haight said for the record Fraggie Rock is not talking about the road at all.

Ms. Durfee said there are two sections to review, one in general and one in wetlands, and doesn't think the board has walked through all the criteria in both of those sections. Chairwoman Goodnow reads from the Description of Proposed Application of use. Ms. Durfee says the general zoning ordinance language is slightly different than in the checklist.

After review of the Zoning article 9 section 8 checklist, Chairwoman Goodnow says the criteria has been met but not quite satisfactorily yet, as the board is requesting more information. She addresses the letters from the conservation board, which suggested considering shared driveways, a recommendation made when three houses were being proposed. She asks if the board agrees the recommendations from the conservation board have been addressed by Zeland Schwartz. Member Jordan expresses concern with the language in the deed as it pertains to pesticides, herbicides, and salts; the language is not as strong language as recommended by the conservation board. Ms. Durfee says there is quite a bit of information in the educational document. Mr. Haight says an attorney wrote the deed to make sure it aligns with the manual. Member Jordan's concern with the language is that minimization versus prohibition in the deed could lead to issues in enforcement. A discussion was held about the language about the prohibition of pesticides, herbicides, and salts being included in the deed instead of the deed referencing the homeowner's manual. Mr. Haight says future buyers would need to research the limitations before a new owner purchases that property. Chairwoman Goodnow said multiple copies could potentially be housed at the town to pass on to subsequent homeowners.

Recommendations by two committees have been addressed. Member Hoff says multiple parties have raised concern over the fertilizer, herbicide, and salt and therefore he believes the language provided by Portsmouth should be directly stated in the deed. After further discussion, Chairwoman Goodnow says she will send Mr. Haight a paragraph of the exact language that the board would like to have added to the deed.

Chairwoman Goodnow asks what the board would like to accomplish at the next meeting. Member Avery asks about conditions being placed on approval as it relates to correcting current violations. Ms. Durfee suggests asking the attorney about this. Chairwoman Goodnow needs to clarify the issue around the current violations. Member Hoff said he will make the Scribner items updates from Ms. Durfee and the deed verbiage so there will be a complete updated document.

Chairwoman Goodnow asks for a list of outstanding items for next meeting:

- Fraggie Rock will attend the next meeting for clarification around zoning ordinance article 9 section 8.
- Member Hoff suggests asking the fire chief to review the plan and give us his recommendation.
- Ms. Durfee will read through the Zeland Schwartz responses and bring up any questions in her next memo.
- The board will confirm with the attorney if a condition can be made on this approval.
- Mr. Haight will update the drawings based on Ms. Durfee's feedback, meet with fire chief, and update the language on the deed.

Chairwoman Goodnow calls for a continuance of the meeting.

Motion made by Member Hoff to continue the meeting to Weds. Oct 5th, 2022 at the Madbury Town Hall at 7 p.m.

Seconded by Member Avery. **Motion passed unanimously.**

Mr. Haight confirms that he will send updated documents electronically, will drop off a full size set of plans to Ms. Durfee at the Town Hall, and will bring ten copies to the next meeting.

Member Avery asks Mr. Losee if he would be open to an agreement about a shared driveway. Mr. Losee would need to have a conversation about that.

6. Other Old Business

Member Hoff explains the history of the LandCare public meeting extension to August 3rd. Given the zoning board meeting of July 22nd, LandCare chose not to attend the August 3rd meeting. On August 3rd, no motion was made to continue the public hearing to another day. On the August 17th meeting, the attorney arrived, but that was not a noticed meeting. For the August 17th meeting, they sent in a new site plan application; however, that application was not a new application but a revision. The board needs to take the revision and re-notice all of the abutters with the new plans.

Member Avery suggests we may want to add a design review stage to the process. This allows the board to get into the details without the decision clock running. Member Burbank says it might be helpful to have a checklist to review at the end of each meeting. Ms. Durfee says if 3rd party review is something the board would like, an application wouldn't be complete until that 3rd party review is completed. With a design review, abutters would need to be notified. Member Hoff sees this as something that would benefit the town. Member Avery says the review process could be made for certain sizes or waivable.

Chairwoman Goodnow says the September 21st meeting will be the LandCare issue; she hasn't heard anything about 10 Lee Road at this time.

Chairwoman Goodnow mentions the non-conforming usage on Rt. 155 and will offer that party the Oct 19th meeting to come before the board.

Meeting adjourned: 9:30 p.m.

Respectfully submitted by Daphne Chevalier.