



MADBURY PLANNING BOARD

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DRAFT

OFFICIAL BUSINESS

Minutes of: December 20, 2023

Meeting Convened: 7:00 pm

Members in Attendance:

Marcia Goodnow - Chair
Doug Hoff - Vice Chair
Tim Burt -Ex Officio
Michael Card - Secretary
Tom Burbank
Casey Jordan
Andrew Losee

Support Staff:

Elizabeth Durfee - Contract Planner
Daphne Chevalier - Recording Secretary

Meeting Attendees:

Peggy Wolcott, 98 Old Stage Road
Walter Elly, 15 Moss Lane
Pam Kent, 5 Cherry Lane
Eric Fiegenbaum, Moharimet Drive

1. Call to Order

Chair Goodnow called the meeting to order at 7:00 pm.

2. Seating of Alternates

No alternates were seated.

Chair Goodnow informed the Board that Greg Merrell has met with the Select Board and been approved as an alternate but has not yet been sworn in.

3. Approval of Minutes

Motion by Member Burbank to accept the minutes for 6 December, 2023 as amended.

Seconded by Selectperson Burt. **Motion passed unanimously.**

4. Review of December 6th Housing Forum (Attachment #3)

Ms. Durfee thanked everyone for attending the housing forum and engaging in the process. Overall, she felt the forum went well and stated the feedback will be included in the Master Plan as an appendix.

Chair Goodnow expressed how important Moharimet Elementary is in creating a sense of community in the town. Member Burbank was also impressed with the level of involvement from those who attended.

Ms. Kent shared that she felt the housing forum was great. She was particularly grateful for a space to add other thoughts that didn't fit into the table discussions. Mr. Elly reiterated Ms. Kent's sentiments.

Member Card shared that there seems to be community events in Madbury for a range of folks, but that for some, it may be difficult to locate those activities. He stated The Madbury Musings doesn't necessarily include all the offerings. Selectperson Burt shared that the new website the Select Board is working on could help get the word out about community activities. He also applauded Ms. Durfee on putting together a successful event.

5. Discussion: Short Term Rentals, "Tourist Homes"

Chair Goodnow shared her research on the issue, including that the NH Supreme Court decided towns are allowed to determine how they want to approach short-term rentals. She invited Ms. Durfee to share her memorandum with the Board. Ms. Durfee shared highlights from her memorandum, including the NH Municipal Association recommendations for short-term rentals and some options for how the regulations could be incorporated. Member Burbank asked if there would be a requirement for existing short-term rentals or if CUPs would only be issued to new short-term rentals. Ms. Durfee said if renters can demonstrate they've been operating for longer (ex: 90 days) than the new ordinance allows, they could be "grandfathered in" and be allowed to operate for that extended time. Selectperson Burt shared that he asked the NH Municipal Association if existing properties would be grandfathered if Madbury implemented a permitting process; they said existing rentals would have to comply with the permitting process. Selectperson Burt recommends having an attorney review anything the board decides to put forward.

Member Card asked about the impact on long-term rentals if the Board regulated short-term rentals under home occupation. Member Jordan expressed his concern about maintaining housing stock for residents. Ms. Durfee shared one of the stipulations Freedom, NH has is that the owner needs to be able to be on the property within an hour. Member Losee shared the Town of Eaton's regulations, which include not allowing short-term rentals if the owner is not on the premises.

Ms. Kent asked if there was a way to consider limiting how many short-term rentals could be within a particular area or if there could be a maximum occupancy set based on the number of bedrooms. The Board discussed if regulating septic systems could also be a way to manage occupancy. Ms. Durfee shared she found an example where applicants were required to draw plans including the number of bedrooms and mode of egress in case of emergency.

Chair Goodnow shared a report from a realtors organization on the Conway court case which found in favor of the property owners. The court ruling found that when there is no clarity in the language, decisions should err in favor of the property owners. Chair Goodnow said this means the Board needs to be conscientious regarding the language it creates for short term rentals.

Chair Goodnow asked what elements the Board wants to include in Madbury's regulations. Member Jordan suggested framing the regulations around the fact that Madbury is a bedroom

community that is not densely populated. Chair Goodnow said much of that is covered under Conditional Use Permits.

Selectperson Burt suggested the board begin by determining whether they want short-term rentals. Then, decide on a definition. This will allow the board to set the specific regulations they want to implement.

The board discussed whether short-term rentals should be allowed in Madbury and determined they should be allowed but regulated.

Ms. Durfee said traditionally a short-term rental is over 30 days, but the Board can define what constitutes a short term rental in Madbury. Member Card suggested banning rentals shorter than 7 days. Member Burbank suggested approaching the regulations from the view of safety and nuisance.

Selectperson Burt shared his STR ordinance proposals. The board discussed the labels of tourist home versus a short-term rental. Member Jordan is in favor of more strictly regulating tourist homes. Mr. Fiegenbaum read the current definition of tourist home and encouraged the board not to abandon that definition. Member Jordan said the board should be very clear about what defines a tourist home. Ms. Durfee said the board should discuss with an attorney the idea of deleting the definition of tourist home and replacing it with short term rental. Chair Goodnow wondered if tourist homes were to be eliminated, what else would the town be eliminating.

Ms. Durfee said short-term rentals are currently not allowed in the civic district and the commercial and industrial district.

The board discussed issues around excessive noise and increased traffic.

Selectperson Burt questioned if it was feasible for the board to develop and propose regulations around short-term rentals and have an attorney review the proposals in the remaining time before the Town Meeting in January. Ms. Durfee said she could draft something that the board could then edit to meet their desires. She said the board could also survey the public to find out what they want. She further said once the board settles on a proposal, it will be important to publicize the language.

Vice Chair Hoff asked if it would be beneficial to email the town attorney to ask for his legal opinion about what the board should absolutely avoid. He wants to hear from the attorney what pitfalls to avoid. Ms. Durfee said it is important for the public to know this conversation is happening before the public hearings.

The board agreed that, though it is disappointing, they would not be able to move forward on a proposed ordinance by the Town Meeting in January. Vice Chair Hoff said it will take a lot of reading and research to do this right. Chair Goodnow will send the board some links, including the NH Supreme Court decision and some of the info on Conway. She asked folks to send her any resources they have that they would like shared with the full board. She will ask the attorney

when he has time for the board, what advice he has for the board, and if the town can regulate any of the items on their list of concerns, including whether the board can delete the current definition of tourist home and what implications there are for doing so. She will also ask the attorney the following: Are there specific guardrails or bounds to redefine it in a more stringent way? Is the phrase “tourist home” passe and is there a more modern or more accurate term the board should use? What general guidance can he provide Madbury based on his experiences working with other municipalities?

Selectperson Burt asked Chair Goodnow to keep Mr. Fiegenbaum posted on her interactions with the attorney so the select board can determine if a more robust attorney is needed for this issue.

6. Adjournment

Motion to adjourn by Member Card. **Seconded** by Member Burbank. **Motion passed unanimously.**

Meeting adjourned: 9:03 p.m.

Respectfully submitted by Daphne Chevalier.