



MADBURY PLANNING BOARD

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Approved

OFFICIAL BUSINESS

Minutes of: July 17, 2024

Meeting Convened: 7:00 pm

Members in Attendance:

Marcia Goodnow - Chair
Casey Jordan - Vice Chair
Mark Avery - Ex Officio
Doug Hoff
Andrew Losee
Michael Card
Greg Merrell

Support Staff:

Elizabeth Durfee - Contract Planner
Daphne Chevalier - Recording Secretary

Meeting Attendees:

Eric Fiegenbaum, 6 Moharimet Dr, Madbury
Pam and Jeremy Kent, 5 Cherry Lane
Don Goodnow, 13 Garrison Lane
Chuck and Beth Goss, 6 Cherry Lane
Scott Reid, 15 Cherry Lane
Tim Martin, 3 Cherry Lane
Walter Elly, 15 Moss Lane

1. Call to Order

Chair Goodnow called the meeting to order at 7:03 pm.

2. Seating of Alternates

Alternate Merrell was seated in Secretary Courtemanche's absence.

3. Approval of Minutes - May 15, June 19, and July 3, 2024

Motion by Vice Chair Jordan to accept the minutes for May 15, 2024 as presented.

Seconded by Selectperson Avery. ***Motion passed unanimously (7-0-0).***

Motion by Member Hoff to accept the minutes for 19 June, 2024 as presented.

Seconded by Vice Chair Jordan. ***Motion passed unanimously (7-0-0).***

Chair Goodnow shared an update regarding the conversation under Other Business from the June 7th meeting: the parents have reapplied and this item is on the agenda for Aug 7th as a reissuing of a previous conditional use permit.

Motion by Member Card to accept the minutes for 3 July, 2024 as amended.

Seconded by Selectperson Avery. ***Motion passed unanimously (7-0-0).***

4. Public Hearing: Consideration of adoption of an updated Housing & Demographics chapter of a revised Master Plan in accordance with RSA 675:6 and 675:7.

Chair Goodnow reviewed the procedures for public hearing and opened the public hearing at 7:14 pm.

Ms. Durfee presented a summation of the chapter, covering data collection, regulatory audit, public input, review of community forum, key issues and planning implications, recommendations, and implementation tracking. She shared next steps should the board adopt the updated Housing and Demographics chapter.

Chair Goodnow asked if permission is needed to include the home photos. Selectperson Avery said as the photos were taken from a public way, approval is not required for the photos to be used.

Motion by Member Card to include Ms. Durfee's name on the acknowledgements page. Seconded by Member Hoff. Motion passed unanimously (7-0-0).

The Board walked through the document with Ms. Durfee and noted edits they'd like her to make. Ms. Durfee shared feedback she received from Town Administrator Fiegenbaum. There was a lengthy discussion around Table 2. 2023 Tax Rate on page 12 about how best to report the data. Ms. Durfee made notes of the changes the board would like to see and will work with Administrator Fiegenbaum on those changes. Ms. Durfee explained that page 29 is new and asked the Board for feedback.

Mr. Fiegenbaum explained his concern about the binding margin. Ms. Durfee recommends a binder with tabs for each section unless the board wants the master plan spiral bound. Because the printing deadline for the chapter is the end of the month, Member Hoff suggested Ms. Durfee print the chapter as she sees fit with the available funding.

Member Hoff expressed concern about the way the permitted uses minimum lot size is presented on page 7. His preference is to be clear about the ordinances around the stated 80k square feet so people don't think they can build whatever they want without limitations when there may be zoning ordinances that limit development on their property.

Chair Goodnow asked if any member of the public would like to speak to the master plan chapter as presented. As no member of the public rose to speak, the public hearing was closed at 8:27 pm.

Motion by Selectperson Avery to adopt the Master Plan Housing and Demographics Chapter as amended and to authorize the chair to approve the updated housing valuation language. Seconded by Vice Chair Jordan. Motion passed unanimously (7-0-0).

5. Preliminary meeting with Tim Martin, 3 Cherry Lane regarding his short-term rental

Though present at the beginning of the planning board meeting, Mr. Martin left prior to agenda item five (5) and was not present for the preliminary meeting. Chair Goodnow shared the purpose of the preliminary meeting was to have an exploratory conversation with Mr. Martin about what he's doing and how he imagines that would fit into the town zoning ordinances. She said the board will invite him to appear before them again. Selectperson Avery stated patience is running thin.

Selectperson Avery shared the Select Board's history and perspective on this matter. He shared that the Select Board has written to Mr. Martin a number of times, talked to the town's lawyer, and talked to Mr. Martin's lawyer regarding the fact that the Select Board believes Mr. Martin may be in violation of town ordinances. The goal is to have Mr. Martin complete an application for home occupation or other application relevant to his activities on the property. The Select Board believes the short term rental is probably legal as a tourist home, which allows for sleeping; however, the Select Board does not believe the use of the barn as a function space is legal as part of the tourist home ordinances. If Mr. Martin wants to ask to use that as a business, he can come before the board to ask to do so. Selectperson Avery explained the Mr. Martin has a band that practices in the barn, which is the primary noise complaint related to the property. The band advertises that they make recordings and have regular gigs (including at the Music Hall later this month), which leads to the question as to whether the commercial production of music is occurring at the property. Selectperson Avery argues if so, that is a home occupation and the owner needs to come before the planning board to petition for the home occupation. The Select Board has also received word that organ repairs may be occurring on the property; if that is a hobby that makes you money, it's a home occupation. He said before the Select Board goes to the courts for a cease and desist, he would like the property owners to come before the board to ask for a fair hearing for a home occupation, as is their right and the best approach moving forward.

Member Hoff said since the preliminary discussion item was on the agenda for tonight, he wonders if the planning board is in the position to send a letter to state that based on the information that was presented to the board this evening, an application for a home occupation may be in order.

Ms. Kent shared that Selectperson Avery covered the big issues. She said the Martins often set off fireworks, which she knows is permitted, but her driveway was covered by debris the morning after. She is concerned about the activity at the property, as she has seen people in gowns going into the barn for functions and catering trucks. She is concerned about what happens next. Chair Goodnow clarified that this is the first time Mr. Martin was on the Planning Board agenda.

Ms. Goss asked how the permitted occupancy number for a short-term rental is calculated. She said if the barn is taken out of the equation, the property is advertised as accommodating a large number of people. Vice Chair Jordan said Madbury doesn't currently have a short-term rental regulation, which is something the board wants to work on. Chair Goodnow explained this issue is fraught with problems and has been overturned in the courts; that won't stop the board from trying to put an ordinance in place, but it won't be easy. Selectperson Avery said the board has

been discussing potentially protecting septic capacities, requiring the number of people not exceed the capacity of the septic tank.

Mr. Goss said Durham has done something along how many beds the listing can have, which might be a precedent Madbury can review. He also suggested possible regulation items could include noise after certain hours, absenteeism of the owner of the house, and septic limitations. Ms. Goss stated she understands Mr. Martin's right to rent his home, but there are some issues of concern currently.

Member Card said from the beginning the activity on the property sounds more like a commercial enterprise than a short-term rental. He believes approaching the use as a home occupation may be the fastest way and also not have a negative impact on others in town who have short-term rentals without neighborhood disturbances or concerns. Vice Chair Jordan agrees that at a bare minimum, a home occupation may be needed.

Mr. Fiegenbaum asked the board if based on the preliminary information they heard tonight, Mr. Martin needs to come before them for a home occupation application. He said Mr. Martin could still come before the board to say the characterization isn't correct. Member Hoff said based on what was heard tonight, the planning board can write a letter stating Mr. Martin needs to come before the board and include a date by which he should do so. Member Hoff wants to be clear the board hasn't made a decision it is a home occupation, but that they've heard enough information at tonight's preliminary hearing to say it *might* be.

Chair Goodnow wants to be clear there was nothing about this being a preliminary discussion about a home occupation. Selectperson Avery said the Select Board's letter did state Mr. Martin should talk about a home occupation.

Motion by Member Hoff to ***authorize*** Chair Goodnow to send a letter to Mr. Martin with regards to tonight's discussion. ***Seconded*** by Vice Chair Jordan. ***Motion passed unanimously (7-0-0).***

6. Other business

Chair Goodnow asked if the board would be in favor of her eliminating the times on the agenda. Member Hoff suggested leaving the times and adding a bullet at the bottom stating the times are approximate. Vice Chair Jordan said it's nice to set expectations for the length of agenda items.

Ms. Durfee shared there is another round of HOP grants due at the end of September. She recommends the board apply for one. Chair Goodnow asked if the board could discuss this at the Aug 7, 2024 meeting. Ms. Durfee suggested the board may want to apply for the grant to work on the vision and land use chapters or any regulatory amendments. She shared there will be info sessions on 7/24 and 8/13 to learn more about the application process.

7. Adjournment

Motion to adjourn by Vice Chair Jordan. ***Seconded*** by Member Hoff. ***Motion passed unanimously (7-0-0).***

Meeting adjourned: 9:08 p.m.

Respectfully submitted by Daphne Chevalier.