



MADBURY PLANNING BOARD

13 Town Hall Road, Madbury, NH 03823

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Approved

OFFICIAL BUSINESS

Minutes of: August 7, 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:

Rene Kahr, 46 Moharimet Drive
Sandy O'Neill, 39 Moharimet Drive

1. Call to Order

Chair Goodnow called the meeting to order at 7:06 pm.

2. Seating of Alternates

Alternate Merrell was seated in Secretary Courtemanche's absence.

3. Approval of Minutes - July 17, 2024

Chair Goodnow said she sent the certified letter discussed in the July 17, 2024 minutes.

Motion by Member Hoff to accept the minutes for July 17, 2024 as presented.

Seconded by Member Card. Motion passed unanimously (7-0-0).

4. Public Hearing: Application for Conditional Use Permit at 46 Moharimet Drive, Madbury (Tax Map 4, lot 19)

-- Applicants: Rene Kahr, Christine Kahr

--Applicants seek a Conditional Use Permit for a changed or expanded Level II Home Occupation. This is a change in the primary ownership of a previously granted CUP for a Home Occupation at this same address. This is in conformity with Article V-B, section 2 of the zoning ordinance.

Chair Goodnow opened the public hearing at 7:09 pm and reviewed the procedures for the public hearing. Vice Chair Jordan walked the board through the application checklist.

Motion by Vice Chair Jordan to ***ACCEPT*** the application as complete. ***Seconded*** by Member Hoff. ***Motion passed unanimously (7-0-0).***

Chair Goodnow summarized the application and introduced Mr. Kahr.

Mr. Kahr stated the original application for the conditional use permit was submitted in 2021 by his son, Brandon, when Brandon was living at home. Brandon has since moved out of state but is still involved in the business. Mr. Kahr explained they didn't realize when Brandon moved out of state, the conditional use permit was vacated. Mr. and Mrs. Kahr changed the structure of the LLC to have multiple owners. Mr. Kahr is applying for a conditional use permit as a resident of 46 Moharimet Drive, Madbury. The occupation is buying and selling wholesale autos. In the past, some of the autos would arrive at his property for slight reconditioning and then were sent back out to auctions to be sold. He has found it is easier to do that work at the auction sites or have the vehicle towed to a mechanic to complete the work, so with the exception of a few vehicles in 2022 and 2023, there aren't that many vehicles on the Moharimet Drive property. He explained the business is an arbitrage operation. He needs a wholesale vehicle license, and in order to get that, he needs an official address. Chair Goodnow asked if people go to the property to see the vehicles. Mr. Kahr said no, everything is bought and sold at auction. Chair Goodnow asked what the two trips per week to the property entail. Mr. Kahr said in the last six to nine months, there haven't been any deliveries, but they decided to use the same language in this application as in the previous application in case they did have a car delivered.

Selectperson Avery asked about employees not living in the house and how does that language might apply to Brandon. Mr. Kahr said Brandon is an owner, therefore not considered an employee.

Chair Goodnow invited those in favor of the application to speak.

Sandy O'Neill, 39 Moharimet Drive, said she attended mainly for information, but spoke in favor of the application. She said there has never been an issue with too many cars. It hasn't made any difference to the neighborhood.

As no other member of the public was present to address the application, Chair Goodnow closed public comment at 7:25pm.

Chair Goodnow clarified with the applicant that he and his wife will be the owners of the conditional use permit. Mr. Kahr confirmed that Brandon's name will not be on the conditional use permit. The dealer desk has the new names of all the owners. Selectperson Avery clarified

the reason for not including Brandon on the permit is because it is only for residents, and Brandon is no longer a resident.

Chair Goodnow read the conditions listed in the April 21, 2021 planning board meeting when the first home occupation permit application was approved with conditions. The conditions recorded in the April 21, 2021 minutes are as follows:

- The hours of the business would be from 9 am to 5 pm.
- Signage for the business would not be required.
- That if a vehicle needed to be stored outside of the garage it would be on the driveway and not on the grass or street.
- That a list of hazardous / dangerous materials used be given to the Madbury Fire Department for emergency purposes.
- That Mr. Kahr contact NHDES to look into possible requirements for registration for water discharge in accordance with Env-Wq 402.33 and a copy of the registration be given to the town.
- Finally, that Mr. Kahr stays within his one for one request in his application. Specifically that storage and reconditioning of vehicles is limited to one vehicle at a time for a maximum of one month.

Motion by Selecterperson Avery to ***APPROVE*** the application for Home Occupation II using the same language as the April 21, 2021 permit. ***Seconded*** by Member Merrel. ***Motion passed unanimously (7-0-0).***

Ms. Durfee recommended copying the six conditions into the new documentation.

5. Other Business

Chair Goodnow shared an email she received from attorney Jim Schulte regarding a lot line adjustment. In his email, Mr. Schulte explained the owners of tax map 10 lot 7 and tax map 10 lot 8, having each completed surveys of their properties, discovered the property line between the two lots is not perpendicular to 108 and in fact runs through the corner of one of the structures. The owners have come to an agreement to rectify the situation, which involves adjusting the lot line to account for the structure. Because the Madbury/Dover town line runs through the property, the proposal takes a small portion of land from one town and adds that land to the other. Since the lot is already a non-conforming lot, Attorney Schulte asked if a new application is needed and if a site plan review is required. Ms. Durfee explained a subdivision site plan is not needed for a lot line adjustment. Non-conforming use cannot be changed or enlarged without a special exception, but she would argue that the business is not changing, only the lot. She said the owners might need a variance for the lot line adjustment. Selecterperson Avery said this came up during a past expansion request and the applicants were asked to address it. Member Hoff

advised it goes through as a variance. Ms. Durfee said if the ZBA grants a variance, the applicants will need to come before the Planning Board. Chair Goodnow will contact the Attorney Schulte to say they need a variance and should begin with the ZBA. If approved, the applicants would then need to come to the planning board with their lot line adjustment and to review the state recommendations and requirements for this. Ms. Durfee said the applicants could petition for a joint meeting with Dover. Member Hoff said a joint meeting with Dover could take much longer to be reviewed.

Chair Goodnow shared an email she received asking about ADUs in Madbury. Member Hoff said the lot in question is the one that resulted in the change of the language in the ordinance to contiguous land. Ms. Durfee said the example presented by the inquirer is not 750 square feet and doesn't have a kitchen. Chair Goodnow said the legislature said towns must allow two ADUs. She asked if these could end up moving from ADUs to short term rentals. Vice Chair Jordan shared the example of Maui increasing the tax rate for short term rental properties. Ms. Durfee said she's not sure that is allowed in NH. Chair Goodnow will respond to the applicant.

6. New HOP money available: Liz Durfee

Ms. Durfee said the HOP are offering a maximum award of \$100k and prioritizing grantees who received funding in round one, which is where the funding for the housing chapter came from. She summarized some of the eligible activities, funding, and application details. There is a monthly reporting requirement similar to the last round. She asked if the board is interested in applying for the grant, which stipulates a two-year time period to use the funds. Selectperson Avery said using the funds for writing the future land use chapter would save the taxpayers needing to fund it. Ms. Durfee said they could do that and also work on regulations. She doesn't think work on short term rentals language would be approved for this funding, but accessory dwelling units would, as would other housing regulations, including cluster development incentives with the thought that the smaller lots might have a lower cost home and be more feasible to develop. Chair Goodnow shared she got a lot out of the Housing Academy meetings she attended last round. She would like to go again if that is permitted. Ms. Durfee said the board could send the same or new people.

Ms. Durfee said she would definitely recommend doing the additional chapter for the Master Plan. Member Hoff asked the budget could be written so that parts of the proposal could be prioritized so if Madbury gets a smaller amount, it's clear what Madbury would do with different levels of funding. Ms. Durfee will ask about this at the webinar. Selectperson Avery said they'll need to find out if this additional grant would push the town above the cap before they need to have a full CBA audit. He will share where they are number wise with Ms. Durfee. Ms. Durfee said the awards will likely come through in November. They could also ask if they could accept the funds at a later date.

Motion by Goodnow to request that the planner work on the second HOP grant application. ***Seconded*** by Avery. ***Motion passed unanimously (7-0-0).***

Ms. Durfee will write up a proposal to include the housing chapters and ADUs and will ask if short term rentals can be included.

The Board discussed the cottage style homes that were developed in Dover, and Vice Chair Jordan said something like that could be good in Madbury.

Member Card asked if there is any language where homeowners are allowed to farm land owned by others.

Chair Goodnow shared she received an inquiry regarding regulations for putting a gate on a resident's driveway to prevent unwanted turnarounds. Selectperson Avery said as long as the gate is not in the right of way, it should be permitted as it is similar to the ordinances around fences. Chair Goodnow suggested perhaps the town could put a No Outlet sign on the road to prevent turnarounds in driveways.

7. Adjournment

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

Meeting adjourned: 8:38 p.m.

Respectfully submitted by Daphne Chevalier.