



MADBURY PLANNING BOARD

13 Town Hall Road, Madbury, NH 03823

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Approved

OFFICIAL BUSINESS

Minutes of: September 18, 2024

Meeting Convened: 7:00 pm

Members in Attendance:

Casey Jordan - Vice Chair

Mark Avery - Ex Officio

Michael Card

Doug Hoff

Andrew Losee

Bill Courtemanche

Support Staff:

Elizabeth Durfee - Contract Planner

Daphne Chevalier - Recording Secretary

Meeting Attendees:

John Cuddihee, 24 Hayes Rd

Marcia Barton, 5 Oak Hill Rd

Al Pratt, Resource Manager, City of Portsmouth

Mason Caceres, City of Ports Asst Water Resource Mang

Madi Jordan, 7 Madbury Woods

Eric Mitchell, 38 So River Rd, Bedford

Duane Hyde, SELT's Land Conservation Director

Austin Hanson, 10 Nute Rd

Jodi Fernald, 27 Hayes Rd

Eric Fiegenbaum, 6 Moharimet Dr

1. Call to Order

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

2. Seating of Alternates

No alternates were seated.

3. Approval of Minutes - September 4, 2024

Motion by Member Card to **accept** the minutes for September 4, 2024 as amended.

Seconded by Member Courtemanche. **Motion passed unanimously (6-0-0).**

4. Public Hearing: A Two Lot Subdivision with Waiver Requests - Property: Tax Map 5, Lots 17 and 17A located on Hayes and Nute Roads, Madbury

Proposal is for a two lot subdivision with requests for waivers to Article IV, Sections 4 (Site Features), 10 (Proposed Leach Fields), 11 (Test Pits), 12 (Impact Statements), and 13 (High Intensity Soil Survey) of the Madbury Subdivision Regulations.

Applicant: Sheila Fernald Revocable Living Trust; Jodi Fernald

Representative: Eric Mitchell, Eric Mitchell & Associates, Inc.

Vice Chair Jordan explained the process for a public hearing and read the public notice. The board reviewed the application checklist to determine if the application was complete.

Motion by Selectperson Avery to accept the application for consideration Seconded by Member Card. Motion passed unanimously (6-0-0).

Mr. Mitchell presented the application for the subdivision. He said the plan is to formalize the lot based on the approved site plan from 1978 for a mobile home. Ms. Fernald said her father intended for the mobile home to be placed on the property without any impact to the lot. Mr. Mitchell explained that regardless of the intent, there are lot lines shown on the plan that was approved by the board. This application is essentially to formalize what was approved in 1978. The applicant is asking for the waivers, as it is not a standard subdivision. The existing septic is a design approved by the state. Vice Chair Jordan asked if there was any documentation to show the septic was approved by the state. Mr. Mitchell provided that documentation to the board. He confirmed that the septic is only used by the existing mobile home. Selectperson Avery asked for confirmation that the larger lot is going to go into a conservation easement. Ms. Fernald confirmed this to be the case.

Vice Chair Jordan opened public comment at 7:23 pm.

Abutters speaking in favor:

- John Cuddihee, 24 Hayes Rd, spoke in favor of the application.
- Marcia Barton, 5 Oak Hill Rd, said she has no problems or concerns with the application.
- Al Pratt, Resource Manager for the City of Portsmouth stated approval of the application is one hurdle needed to move forward with the conservation easement.

No abutters opposed the application.

Non-abutters speaking in favor:

- Duane Hyde, SELT's Land Conservation Director, spoke in favor of the application, as SELT is assisting the City of Portsmouth throughout the conservation easement process.
- Mason Caceres, City of Portsmouth Assistant Water Resource Manager, spoke in favor of the application.

No non-abutters spoke in opposition to the application.

Vice Chair Jordan closed public comment at 7:26pm.

Member Hoff stated that since they are creating a lot of record, the one waiver he has a concern with is in regards to the test pits. A lot of record needs to have test pits for the reserve area. His concern is what would happen if the septic failed and there isn't another place to put a septic on the property. Member Card asked if there were any records of old test pits that were done on the original application. Mr. Mitchell said there were test pits done. The plan shows a test pit log, but it is illegible on the photocopy of the blueprint and had to be read with a magnifying glass to decipher what is written. He said there is sufficient area in the rear of the lot for a test pit. There isn't any ledge and the topography is flat. He argues that a test pit was done at the time and the septic was approved. If the system failed, a new test pit would have to be conducted. Because the lot is flat, there is plenty of room to put in a new septic if it couldn't go into the same areas that have been approved.

Member Hoff noted the plan has two #3's listed. Vice Chair Jordan noted a spelling error on the plan that needs to be corrected.

Member Hoff asked for a copy of the Trust to show that Ms. Fernald has the authority to make the proposed changes. Ms. Fernald will provide a copy of the Trust to the board.

Vice Chair Jordan asked that the wetlands setbacks be identified on the plans.

Regarding the possibility of making the approval conditional on the conservation easement, Mr. Mitchell said they wouldn't want the waivers to hinge on the land going into conservation as that can complicate the process.

Mr. Hyde said they are hoping to close on the easement by year end. They need this approval in order to go forward. They need to protect the value of the land so they can substantiate the significant payment that's being made.

The board discussed the waivers in turn.

Motion by Member Card to ***waive*** the need for a high intensity soil survey as it's a preexisting lot that was previously undocumented and there are no new buildings being added. ***Seconded*** by Member Lossee. ***Motion passed unanimously (6-0-0).***

Motion by Member Card to ***waive*** the need for impact statements as there will be no impact. ***Seconded*** by Member Courtemanche. ***Motion passed unanimously (6-0-0).***

Motion by Member Courtemanche to ***accept*** the waiver for Section 10, as there is no proposal for a leach field. ***Seconded*** by Member Card. ***Motion passed unanimously (6-0-0).***

Vice Chair Jordan asked if there is any standing water on the lot. Mr. Mitchell said there is a small pond but no standing wetlands.

Motion by Member Courtemanche to **accept** the waiver for Section 4 based on the sufficient detail that has been provided for lot 17A. **Seconded** by Member Card. **Motion passed unanimously (6-0-0).**

Motion by Member Card to **accept** the waiver for test pits.

Discussion: Ms. Durfee stated Section 11 doesn't require test pits; it describes how test pits should be performed. Section 10 is the one that actually requires the test pits.

Member Losee said the 1978 approval was for a 3-bedroom house, which should be more than sufficient for the current structure. Selectperson Avery said this is a fundamental change from what Madbury has typically asked of subdivisions with existing structures. Vice Chair Jordan said this isn't necessarily a precedent, as the applicants have their own tax map number that isn't technically official (zero acres). Selectperson Avery said he thinks the board has already approved the test pit waiver when they voted to accept the waiver for Section 10. Given the extenuating circumstances and the historical documentation provided, Member Courtemanche stated he is in favor of approving the waiver.

Motion seconded by Member Courtemanche. **Motion passed unanimously (6-0-0).**

Member Hoff stated there is a difference between what Section 11 states and what the applicants are asking.

Vice Chair Jordan summarized the list of Conditions:

- A copy of the trust to show the applicant is empowered to request the waivers.
- Minor corrections to the plans, including fixing the two #3s in the list, changing "formerly" to "formally", and adding setbacks to known wetlands on sheet three.

Ms. Durfee suggested the board may want to ask for a copy of the easement when it is completed.

Motion by Member Card to **approve** the application for subdivision of Tax Map 5 Lot 17 and 17A with the following **conditions**: a copy of the trust to show the applicant is empowered, corrections to sheet one including a correction of two #3s and "formerly" to "formally," and the addition to sheet 3 of the setbacks to known wetlands. **Seconded** by Member Courtemanche. **Motion passed unanimously (6-0-0).**

Motion by Vice Chair Jordan to empower the Chair or Vice Chair to sign on behalf of the board once the conditions are met. **Seconded** by Selectperson Avery. **Motion passed unanimously (6-0-0).**

Mr. Hyde asked who will be responsible for recording the plan. Vice Chair Jordan said the surveyor will record it.

5. Draft review of HOP 2 proposal: Liz Durfee

Updated hard copies available for board members at the meeting
Planning Board Letter of Commitment to be signed

Ms. Durfee stated she changed the application to reflect proposed work on a workforce housing ordinance. She needs a letter for the Selectboard. Selectperson Avery said the Selectboard will review the application this Friday. Vice Chair Jordan said he will sign the letter drafted by Chair Goodnow and send it to Ms. Durfee.

Selectperson Avery suggested Ms. Durfee increase the lawyer budget given the town lawyer's hourly rate and assumption of ten billable hours of work needed.

Member Courtemanche shared typographical corrections with Ms. Durfee.

Motion by Member Hoff that the Town of Madbury HOP Round 2 Grant application be submitted. **Seconded** by Selectperson Avery. **Motion passed unanimously (6-0-0).**

Ms. Chevalier will send a copy of the draft minutes to Ms. Durfee prior to September 27.

6. Other Business

No other business was discussed.

7. Adjournment

Motion to adjourn by Member Card. **Seconded** by Member Hoff. **Motion passed unanimously (6-0-0).**

Meeting adjourned: 8:17 p.m.

Respectfully submitted by Daphne Chevalier.