



Wyskiel,
Boc,
Tillinghast
& Bolduc, P.A.
Attorneys at Law

*Christopher A. Wyskiel
William E. Boc
**D. Lance Tillinghast
*Michael J. Bolduc
Thomas G. Ferrini
*William R. Phipps
***Bain D. Testa

* also admitted in Maine
** also admitted in MA, ME & VT
*** also admitted in MA

July 19, 2012

Robert Sterndale, Chairman
Madbury Planning Board
Town of Madbury
13 Town Hall Road
Madbury, NH 03823

RE: Goss Subdivision

Dear Bob:

Per our early July telephone conversation, I enclose a draft/proposed Notice of Decision for you and your fellow Board members to review as a possible means of creating clear record notice of the Madbury-Lee town line not creating a substandard third house lot fronting on Cherry Lane (west of the two new lots likely to be approved). This is written in a format similar to our Old Stage Campground efforts and, when signed by both the Town and the Applicant, and recorded with the approved plan at the Registry of Deeds, would create clear record notice of what the Planning Board intends and to which the Applicant agrees as a condition of approval.

From our conversation, you pointed out that the Applicant did not specifically intend for the wetlands fronting on Cherry Lane west of the two new lots to come into being as a new house lot. It is covered with a stream and wetlands and not conducive to development. You also point out that the Applicant has conceptually discussed an intent to consider placing the remaining almost 125 acres of land in conservation easement. I presume this intent supports his preserving the land (which the enclosed addresses) as a part of all the remaining land, as opposed to including it (to the Madbury/Lee town line) within the new house lot to be created.

While I tried to include the stream and wetlands as additional fact findings in the enclosed draft, I did not include as a fact finding an Applicant intent to dedicate the remaining land to a conservation easement. I don't know if that's over reaching, appropriate, or yet discussed. If your Board, following another meeting, has additional facts that you think appropriate to include, feel free to edit. I'll be happy to review whatever your Board proposes as changes to this draft and, of course, to answer any questions you or other Board members may have. Call me at any time (including trying me on my cell during a meeting - 603-534-4560).

Sincerely,

Christopher A. Wyskiel

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Enclosure
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MADBURY PLANNING BOARD

13 Town Hall Road, Madbury, New Hampshire 03823

**Subdivision Application of
Cherry Lane Realty Trust
Madbury Tax Map 6, Lot 9
Cherry Lane, Madbury, New Hampshire**

NOTICE OF DECISION

This Notice of Decision is issued by the Madbury Planning Board at the same time of its conditional approval of the subdivision plan entitled:

Subdivision Plan for Cherry Lane Realty Trust (Tax Map 6, Lot 9), Cherry Lane, Madbury, New Hampshire” drawn by Doucet Survey, Inc., dated April 16, 2012, and approved by the Madbury Planning Board July ____, 2012, and recorded at the Strafford County Registry of Deeds as Plan No. _____ (hereinafter, the “Approved Plan”).

This Notice of Decision is signed by the Applicant to affirm its agreement with and consent to the conditions of approval recited herein, and to authorize its recording at the Strafford County Registry of Deeds to give notice to future buyers/owners of the above referenced land of the Findings of Fact and Conditions of Approval recited below.

Findings of Fact

1. The Applicant’s property consists of that 130.764 acre parcel shown as “Final Revised Area” on Madbury Planning Board approved boundary adjustment plan entitled “Revised Boundary Plan, Georgia G. Drew, Holly Armitage and Lane W. Goss, Madbury, N.H., Scale: 1” = 200’, Dec. 1990” drawn by Frederick E. Drew Associates Land Surveys, and recorded at the Strafford County Registry of Deeds as Plan 38A-51.

2. Applicant acquired the above referenced 130.764 acre parcel by Warranty Deed of Lane Woodworth Goss dated December 30, 1996 and recorded at the Strafford County Registry of Deeds, Book 1904, Page 647.

3. The Approved Plan, creates two new house lots designated on the Approved Plan (and on Madbury Tax Map 6) as:

- (a). Lot 9A, being 3.386 acres in size, more or less, containing approximately 147,498 square feet, and
- (b). Lot 9B, being 2.775 acres in size, more or less, containing approximately 120,862 square feet,

both conforming to Madbury's Zoning Ordinance and Subdivision Regulations, and a third remaining parcel designated on the Approved Plan (and Madbury Tax Map 6) as

- (c) Lot 9 Remaining Land, containing 124.8 acres, more or less.

3. The Lot 9 Remaining Land is partly located in the Towns of Madbury, Durham and Lee, New Hampshire. See "Location Map" in upper right-hand corner of the Approved Plan; see also Strafford County Registry of Deeds recorded Plan 38A-51.

4. As noted on Strafford Registry Plan 38A-51, those portions of Applicant's land separated by the municipal boundary lines of the Towns of Madbury, Durham and Lee were not intended to, nor chosen by Applicant to have the effect of, creating subdivision lines for new lots pursuant to RSA 674:53. Said plan (Strafford Registry 38A-51) shows said parcels separated (by municipal boundary line, all as "part of original lot."

5. By the Madbury Planning Board's most recent subdivision approval, confirmed by this Notice of Decision, the creation of Lots 9A and 9B as shown on the Approved Plan does not intend to create anything but one remaining Lot 9, sized approximately 124.8 acres, located contiguously in the Towns of Madbury, Durham, Lee and Madbury. Specifically, that parcel of land westerly of Lot 9A (having approximately 146.54 feet of frontage on Cherry Lane), was not intended to be submitted by Applicant, and is not approved by the Madbury Planning Board, as a separate house lot having as its southerly boundary line the common Madbury and Lee town line running between the Oyster River and that property shown on the Approved Plan as Madbury Tax Map 6, Lot 13, owned by Curt W. Schreiber and the Estate of Joan M. Schreiber.

6. The Madbury Planning Board specifically finds that it is inappropriate for this land westerly of new Lot 9A (as shown on the Approved Plan) and northerly of the Oyster River to come into being as a separate, subdivided house lot. Such a lot would not fulfill dimensional requirements and soil prerequisites appropriate for a separate lot pursuant to Madbury Zoning Ordinance and Subdivision Regulations.

7. By co-signing this Notice of Decision, the Applicant confirms it having no intent to treat the municipal boundary line between portions of its remaining land as lot lines for subdivision purposes.

8. The undersigned Trustees are duly authorized to sign this document to legally bind the owner/Applicant. See Cherry Lane Realty Trust Declaration of Trust dated December 19, 1996 and recorded at the Strafford County Registry of Deeds at Book 1904, Page 642.

Conditions of Approval

1. The Approved Plan is approved on the condition that only three lots come into being, two new house lots (Lots 9A and 9B) and remaining land (Lot 9), all as more specifically referenced in paragraph 2 above. The Lot 9 remaining land (124.8 acres +/-) all exist as one remaining lot, notwithstanding municipal boundary lines of Madbury and Lee, Lee and Durham, and then Durham and Madbury running through said remaining land. The Approved Plan shall be drawn to make note of this condition of approval, and the recording of this Notice of Decision at the Strafford County Registry of Deeds.

2. Reference to both the Approved Plan and this Notice of Decision shall be made by the Applicant in any subsequent conveyance of all or any part of any of its land shown on the Approved Plan.

3. Applicant further agrees for its successors in title to land shown on the Approved Plan to make similar reference to this Notice of Decision and the Approved Plan in subsequent conveyances of any portion of said land to future owners.

CONDITIONALLY APPROVED AT THE MADBURY PLANNING BOARD MEETING OF JULY ____, 2012.

MADBURY PLANNING BOARD

By: Robert Sterndale, Its Chairman

CHERRY LANE REALTY TRUST

By: Lane Woodworth Goss, Trustee

Nancy D. Goss, Trustee

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