

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 September ____, 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 area of land westerly and southerly of Lot 9A and Lot 9B (having approximately 146.54 feet of frontage on Cherry Lane), is 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.

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6. The Madbury Planning Board specifically finds that it is inappropriate for that area of land westerly and southerly of new Lot 9A and 9B (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 is not sought to be created by this subdivision application and would not fulfill dimensional requirements and soil prerequisites appropriate for a separate lot pursuant to Madbury Zoning Ordinance and Subdivision Regulations. This finding does not state or render any decision by the Madbury Planning Board that, if that area of land (described above) meets the applicable dimensional and soil prerequisites in conjunction with additional land owned by the same entity, an application by such entity for its use as a buildable house lot can be considered at a later date under the applicable Town and State ordinances and laws.

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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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