

**Madbury Planning Board**  
13 Town Hall Road, Madbury, NH 03823

Approved on \_\_\_\_\_  
Motion by \_\_\_\_\_ 2<sup>nd</sup> by \_\_\_\_\_

**Minutes of October 7, 2009**

Meeting convened at 7:05 pm

Board members in attendance:

1. Robert DiBerto, Acting Chairman
2. Wally Dunham
3. Doug Hoff
4. Jeannie Sowers
5. Fritz Green
6. Joan Sundberg, Selectmen representative

Public in Attendance:

Please see attached sheet.

**Announcements**

None

**Agenda Items**

**1. Review of Minutes**

The minutes from September 16, 2009 were approved.

**2. Lot Line Adjustment. Morong (Map 11, Lot 9A) and Moher (Ma 12, Lot 4-5 Durham) properties, Jenkins and Watson Road**

Mr. Kevin McEaney from McEaney Survey Associates in Dover, NH stated that he was representing the Mohers and Ms. Morong. He described the facts of the application and asked for a waiver on two conditions; specifically to not show water bodies and wetlands on the plans as they are not pertinent.

Member DiBerto asked if there were any structures. Mr. McEaney answered that there were none.

Member Hoff asked if the proposed right of way is for public access. Mr. X from the Nature Conservancy, answered that the right of way is for the applicant's purpose, but the public will have access off of Jenkins Road.

Board members reviewed the application requirements using the application form checklist.

Motion by Member Green to accept the application for consideration. Seconded by Member Hoff. All aye.

Motion passed.

**Public Comments**

There were no public comments presented.

**Board Discussion**

No further discussion.

## Madbury Planning Board

13 Town Hall Road, Madbury, NH 03823

Motion by Member Hoff to approve the waiving of requirement to mark wetlands and water boundaries.  
Seconded by Jeannie Sowers. All aye. No opposed.

Motion passed.

Motion by Member Hoff to approve the application with the condition that the applicant send a certification of monumentation letter to the Board stating that the monumentation was completed.  
Seconded by Member Sowers. All aye. No opposed.

Motion passed.

Motion by Member Hoff that the Chair or designee be authorized to sign the mylar that the condition was met. Seconded by Member Sundberg. All aye. No opposed.

Motion passed.

### **3. Preliminary Discussion. Mr. Christian Smith, Beals Associates, representing owners of Changing Places subdivision.**

Mr. Smith representing the owners of parcels, Lots 3 and 4 of the Changing Places subdivision now owned by B&L. He is before the Board to discuss the configuration and size of the lots originally approved by the Board.

Mr. Smith stated that the issue is that B&L has built a duplex, originally Lot #1, and they are now finding that the duplexes are not selling in the current market. The owner would like to create a lot line that will provide frontage for three lots. He said that the issue is not just the configuration of the three lots, but the regulation that states that a driveway will not serve more than two lots. He stated that they have spoken with NH DOT and NH Soils. He stated that it is not the ideal situation, and that the wetland crossing is already built. He described the ideal situation and asked if the Board would be able to waive the subdivision requirements.

Members discussed the scenarios with Mr. Smith. Member Sowers asked for clarification; if the duplexes aren't selling in the current market, then why they are proposing single homes?

The owner \_\_\_\_\_ from B&L stood and described how the house cost structure would be reduced and the price range would become \$350K. He explained that the current duplexes, priced at \$254.9K are not selling, and they are 3 bedroom 2 1/2 baths on a 4 acre lot, they are energy star designed, geothermal, and have hardwood floors.

Mr. Smith restated that the third driveway could be done and it would not add any additional impact to the wetlands and no additional permit would be required from state.

The Chair commented that when this plan was before the Board previously, the concern was with the driveways, and he said it was dealt with head on by the Board. He commented that from a zoning standpoint, it would be moving away from the regulation's intent.

Member Sowers additionally referenced the Board's previous 4-lot subdivision approval, and asked Mr. Smith to confirm that he is now proposing 5-lots and that this would require another subdivision application. Mr. Smith confirmed, and stated that they understand that an additional subdivision application would be required.

**Madbury Planning Board**  
13 Town Hall Road, Madbury, NH 03823

Mr. Smith discussed the alternative scenarios that the applicant might need to consider and showed this to members on the map.

Mr. Jack Mettee, town consultant planner, asked for the acreage sizes of the lots. Mr. Smith answered.

**4. Site Plan Review. Construction of a Deck by Ronda Macleod (Map 11, Lot 3) located on 245 Piscataqua Road.**

Ms. MacLeod introduced herself and briefly described the project to build a deck.

Member Green asked for clarification on why this is before the Board. The Chairman responded that it would exceed the required setback from the water line.

The Chairman referenced the fact that the state has already approved this application, and then he read the public notice aloud.

Member Dunham asked for a definition of the "HOTL" on the map. It was answered High Observable Tide Line." He next asked the applicant how they know what that line location is. The applicant responded that they had a wetland scientist survey the site.

Member Sundberg asked Mr. Fiegenbaum in attendance, for his opinion representing the Water and Conservation Commission Boards. Mr. Fiegenbaum responded that he is not representing the Board, and stated they have not reviewed the application as a group.

Mr. Fiegenbaum referenced the Mettee review report, and stated that he believes a conditional use permit requires a review by the Water Board. He stated that he was aware of the project because of an earlier conversation with the town Building Inspector at the beginning of the summer.

Member DiBerto inquired more information from Mr. Fiegenbaum. Mr. Fiegenbaum said that he would respond as a resident and a watershed person. He stated that historically, there has been development of the lot. He stated his opinion that adding a vegetation buffer would help minimize runoff and might add protection.

Chairmen DiBerto asked the applicant if they had a dock. They responded no, but they do have stairs.

**Public Comments**

Mrs. \_\_\_\_\_, an abutting neighbor next door. She stated that the previous owner moved the house back, and that he had wanted to minimize the impact, and she stated that current owner seems to have the intent to do the same. She stated that they do not have any objections to the application.

**Board Discussion**

The applicant addressed Mr. Fiegenbaum and stated that they would not object to adding vegetation. A discussion ensued about improvements that might be part of conditional use permit. The Board discussed types of vegetation that might be added.

Member Sowers stated that the original intent for a buffer is that it does not need to be managed.

Member Sundberg stated that given the fact that the lot is already severely un-vegetated, that her opinion for some type of vegetation would meet the intent.

## Madbury Planning Board

13 Town Hall Road, Madbury, NH 03823

The applicant stated that that they will be adding rain barrels and the deck will be made of Trex.

Member Sundberg asked how a requirement for a buffer would be enforced. Mr. Fiegenbaum stated that it could be added to the plan and if the property is ever sold, perhaps the neighbors would monitor.

The applicant said that the house is 53 feet from the HOTL and that the catwalk will not exceed into the 50-foot wetland line.

M. Fiegenbaum offered that the applicant might hire a wetland scientist to draw up a plan with included vegetation buffer, and then present it at the next meeting of the Conservation Commission and Water Board.

Member Sundberg stated that the Planning Board could approve the application tonight with a conditional approval. There was discussion on how this process could ensue.

Mr. Mettee cautioned the Board be specific in its recommendations and asked that the Board be very reasonable, and that in reality the buffer is not a requirement of the ordinance.

Member Dunham voiced his concern that future residents on the property might not adhere to the vegetation condition.

Member Sundberg said that she feels it is a reasonable compromise and a quid pro quo, because the deck is not allowed, and since the applicant is amenable to vegetation, it makes sense to have the Conservation Commission and Water Board make recommendations.

Motion by Member Hoff to approve the conditional use permit for construction of a deck with the condition that a buffer zone be established as determined by the applicant, Conservation Commission and Water Board. Seconded by Member Green. All in favor. No opposed.

Motion passed.

Motion by Member Hoff to Adjourn at 8:05pm. Seconded by Member Dunham.

Respectfully submitted on October 14, 2009 via email at 7:30 am.  
By Leigh Dunkelberger, Secretary  
4 pages.